

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/STOP PRESS: LOCAL DEMOCRACY, ECONOMIC DEVELOPMENT AND CONSTRUCTION ACT 2009

ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE)

STOP PRESS:

The Local Democracy, Economic Development and Construction Act 2009 makes provision for the purposes of promoting public involvement in relation to local authorities and other public authorities, about bodies representing the interests of tenants, local freedoms and honorary titles, and the procedures of local authorities and their powers relating to insurance and the audit of entities connected with them, to establish the Local Government Boundary Commission for England and to make provision relating to local government boundary and electoral change, about local and regional development, and to amend the law relating to construction contracts. The Act received the royal assent on 12 November 2009 and the following provisions came into force on that date: ss 25, 26, 62, 64, 68, 146-150, Sch 3. Sections 27-30, 32, 33, and 121-137 came into force on 12 January 2010 and the following provisions also come into force on that day: ss 114-117 (SI 2009/3318). The following provisions were brought into force on 25 November 2009: ss 69 (in part), 71, 84, 86, 87 (SI 2009/3087). The following provisions were brought into force on 17 December 2009: ss 88-113, 118-120 and Sch 6 (SI 2009/3318). Further provisions come into force on 1 April 2010: ss 23, 24, 31, 55-61, 63, 65-67, 69, 70, 72-83, 85, Schs 1, 2, 4, 5, 7 (in part) (SI 2009/3318). The remaining provisions come into force on a day or days to be appointed. For details of commencement see the COMMENCEMENT OF STATUTES table in the Current Service Noter-up booklet.

Part 1 (ss 1-30) Democracy and involvement

Chapter 1 (ss 1-9) Duties relating to promotion of democracy

Section 1 places a duty on principal local authorities to promote understanding of their functions and their democratic arrangements. By virtue of s 2, principal local authorities are under a duty to promote understanding among local people of public bodies which relate to the authority's area. A duty is placed on principal local authorities by s 3 to promote understanding among local people of courts boards, independent monitoring boards for prisons and immigration removal centres and Youth Offending Teams. Section 4 places a duty on principal local authorities to promote understanding among local people of lay justices. By virtue of s 5, ss 2-4 do not apply to principal local authorities if information has not been provided by the connected authorities, monitoring boards, courts boards, youth offending teams and, in the case of lay justices, the Lord Chancellor, after it has been requested of them. The appropriate national authority may produce guidance for principal local authorities on how to fulfil their duties: s 6. Section 7 deals with the Isles of Scilly. Section 8 specifies that any order made under Pt 1 Ch 1 is to be made by statutory instrument and is to be subject to negative resolution procedure. Section 9 deals with interpretation.

Chapter 2 (ss 10-22) Petitions to local authorities

Section 10 places duties on principal local authorities in relation to electronic petitions signed by those who live, work or study in local areas. Under s 11, principal local authorities are required to make, publicise and comply with a scheme for handling both paper and electronic petitions. Section 12 makes provision about the petitions to which a petition scheme must apply. By virtue of s 13, petition schemes are required to ensure that petitions are acknowledged in writing within a time specified in the scheme. Principal local authorities are required by s 14 to take one or more steps in response to petitions which meet the specified criteria and are therefore 'active' petitions. Section 15 gives an automatic right for the matter raised in a petition to be debated by the full council if more than a specified number of people have signed it. By virtue of s 16, certain senior officers of a principal local authority can be called to account at a public meeting. Under s 17, the petition organiser is given the power to ask an overview and scrutiny committee, or its equivalent in authorities not operating executive arrangements, to review the principal local authority's response to their petition, if the organiser is not satisfied with the steps taken by the authority under s 14. Section 18 sets out other issues which principal local authorities' schemes may include. The powers of the appropriate national authority to issue guidance in relation to the discharge of the petition function by principal authorities are set out by s 19. Section 20 provides that the appropriate national authority may by order make provision for the handling of petitions by any specified body. Section 21 provides that orders under Ch 2 are to be made by statutory instrument. Section 22 deals with interpretation.

Chapter 3 (ss 23, 24) Involvement in functions of public authorities

Section 23 places a duty on the authorities listed to involve representatives of interested persons in the exercise of their functions, where they consider that it is appropriate to do so. The Secretary of State may, by virtue of s 24, issue guidance on the discharge of the duties under s 23.

Chapter 4 (ss 25, 26) Housing

Section 25 makes provision for the Secretary of State to establish and give financial or other support to a body that will represent the interests, at national level, of housing tenants in England. Section 26 provides a power to the Secretary of State to nominate a body representing the interests of social housing tenants for the purposes of consultation in connection with certain functions carried out by the social housing regulator and the Secretary of State and set out in the Housing and Regeneration Act 2008.

Chapter 5 (ss 27-29) Local freedoms and honorary titles

The 2009 Act s 27 makes provision for a daughter of a freeman of a city or town to be admitted as a freeman where a son would have the right to be so admitted. By virtue of s 28, the laws relating to the admission of freeman are more easily amended. The power to confer the title of 'honorary freeman' is extended by s 29 to all principal councils, parish and community councils, and charter trustees in England.

Chapter 6 (s 30) Politically restricted posts

Section 30 removes the requirement imposed by the Local Government and Housing Act 1989 s 2 for local authorities to prepare and maintain a list of posts that exceed a specified salary, and which as a consequence mean that the post-holder is subject to political restrictions.

Part 2 (ss 31-54) Local authorities: governance and audit

Chapter 1 (ss 31-33) Governance

Section 31 requires local authorities, with the exception of district councils in areas where there is a county council, to designate one of their officers as a scrutiny officer to support the work of the authority's overview and scrutiny committee. By virtue of s 32, the scope of joint overview

and scrutiny arrangements are broadened so that joint overview and scrutiny committees may be set up by any two or more local authorities, so that such committees may make reports and recommendations on any matter, other than excluded matter, and so that associated authorities may be required to provide any information to joint overview and scrutiny committees, other than that relating to crime and disorder matters, and not just that relevant to local improvement targets. Section 33 extends the legislative competence of the National Assembly for Wales to make Measures of the National Assembly for Wales.

Chapter 2 (ss 34, 35) Mutual insurance

Section 34 provides that a qualifying authority may become a member of a body corporate whose objects must be those specified and all of whose members are other qualifying bodies. Section 35 lists the qualifying authorities that are being provided with the power to become members of a mutual insurance body corporate.

Chapter 3 (ss 36-54) Audit of entities connected with local authorities

Section 36 provides that the relevant audit authority may appoint a person to carry out audit functions in relation to a local authority entity which meets certain qualifying criteria. By virtue of s 37, a local authority must notify the entity and the relevant audit authority if an entity meets, or ceases to meet, the qualifying conditions or ceases to be connected with the authority. Under s 38, the audit authority may appoint a person to carry out an audit of a local authority entity where the entity appears to the audit authority to meet the qualifying criteria. Where an appointed auditor dies, is dismissed, or is unable or unwilling to act, the audit authority may appoint a replacement auditor for that financial year: s 39. Section 40 provides that, unless the entity otherwise requests, the audit authority must not make an appointment if the entity appears to be exempt from statutory audit. Section 41 specifies who is eligible for appointment as an auditor. The terms of appointment for an auditor are set out by s 42. Where an audit authority appoints an auditor to an entity, s 43 provides that the entity may also appoint that same auditor as its statutory auditor under the Companies Act 2006 Pt 16 (ss 475-539) or the Friendly and Industrial and Provident Societies Act 1968 s 4. The 2009 Act s 44 applies when the entity does not wish to exercise the power in s 39 and instead chooses to appoint a different auditor as its statutory auditor, or where the entity exercises the power in s 39 but then terminates the appointment, so as to provide that the audit's authority's appointed auditor has the same powers as in the 2006 Act or the 1968 Act to enable the auditor to make a report to the company, partnership or society on the annual accounts. The 2009 Act ss 45-49 provide the powers for an auditor appointed under Ch 3 to make a report in the public interest. By virtue of s 50, a fee must be paid by the entity to the appointing audit authority when an auditor discharges any functions under ss 44-49. Section 51 sets out the power of the audit authority to request information relating to the accounts audited by the auditor and any other document or information relating to the entity, which would have been available to the auditor under the powers he had. By virtue of s 52, a company which is a subsidiary of a Passenger Transport Executive is to be regarded as connected with the Integrated Transport Authority for the areas for which the executive is established. Section 53 makes general provision in respect of regulations, and s 54 deals with interpretation.

Part 3 (ss 55-68) Local government boundary and electoral change

Section 55 establishes the Local Government Boundary Commission for England as a separate corporate body, and Sch 1 contains the detailed provisions for the constitution and administration of the new body. Section 56 provides that the Local Government Boundary Commission for England must from time to time conduct a review of electoral arrangements of each principal council in England and recommend whether a change should be made to the electoral arrangements for an area, and introduces Sch 2, which sets out the criteria that the Local Government Boundary Commission for England must have regard to when conducting electoral reviews. Under s 57, a power is provided for the Local Government Boundary

Commission for England to conduct a review of the area of a principal council, at that council's request, with a view to making recommendations as to whether each electoral area in the area of the principal council should return only one member. The procedure which the Local Government Boundary Commission for England must follow when conducting electoral reviews under s 53 is set out by s 58. By virtue of s 59, the Local Government Boundary Commission for England is provided with the power to make an order to give effect to all or any of the recommendations which it makes following a review of electoral arrangements for a local government area. Various functions are transferred from the Electoral Commission and the Boundary Committee for England to the new Local Government Boundary Commission for England by s 60. Section 61 abolishes the Electoral Commission's duty to establish a Boundary Committee for England and repeals the Political Parties, Elections and Referendums Act 2000 ss 14, 15. The Electoral Commission is placed under a duty by the 2009 Act s 62 to produce one or more schemes for the transfer of property, rights and liabilities from the Electoral Commission to the Local Government Boundary Commission for England. Section 63 provides that anything done by the Boundary Committee for England or by the Electoral Commission, in relation to structural or boundary changes or electoral arrangements, may be treated as having been done by the new Local Government Boundary Commission for England. Section 64 introduces Sch 3, which makes modifications to the Local Government Act 1992. Under the 2009 Act s 65, the process set out for the review by the Boundary Committee for England of the boundaries of local government areas is amended to enable the new Local Government Boundary Commission for England to consider whether consequential changes should be made to electoral arrangements as part of the same review. Provisions which relate to the defunct Local Government Commission for England are repealed by s 66. Section 67 gives effect to Sch 4, which contains amendments consequential on provision made in Pt 3 and gives the Secretary of State a power by order to amend, repeal or revoke enactments for the purposes of making further consequential provisions in relation to any provisions within Pt 3. Section 68 deals with interpretation.

Part 4 (s 69) Local authority economic assessments

Section 69 requires principal local authorities to prepare an assessment of the economic conditions of their area.

Part 5 (ss 70-87) Regional strategy

Section 70 provides for a regional strategy in each region other than London, which must set out policies in relation to sustainable economic growth, development and the use of land within the region and can include different policies for different areas within the region. By virtue of s 71, the participating authorities in each region, other than London, must make a scheme for the establishment and operation of a body known as a 'Leaders' Board'. Under s 72, the regional development agency and local authorities' Leaders' Board for the region, are, jointly, the 'responsible regional authorities' referred to in Pt 5, and if there is not a Leaders' Board the regional development agency will act alone. In accordance with s 73, the bodies responsible for regional strategy are required to exercise their functions with the objective of contributing to the achievement of sustainable development and having regard to the desirability of achieving good design. Section 74 gives the responsible regional authorities a duty to keep the regional strategy and relevant matters under review and explains when a draft revision is to be prepared either of part or the whole of the strategy. The responsible regional authorities are required by s 75 to prepare, publish and comply with a statement setting out their policies for involving interested persons when preparing a draft revision of a regional strategy. Section 76 provides for the responsible regional authorities to arrange for an examination in public into the draft revision to be held by a person appointed by the Secretary of State. The matters that the responsible regional authorities must take into account when preparing a revision are set out

by s 77. Once the responsible regional authorities have prepared and published a draft revision of the regional strategy and the sustainability appraisal report, s 78 requires them to submit these to the Secretary of State, who can then choose either to approve the draft revision as it stands or to modify it before approving it. Section 79 sets out the Secretary of State's reserve power to revise a regional strategy in whole or in part, where the responsible regional authorities fail to do so at the time specified in the regulations or directions. The Secretary of State's power to make regulations for procedural matters in connection with the revisions of regional strategies is set out by s 80. Section 81 imposes duties on the responsible regional authorities to implement and monitor the regional strategy. Under s 82, until a regional strategy is revised, the statutory development plan for an area will only consist of the policies that were previously in the regional spatial strategy. Section 83 requires regional development agencies to have regard to the regional strategy in exercising their functions. By virtue of s 84, the Secretary of State has the power to give guidance and directions in relation to the exercise of functions under Pt 5. Section 85, Sch 5 make consequential provision. Section 86 provides that regulations under Pt 5 are to be made by statutory instrument, and s 87 deals with interpretation.

Part 6 (ss 88-120) Economic prosperity boards and combined authorities

Section 88 provides that the Secretary of State can make an order establishing an Economic Prosperity Board ('EPB') for an area and specifies the conditions that need to be met for an area to be capable of designation as an EPB's area. Under s 89, the Secretary of State may by order make provision in relation to an EPB about the membership of the EPB, the voting powers of the members of the EPB, and the executive arrangements of the EPB. Section 90 sets out the provision which must be included in an order made under s 89 that deals with the number and appointment of members of an EPB. By virtue of s 91, the Secretary of State is allowed to make an order that provides for functions of a county council or district council to be exercisable by the EPB. The Secretary of State is allowed by s 92 to set out how the EPB will be funded. Under s 93, an EPB is required to keep a general fund whereby all receipts of the EPB must be carried to that fund and all liabilities falling to be discharged by the EPB must be discharged out of that fund. Section 94 provides that an existing EPB can pass a resolution to change its name. By virtue of s 95, the Secretary of State is allowed to make an order changing the boundary of an existing EPB's area. The Secretary of State is allowed to make an order to dissolve an EPB's area and abolish the EPB: s 96. Section 97 provides that any two or more of the specified authorities may review the effectiveness and efficiency of arrangements to promote economic development and regeneration within the geographical area covered by the review. Under s 98, if two or more of the councils that have conducted a review under s 97 conclude that the establishment of an EPB for an area would be likely to improve the exercise of statutory functions relating to economic development and regeneration and economic conditions within the area, then they have the power to prepare and publish a scheme for the establishment of an EPB for the area. In accordance with s 99, the Secretary of State may make an order establishing an EPB for an area if, having had regard to a scheme prepared and published under s 98, the Secretary of State considers that the establishment of an EPB for an area is likely to improve both the exercise of statutory functions relating to economic development and regeneration in the area and the economic conditions in the area. By virtue of s 100, one or more of the specified authorities is allowed to review an EPB matter. Section 101 provides that, if one or more of the authorities who have concluded a s 100 review conclude that the exercise of economic development and regeneration functions, or economic conditions, in an existing or proposed area of an EPB would be likely to be improved by the making of an order under any one or more of ss 89, 91, 92, 95 and 96, then those authorities have the power to prepare and publish a scheme proposing how this should be done. The requirements applying to the Secretary of State's power to make orders under ss 89, 91, 92, 95 and 96 in relation to an existing EPB are set out by s 102. By virtue of s 103, the Secretary of State can make an order establishing a combined authority for an area which meets certain conditions. The

Secretary of State is allowed by s 104 to make an order about the constitutional arrangements and functions of an individual combined authority. By virtue of s 105, the Secretary of State may make in relation to a combined authority any provision that may be made in relation to an EPB under s 91. Section 106 allows the Secretary of State to make an order changing the boundary of the area of an existing combined authority. The Secretary of State is allowed by s 107 to make an order to dissolve a combined authority's area and abolish its combined authority. Under s 108, any two or more of the specified authorities may review the effectiveness and efficiency of transport, and of the arrangements to promote economic development and regeneration, within the geographical area covered by the review. If two or more of the authorities who have conducted a s 108 review conclude that the establishment of a combined authority for an area would be likely to improve the exercise of statutory functions relating to transport and economic development and regeneration, the effectiveness and efficiency of transport in the area, and the economic conditions in the area, by virtue of s 109 the authorities may prepare and publish a scheme for the establishment of a combined authority for the scheme area. Section 110 specifies that the Secretary of State may make an order establishing a combined authority for an area if, having regard to the prepared and published scheme, the Secretary of State considers that the establishment of a combined authority is likely to improve the exercise of statutory functions relating to transport and the effectiveness and efficiency of transport in the area as well as the exercise of statutory economic development and regeneration functions in the area and the economic conditions in the area. Under s 111, one or more of the authorities specified is allowed to review a 'combined matter'. By virtue of s 112, authorities are able to prepare a scheme if one or more of the authorities who have conducted a s 111 review conclude that the exercise of statutory transport or economic development and regeneration functions, the effectiveness and efficiency of transport, or the economic conditions in an existing or proposed area of a combined authority would be likely to be improved by the making of an order under any one or more of ss 104-107. The requirements applying to the Secretary of State's power to make orders under ss 104-107 in relation to an existing combined authority are set out by s 113. Section 114 provides that the Secretary of State may make incidental, consequential, transitional or supplementary provision in support of an order made under Pt 6. Under s 115, the Secretary of State may make provision by order for the transfer of property, rights and liabilities for the purpose of, or in consequence of, an order under Pt 6. By virtue of s 116, the Secretary of State is allowed, by order, to make provision in consequence of any provision made by Pt 6. Section 117 sets out the procedure for making orders under Pt 6. Under s 118, the Secretary of State can issue guidance about anything which could be done under or by virtue of Pt 6 by a specified authority. Section 119 introduces Sch 6, which makes a number of amendments to apply provisions of local government and transport law to EPB's and combined authorities. Section 120 deals with interpretation.

Part 7 (ss 121-137) Multi-area agreements

Section 121 defines a multi-area agreement, and s 122 defines 'local authority' for the purpose of Pt 7. A list of public bodies and persons that will be 'partner authorities' for the purpose of a multi-area agreement are set out by s 123. By virtue of s 124, any group of two or more local authorities may approach the Secretary of State and request that the Secretary of State direct a multi-area agreement to be prepared for their area and submitted to the Secretary of State. Section 125 provides for the Secretary of State, in response to a request made under s 124, to direct the responsible authority to prepare and submit a draft multi-area agreement. Section 126 places certain duties on the responsible authority and other local and partner authorities where a direction has been issued under s 125, following a request under s 124. Provision is made by s 127 for the Secretary of State to approve, require modifications to or reject a draft multi-area agreement that is submitted in accordance with a direction issued under s 125. Section 128 provides for a multi-area agreement that is prepared through procedures other than following a direction from the Secretary of State under s125 to be submitted with a

request that the Secretary of State approve it. Under s 129, the Secretary of State is able to approve a multi-area agreement submitted under s 128. A duty is placed by s 130 on all local and partner authorities for the area covered by a multi-area agreement approved by the Secretary of State under ss 127 or 129 to have regard, when exercising their functions, to each improvement target in the agreement that relates to them. Section 131 defines who the responsible authority is and provides a mechanism for this to be changed by the local authorities to whom improvement targets in a multi-area agreement relate, with the agreement of the Secretary of State. A mechanism is provided by s 132 for a multi-area agreement that has been approved by the Secretary of State to be amended. Section 133 places equivalent duties on the responsible authority to consult and co-operate and have regard to guidance, and on other local and partner authorities to co-operate and have regard to guidance, when preparing a revision proposal as is placed on them when they are preparing a draft multi-area agreement by s 126. In accordance with s 134, the Secretary of State may approve or reject a revision proposal that is submitted by the responsible authority. A duty is placed on the responsible authority by s 135 to publish information about the multi-area agreement and any subsequent changes that are made to it through a revision proposal but leaves the decision as to what information is to be published and the manner of publication to the responsible authority. Under s 136, the Secretary of State is required to consult representatives of local government and, if appropriate, other people with an interest in multi-area agreements before issuing the guidance that responsible, local and partner authorities will have to have regard to in preparing agreements and revision proposals. Section 137 deals with interpretation.

Part 8 (ss 138-145) Construction contracts

Section 138 substitutes a new power allowing the Secretary of State and Welsh Ministers to disapply, by order, any or all of the provisions of the Housing Grants, Construction and Regeneration Act 1996 Pt 2 (ss 104-117) in relation to descriptions of construction contract specified in the relevant order. By virtue of the 2009 Act s 139, the original limitation of the 1996 Act Pt 2 to contracts which were in writing is removed, but it is prescribed that various matters must nonetheless be in writing. A provision to facilitate the correction of clerical or typographical errors in an adjudicator's decision is introduced by s 140. Section 141 provides that any contractual provision by the parties to a construction contract concerning the allocation between them of costs relating to an adjudication is ineffective unless certain conditions apply. Section 142 addresses the issue of making periodic payments under a construction contract conditional on obligations under another contract, and the issue of making the date a payment becomes due dependent on the giving of a notice by the payer of the sum the payer proposes to pay. Section 143 amends the original provisions of the 1996 Act relating to the notices which a payer gives of the sum which the payer proposes to pay and introduces provisions relating to the giving of notices by the payee. A statutory requirement to pay sums specified in such notices is introduced by the 2009 Act s 144. Section 145 amends the provisions relating to a contractor's right to stop working when the contractor has not been paid so as to put it beyond a doubt that a contractor may stop carrying out some, and not simply all, of the work in such a case.

Part 9 (ss 146-150) Final

Section 146 introduces Sch 7, which contains various repeals. Sections 147-150 deal with extent, commencement and the short title.

Amendments, repeals and revocations

Subscribers should note that the lists below mention repeals and amendments which are or will be effective when the Act is fully in force. Please refer to the top of this summary for details of the in-force dates of the provisions of the Act. Please also note that these lists are not exhaustive.

Specific provisions of a number of Acts are amended, added or repealed. These include: Local Government Act 1972 ss 248, 249, Sch 28A; Housing Grants, Construction and Regeneration Act 1996 ss 106A, 107, 108, 108A, 110, 110A, 110B, 111, 112; Regional Development Agencies Act 1998 s 7; Local Government Act 2000 s 21ZA; Government of Wales Act 2006 Sch 5; Local Government and Public Involvement in Health Act 2007 ss 8, 10-12, 123; and Housing and Regeneration Act 2008 s 278A.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/STOP PRESS: POLITICAL PARTIES AND ELECTIONS ACT 2009

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The Political Parties and Elections Act 2009 makes provision in connection with the Electoral Commission, about political donations, loans and related transactions, about political expenditure, and about elections and electoral registration. The Act received the royal assent on 21 July 2009 and ss 1 (in part), 4, 5, 7, 22, 32 (in part), 38, 40-44, Schs 5, 6 (in part), 7 (in part) came into force on that day. Sections 23 and 24, Sch 6 paras 1-5, 8 and various repeals in Sch 7 came into force on 4 September 2009: SI 2009/2395. Section 21, Sch 6 paras 6, 7, and a repeal in Sch 7 came into force on 25 November 2009, and ss 12-18, 20, Sch 6 para 24, and various repeals in Sch 7 came into force on 1 January 2010: SI 2009/3084. The remaining provisions come into force on a day or days to be appointed.

Part 1 (ss 1-8) The Electoral Commission

Section 1 provides that, in addition to its existing function of monitoring compliance with certain requirements relating to registered party accounting, political donations, campaign and election expenditure, and referendums, the Commission has the function of taking appropriate steps to secure compliance with those requirements and allows it to publish guidance as to what conduct it considers to be necessary or sufficient in order to comply with the legislative requirements, and what conduct it considers to be desirable in view of the purpose of such requirements. Section 2, Sch 1 make provision about the investigatory powers of the Commission, by enabling it to require access to information for certain purposes, including where it is conducting an investigation into a potential criminal offence, and, where a criminal investigation is not being conducted, in relation to limited categories of individual or body and only after obtaining a warrant from a magistrate, to enter premises to inspect and make copies of relevant documents; and make provision as to the penalties for offences in relation to such investigations. The Commission has new powers under s 3, Sch 2 to apply a range of civil sanctions to offences and contraventions under the Political Parties, Elections and Referendums Act 2000. The 2009 Act s 4 expands the series of requirements for the appointment of Electoral Commissioners and the Commission chairman so that each person proposed for appointment must have been selected in accordance with a procedure put in place and overseen by the Speaker's Committee. Section 5 makes provision facilitating the appointment to the Commission of four Electoral Commissioners who are persons put forward by the parties, sets out requirements about their selection and imposes certain restrictions to prevent the appointment of two or more such Commissioners from the same political party and to prevent such a Commissioner from being appointed to a Boundary Committee. By virtue of s 6, there must be not less than nine or ten Electoral Commissioners. A person may not be appointed as an Electoral Commissioner within five years of engaging in certain political activities, and existing political restrictions imposed on certain staff are reduced: s 7. Section 8 removes the duty imposed on the Electoral Commission to promote awareness of current and pending systems of local and national government and the institutions of the European Union.

Part 2 (ss 9-22) Political donations etc and expenditure

Section 9 requires a person who causes money to be received by a registered party to make a written declaration in respect of a donation over a single threshold of £7,500, irrespective of whether the donation is made to a party's central organisation or to a local accounting unit of

the same party, prohibits the party from accepting the donation if no such declaration has been made, and makes it a criminal offence for a person knowingly or recklessly to make a false declaration about a donation.

A registered party is prohibited by s 10 from accepting a donation of more than £7,500 from an individual who is not resident, ordinarily resident and domiciled in the United Kingdom for the purposes of income tax, and requires donors who are individuals to give a declaration as to whether they satisfy this condition.

Section 11 makes similar provision in relation to regulated transactions with non-resident lenders by requiring an individual who is a party to such a transaction to give a declaration confirming that he satisfies the residency condition. Section 12 provides a defence to a charge of failing to return a donation accepted from an impermissible donor so that, if a party or a treasurer is charged with such an offence, he will not be guilty if he can show that he took all reasonable steps to verify that the donor was a permissible donor and, having done so, believed that such was the case. Section 13 provides that, in determining whether any of certain specified offences relating to the reporting of accounts, donations and loans and associated defences has been committed, there must be considered whether there is a reasonable excuse for the act or omission in question; and removes the existing separate defence to each offence of having taken all reasonable steps or having exercised all due diligence to ensure that the relevant act or omission did not occur. Section 14 requires a members association with no treasurer to appoint a responsible person, in circumstances where the association is in receipt of a reportable permissible donation, or an impermissible recordable donation above £500, and sets out the procedure to be followed in appointing such a person. Section 15 provides for the appointment of compliance officers to assist holders of relevant elective office with their obligations to report donations. Section 16 amends provisions relating to control of loans to members associations, and s 17 enables a compliance officer to assist a holder of elective office with his obligations in relation to the reporting of regulated transactions.

A person is prohibited by s 18 from being a responsible person for more than one third party. By virtue of s 19, Sch 5, an unincorporated association which makes, in a calendar year, a political contribution of more than £25,000 to any recipient, including political parties, regulated by the 2000 Act will be subject to a new reporting regime in respect of gifts of a certain value received by it within a specified period. The donation thresholds are increased (s 20); and pre-candidacy election expenses for certain general elections are limited (s 21). An additional power is conferred on the Electoral Commission by s 22 to issue guidance about the circumstances in which election expenses are to be regarded as having been incurred for the purpose of a candidate's election.

Part 3 (ss 23-27) Elections

New arrangements are made by s 23 to expedite the registration of eligible electors in the event of an election falling within a canvass period. A candidate at a parliamentary election is entitled under s 24 to withhold his home address from publication. Section 25 applies to Scotland, and s 26 applies to Northern Ireland. Section 27 provides for the proper officer of the Greater London Authority to be eligible to be designated by the Secretary of State as a returning officer for European Parliamentary elections in a region in England and Wales.

Part 4 (ss 28-37) Electoral registration

Section 28 provides for the establishment, by order made by the Secretary of State, of one or more Co-ordinated On-line Record of Electors ('CORE') schemes; and for any such scheme to be run by a CORE keeper designated by the Secretary of State and for electoral registers and related information to be consolidated into a centralised record maintained by the electoral

registration officers in the area covered by the scheme. The use of CORE information is subject to the conditions or restrictions set out in s 29. By virtue of s 30, registration officers are required, after 1 July 2010, to take steps to collect identifying information from eligible electors for the purpose of improving the accuracy of the electoral register but the officer must explain that an elector is not obliged to provide such information. Regulations may be made under s 31 amending or supplementing s 30. The Electoral Commission is required by s 32 both to monitor the operation of s 30 and any supplementary regulations and to submit to the Secretary of State an annual report which must contain a recommendation which will help to determine whether the voluntary provision of identifying information by electors should become obligatory. Section 33 amends the Representation of the People Act 1983 in the event that the provision of identifying information becomes obligatory, and the 2009 Act s 34 makes supplementary provision enabling the Secretary of State, after consulting the Electoral Commission, to amend provisions of the 1983 Act relating to the obligatory collection of identifiers. Section 35 enables the Secretary of State to create by order a scheme which requires a public or local authority to supply a registration officer with data which the authority can use for the purpose of maintaining a complete and accurate electoral register and ensuring that any other information it holds on electors is accurate. An order may not be made under s 35 unless the procedural steps, set out in s 36, concerning proposals, consultation and evaluation have been followed. Section 37 defines certain expressions relating to registration.

Part 5 (ss 38-44) General

Section 38 defines 'the 1983 Act' and 'the 2000 Act'. Provision is made by the 2009 Act s 39, Schs 6, 7 for minor and consequential amendments and repeals. Section 40 makes transitional provision, and s 41 provides for circumstances where the provisions of the 2009 Act cause any increase in sums paid under other Acts. Section 42 deals with extent, s 43 with commencement, and s 44 with the short title.

Amendments, repeals and revocations

Subscribers should note that the list below mentions repeals and amendments which are or will be effective when the Act is fully in force. Please refer to the top of this summary for details of the in-force dates of the provisions of the Act. This information may also be found in the COMMENCEMENT OF STATUTES table in the Current Service Noter-up booklet. Please also note that the list is not exhaustive.

Specific provisions of a number of Acts are amended or repealed. These include: Representation of the People Act 1983 ss 10, 10A, 13, 13A, 63, 65A, 70, 76A, 90ZA, Schs 1, 2, 4A; Political Parties, Elections and Referendums Act 2000 ss 1, 3, 13, 15, 47, 54-56, 58, 62, 65, 67, 71H, 71L, 71S, 71U, 88, 145-149, 156, 160, Schs 1, 6, 6A, 7, 7A, 11, 15, 20; European Parliamentary Elections Act 2002 ss 5, 6; Electoral Administration Act 2006 ss 1, 2, 6, 62.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/1. INTRODUCTION AND GENERAL FRAMEWORK/(1) INTRODUCTION/1. Scope of title.

1. INTRODUCTION AND GENERAL FRAMEWORK

(1) INTRODUCTION

1. Scope of title.

This title sets out the law relating to the electoral procedures which govern the administration, conduct and questioning of parliamentary¹ and local government elections², elections to the National Assembly for Wales³ and elections to the European Parliament⁴. The relevant law is largely statutory and, because of the general similarity of many of the provisions, this title considers the law relating to the various elections together wherever possible⁵.

This title also sets out the law relating to the administration, conduct and questioning of referendums or other polls held in pursuance of any provision made by or under an Act of Parliament⁶. There is coverage of the standing statutory arrangements which provide a framework for national or regional referendums⁷ and of the statutory provisions relating to local authority referendums, and polls held on a question consequent on a parish or community meeting are also dealt with⁸.

Statute makes extensive provision for the combination of polls for elections and referendums with other relevant elections or referendums, mainly by applying the main statutory rules with modifications⁹. The modifications are noted but, in order to avoid repetition, the rules as modified are not set out in this work.

This title includes the following material which is ancillary to the administration, conduct and questioning of elections and referendums: (1) the establishment, constitution and functions of the Electoral Commission¹⁰ and the Boundary Commissions¹¹; (2) the establishment and review of electoral boundaries¹²; (3) the procedure for initiating the various elections and for the filling of vacancies¹³, the various voting systems employed in them¹⁴, and the qualifications for candidacy¹⁵; and (4) the procedure for initiating the various referendums¹⁶.

The following matters are dealt with elsewhere in this work: (a) the oversight of political parties when they are undertaking continuing political activity (in contradistinction to the activity they undertake during an election period, when particular restrictions apply)¹⁷; (b) the terms attached to offices to which candidates are elected¹⁸; and (c) the establishment and constitution of the assemblies to which candidates are elected¹⁹.

1 For the meaning of 'parliamentary election' see PARA 9 post. In this title, the term 'parliamentary election' (without anything further) is used to denote an election to the United Kingdom Parliament. See also note 4 infra.

2 The treatment of local government elections includes London mayoral and London Assembly elections. As to City of London elections see PARA 30 post.

3 In this title, the term 'Welsh Assembly election' is used to denote an election to the National Assembly for Wales and to distinguish such an election from a 'London Assembly election'.

4 As to the different types of election see PARA 9 et seq post.

In this title, the term 'European parliamentary election' is used to denote an election to the European Parliament. See also note 1 supra.

Although Gibraltar now forms part of a 'combined region' in the United Kingdom for the purpose of elections to the European Parliament (see the European Parliament (Representation) Act 2003 Pt II (ss 9-24) (as amended);

and PARAS 13, 76 post), Gibraltar is discussed in this title only within the context of general arrangements. As to the constitution of Gibraltar see COMMONWEALTH vol 13 (2009) PARA 859.

5 In general, each paragraph contains a general statement of the relevant law and any variations to that statement are accommodated in the footnotes (or, less commonly, in the text of the paragraph itself). However, occasionally, where there are variations between the different types of election, matters may be set out in separate paragraphs or under separate headings.

6 As to the different types of referendum see PARAS 14-15 post.

7 In the under the Political Parties, Elections and Referendums Act 2000 Pt VII (ss 101-129) (as amended): see PARA 519 et seq post. The framework does not apply to polls which are held with regard to the exercise of functions by the Welsh Ministers; such polls are dealt with separately: see PARA 554 et seq post.

This title also considers any primary legislation which has been required when any particular referendum has been conducted within the framework: see eg the Regional Assemblies (Preparations) Act 2003; and PARA 547 et seq post.

8 As to the conduct of local authority referendums see PARA 557 et seq post; and as to polls held on a question consequent on a parish or community meeting see PARA 558 et seq post.

9 As to the provision made for the combination of polls see PARA 16 et seq post.

10 As to the Electoral Commission see PARA 31 et seq post.

11 As to the Boundary Commissions see PARA 67 et seq post. See also LOCAL GOVERNMENT vol 69 (2009) PARA 54 et seq; PARLIAMENT vol 78 (2010) PARA 896.

12 As to the establishment and review of electoral boundaries see PARA 72 et seq post. As to structural and boundary changes which are required for the purposes of local administration (rather than for electoral purposes) see LOCAL GOVERNMENT vol 69 (2009) PARA 54 et seq.

13 See PARA 196 et seq post. As to parliamentary elections see also PARLIAMENT vol 78 (2010) PARAS 998-1000, 1094-1095; as to local government and mayoral elections see also LOCAL GOVERNMENT vol 69 (2009) PARAS 126 et seq, 320 et seq; as to London mayoral or London Assembly elections see also LONDON GOVERNMENT vol 29(2) (Reissue) PARAS 88 et seq, 106 et seq; as to elections to the National Assembly for Wales see also CONSTITUTIONAL LAW AND HUMAN RIGHTS; and as to European parliamentary elections see, in particular, PARA 224 et seq post.

14 See PARA 344 et seq post.

15 See PARA 231 et seq post. As to parliamentary elections see also PARLIAMENT vol 78 (2010) PARA 897 et seq; as to local government and mayoral elections see also LOCAL GOVERNMENT vol 69 (2009) PARAS 126 et seq, 320 et seq; as to London mayoral or London Assembly elections see also LONDON GOVERNMENT vol 29(2) (Reissue) PARA 85; as to elections to the National Assembly for Wales see also CONSTITUTIONAL LAW AND HUMAN RIGHTS; and as to European parliamentary elections see, in particular, PARAS 235-236 post.

16 As to initiating a national or regional referendum see PARA 519 et seq post. As to polls regarding the functions of the Welsh Ministers see PARA 554 post. As to the forms of executive for which a local authority referendum is required see PARA 560 et seq post; and LOCAL GOVERNMENT vol 69 (2009) PARA 312 et seq. As to how polls consequent on a parish or community meeting come about see PARA 586 et seq post; and LOCAL GOVERNMENT vol 69 (2009) PARA 638.

17 As to the continuing activity of political parties see CONSTITUTIONAL LAW AND HUMAN RIGHTS. The registration of political parties is a condition precedent to candidacy at certain elections (see PARA 260 post), but the subject of registration generally (together with the accounting and financial responsibilities that attend registration) is dealt with in CONSTITUTIONAL LAW AND HUMAN RIGHTS. Matters that relate more specifically to elections, such as the control of donations to candidates at an election, the limitation of candidates' election expenses, the control of expenditure by registered parties in a national parliamentary election campaign and the control of donations to, and the control of expenditure by, recognised third parties in national parliamentary election campaigns (along with the particular accounting and financial responsibilities that apply during election periods) are dealt with in this title: see PARA 260 et seq post.

18 See CONSTITUTIONAL LAW AND HUMAN RIGHTS; LOCAL GOVERNMENT vol 69 (2009) PARA 117 et seq; LONDON GOVERNMENT; PARLIAMENT vol 78 (2010) PARA 892 et seq, 1069 et seq.

19 See CONSTITUTIONAL LAW AND HUMAN RIGHTS; LOCAL GOVERNMENT vol 69 (2009) PARA 1 et seq; LONDON GOVERNMENT; PARLIAMENT vol 78 (2010) PARAS 801 et seq, 892 et seq.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/1. INTRODUCTION AND GENERAL FRAMEWORK/(1) INTRODUCTION/2. The Secretary of State.

2. The Secretary of State.

In any enactment, 'Secretary of State'¹ means one of Her Majesty's principal Secretaries of State². In general, electoral matters are the responsibility of the Secretary of State for Constitutional Affairs³.

Certain functions of the Lord Chancellor under the Representation of the People Act 1983⁴, the Representation of the People Act 1985, the Parliamentary Constituencies Act 1986⁵, the Representation of the People Act 2000⁶, the Election Publications Act 2001, the European Parliamentary Elections Act 2002 and the European Parliament (Representation) Act 2003 have been transferred to the Secretary of State⁷.

The power to make provision about elections to the National Assembly for Wales is exercisable by the Secretary of State for Wales⁸.

1 As to the office of Secretary of State generally see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 355.

2 As to the Secretary of State responsible for functions relating to local government see LOCAL GOVERNMENT vol 69 (2009) PARA 96.

3 See the Interpretation Act 1978 s 5, Sch 1.

4 Ie except the Representation of the People Act 1983 s 161 (as amended) (justice of the peace reported to have been guilty of corrupt practice: see PARA 900 post).

5 Ie except the Parliamentary Constituencies Act 1986 s 2, Sch 1 para 3 (prospectively repealed) (appointment of deputy chairmen of the Boundary Commissions: see PARA 68 post).

6 Ie the Representation of the People Act 2000 s 12, Sch 4 (as amended) (absent voting in Great Britain: see PARA 368 et seq post).

7 The functions were transferred from the Lord Chancellor to the Secretary of State for Constitutional Affairs by the Secretary of State for Constitutional Affairs Order 2003, SI 2003/1887, art 4, Sch 1, the Secretary of State being incorporated under art 3 to take over specified functions of the Lord Chancellor and the First Secretary of State (see arts 4-8). As to the Lord Chancellor see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 477 et seq.

8 See the Government of Wales Act 2006 s 13; and PARA 12 post. The provisions of the Government of Wales Act 2006 come into force immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provisions that apply for these purposes until that date see the Government of Wales Act 1998 s 11. As to the Secretary of State for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 520.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/1. INTRODUCTION AND GENERAL FRAMEWORK/(2) LEGAL FRAMEWORK/(i) The Legislative Basis/3. Outline of legislation relating to elections.

(2) LEGAL FRAMEWORK

(i) The Legislative Basis

3. Outline of legislation relating to elections.

Electoral procedures which govern the conduct and administration of parliamentary and local government elections, elections to the National Assembly for Wales and elections to the European Parliament are described in detail in statute law and in subordinate legislation¹. The statutes and related legislation are particularly concerned with the procedural aspects of voting². Provision is also made with regard to: the franchise and its exercise³; the conduct of election campaigns, especially in relation to how such campaigns are organised, funded and conducted by candidates and their supporters⁴; and the questioning of elections on the basis of electoral irregularity⁵. Certain principles and rules that were developed and applied to election petitions by committees of the House of Commons are still to be observed by the High Court and the election court⁶.

Provision is made for combining any of the elections mentioned above with any other relevant election or referendum by applying the statutory provisions and rules in a modified form⁷.

1 The main statutory provisions governing each type of election are: (1) the Representation of the People Acts, supplemented by the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended); (2) the Government of Wales Act 1998 ss 1-15 (as amended; prospectively repealed), and the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended; prospectively revoked); and (3) the European Parliamentary Elections Act 2002, and the European Parliamentary Elections Regulations 2004, SI 2004/293 (as amended) made thereunder. These provisions are often similar and are considered together in this title wherever possible.

The Acts which may be cited as 'the Representation of the People Acts' include the Representation of the People Act 1981, the Representation of the People Act 1983, the Representation of the People Act 1985, the Parliamentary Constituencies Act 1986, the Representation of the People Act 1989, the Representation of the People Act 1991 (prospectively repealed), the Boundary Commissions Act 1992, the Representation of the People Act 1993 and the Representation of the People Act 2000: see the Representation of the People Act 1981 s 4; the Representation of the People Act 1983 s 207(1); the Representation of the People Act 1985 s 29(1); the Parliamentary Constituencies Act 1986 s 9(1); the Representation of the People Act 1989 s 8; the Representation of the People Act 1991 s 3 (prospectively repealed by the Political Parties, Elections and Referendums Act 2000 s 158(2), Sch 22); the Boundary Commissions Act 1992 s 5(2); the Representation of the People Act 1993 s 2; and the Representation of the People Act 2000 s 17(1). The Representation of the People Act 1983 consolidated the Representation of the People Acts 1949, 1969, 1977, 1978 and 1980, the Electoral Registers Acts 1949 and 1953, the Elections (Welsh Forms) Act 1964, the Local Government Act 1972 Pt III (ss 39-45), the Representation of the People (Armed Forces) Act 1976, the Representation of the People Act 1981 s 3 and the Mental Health (Amendment) Act 1982 s 62, Sch 2, and repealed as obsolete the Representation of the People Act 1979. However, these Acts themselves often consolidated or incorporated legislation dating back to the nineteenth century and much of the detail of the legislation dates from that era. The Representation of the People Act 1983 is supplemented by and has been amended by other Acts in various respects.

The Representation of the People Act 1981 included provision for the disqualification of certain offenders for election to the House of Commons: see PARA 271 post. The Representation of the People Act 1985 extended the franchise for United Kingdom parliamentary and European parliamentary elections to British citizens overseas and provided for the combination of polls taken on the same date at such elections and at local elections. The Representation of the People Act 1989 made further provision relating to overseas electors and the expenses of candidates at parliamentary by-elections. The Representation of the People Act 1991 made provision for moneys given to returning officers for services rendered during United Kingdom parliamentary elections. The Representation of the People Act 1993 amended the Representation of the People Act 1983 in relation to the

armed forces franchise. The Representation of the People Act 2000 introduced a system of 'rolling' registration of voters for the purposes of parliamentary and local government elections (as to which see PARA 132 note 3 post), allowed for pilot schemes to introduce new electoral procedures for local elections in England and Wales and re-enacted the provisions allowing for absent and proxy voting at parliamentary or local government elections, which were first introduced in the Representation of the People Act 1985 ss 5-9 (repealed). The Representation of the People Act 2000 also repealed the Representation of the People Act 1990. The Electoral Administration Act 2006 provided for the co-ordinated on-line registration of electors and provided measures which aimed to make the electoral system more convenient and accessible to the electorate while improving the integrity and security of the vote.

The Secretary of State may by order make such amendments of the enactments relating to the representation of the people as in his opinion facilitate or are otherwise desirable in connection with the consolidation of some or all of those enactments: s 72(1). For these purposes, the enactments relating to the representation of the people are the Representation of the People Act 1983, the Representation of the People Act 1985, the Representation of the People Act 1989, the Representation of the People Act 1993, the Representation of the People Act 2000, the Electoral Administration Act 2006, and an enactment referring to any such enactment: s 72(2). Such an order is not to come into force unless an Act consolidating the enactments amended by the order (with or without other enactments relating to the representation of the people) has been passed (s 72(3)) and until immediately before that Act comes into force (s 72(4)). If the provisions of that Act come into force at different times, so much of an order as amends an enactment repealed and re-enacted by a provision of that Act comes into force immediately before that provision: s 72(5), (6). An order must not be made unless the Secretary of State first consults the Electoral Commission (as to which see note 4 infra): s 72(7). Such an order must be made by statutory instrument, but no such order may be made unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament: s 72(8).

In relation to Welsh Assembly elections, the Government of Wales Act 1998 is repealed, effective immediately after the ordinary election held in 2007 (under s 3): see the Government of Wales Act 2006 s 161(1), (4), (5). Accordingly, thereafter the reference to the Government of Wales Act 1998 ss 1-15 in head (2) supra must be read as a reference to the Government of Wales Act 2006 ss 1-19. Effective from 1 February 2007, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended) is revoked and replaced by the National Assembly for Wales (Representation of the People) Order 2007, SI 2007/236: see arts 1, 149.

The European Parliamentary Elections Act 2002 consolidated the European Parliamentary Elections Acts of 1978, 1993 and 1999. The European Parliament (Representation) Act 2003 amended the European Parliamentary Elections Act 2002 consequent on the accession of new member states to the European Union and made provision for the Electoral Commission (as to which see note 4 infra) to advise on the revision of electoral regions. It also provided for free elections to the European Parliament to be held in Gibraltar, consequent on the decision in Application 24833/94 *Matthews v United Kingdom* (1999) 28 EHRR 361, ECtHR: see further PARA 13 post.

The Representation of the People Acts are applied with modifications by regulations made under the Local Government Act 2000 ss 44, 105 (as amended) for the purpose of electing a local authority mayor where executive arrangements are in place: see PARA 388 post; and LOCAL GOVERNMENT vol 69 (2009) PARA 320. Parish and community council elections and elections to the chair of such a council or of a parish meeting are provided for by applying the Representation of the People Act 1983, subject to modifications effected by rules made under s 36 (as amended): see s 187 (as amended); and PARA 388 post. Elections under the Greater London Authority Act 1999 of the Mayor of London and members of the London Assembly are treated as local government elections for the purposes of the Representation of the People Acts: see PARA 10 post; and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 88. The Representation of the People Act 1983 is applied to City of London elections (ward and municipal) by ss 191, 193-198 (as amended), which also modify the various City of London Acts governing ward elections: see PARA 30 post. The law applying to elections in the City of London is unique in many respects and accordingly is not dealt with in this title: see further LONDON GOVERNMENT vol 29(2) (Reissue) PARA 41 et seq.

For the purposes of the Representation of the People Act 1983, 'election' means a parliamentary election, an Authority election or an election under the local government Act: s 202(1) (definition amended by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 38(1), (2)(a)). For the meaning of 'parliamentary election' see PARA 9 post; and for the meanings of 'Authority election' and 'election under the local government Act' see PARA 10 post. For the purposes of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended), 'Assembly election' means a 'constituency election' (ie an election to return an Assembly member for an Assembly constituency) or a 'regional election' (ie an election to return Assembly members for an Assembly electoral region), where both 'Assembly constituency' and 'Assembly electoral region' are to be construed in accordance with the Government of Wales Act 2006 s 2(5), Sch 1 (see PARAS 75, 103 post): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 2(1). For the purposes of the European Parliamentary Elections Regulations 2004, SI 2004/293, 'election' means a European parliamentary election: reg 2(1). As to elections for the return of members of the National Assembly for Wales see PARA 12 et seq post; and as to elections held in the United Kingdom for the return of members of the European Parliament see PARA 13 et seq post.

2 The main rules for conducting a ballot appear in: (1) the Representation of the People Act 1983 s 23(1), Sch 1 (as amended) (the 'parliamentary elections rules': see PARA 388 note 2 post); (2) the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 (as amended) (for elections to the National Assembly for Wales) (see PARA 388 post); and (3) the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 (as amended) (the 'European parliamentary elections rules': see PARA 388 note 18 post). The conduct of local government elections is provided for by the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2: see PARA 388 post. The latter rules are also applied, by virtue of the Interpretation Act 1978 s 17(2), to the conduct of a poll consequent on a parish or community meeting: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1 (as amended); and PARA 388 post. The Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 (as amended) (see PARA 388 post) provide for local authority mayoral elections where executive arrangements are in place under the Local Government Act 2000 (as to which see PARA 560 et seq post; and LOCAL GOVERNMENT vol 69 (2009) PARA 320 et seq). In relation to London elections, the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, provide separate rules of conduct for London mayoral elections (r 3(3), Sch 3 (as amended)), London Assembly (constituency member) elections (r 3(1), Sch 1 (as amended)) and London Assembly (London member) elections (r 3(2), Sch 2 (as amended)): see PARA 388 post.

3 See the Representation of the People Act 1983 Pt I (ss 1-66A) (as amended); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Pt II (arts 3-34) (as amended); the European Parliamentary Elections Regulations 2004, SI 2004/293, regs 6-30 (as amended); and PARA 110 et seq post.

A uniform franchise which included a qualification based upon residence (rather than qualification based exclusively on the ownership or occupation of property) was first established by the Representation of the People Act 1918 (repealed), which also for the first time introduced votes for women (who qualified upon attaining the age of 30 years). The franchise and its exercise continues to be affected by statute: the Representation of the People Act 2000 allows patients in mental hospitals who are not detained offenders or on remand, persons who are remanded in custody, and persons who are homeless to be registered as parliamentary and local government electors on the basis of declarations of local connection: see PARA 132 et seq post.

4 See the Representation of the People Act 1983 Pt II (ss 67-119) (as amended); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Pt III (arts 35-84); and the European Parliamentary Elections Regulations 2004, SI 2004/293, Pt 2 (regs 31-81) (as amended); and PARA 237 et seq post.

The Representation of the People Act 1983 (as originally enacted) did not recognise the role of political parties in elections and its focus on restricting candidates' expenses at a constituency level had no effect on what political parties as a whole spent on fighting elections at a national level. In 1997, the Committee on Standards in Public Life was given extended terms of reference to consider the whole area of the funding of political parties: see 300 HC Official Report (6th series), 12 November 1997, col 899. The government responded to the publication of the Committee's report (ie *Standards in Public Life (Fifth Report): The Funding of Political Parties in the United Kingdom* (Cm 4057) (October 1998) (the 'Neill Report')) by enacting the Political Parties, Elections and Referendums Act 2000. This Act addressed the concerns raised by the Committee's report by making provision for the registration and financial accountability of political parties and for controls on donations and expenditure for political purposes, including during election campaigns; these provisions have since been supplemented and amended by the Electoral Administration Act 2006: see PARA 274 et seq post. The Political Parties, Elections and Referendums Act 2000 sought to underpin its reforms by establishing an independent Electoral Commission with widespread executive and investigative powers (see PARA 31 et seq post), and sought further to ensure that referendum campaigns were conducted by properly-funded participants and with the minimum of interference from the executive (see PARA 4 post).

5 See the Representation of the People Act 1983 Pt III (ss 120-186) (as amended); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Pt IV (arts 85-137) (as amended); the European Parliamentary Elections Regulations 2004, SI 2004/293, Pt 4 (regs 86-122) (as amended); and PARA 759 et seq post. See also, in relation to a United Kingdom parliamentary or local government election, the Election Petition Rules 1960, SI 1960/543 (as amended) (which also have effect subject to modifications in relation to a Welsh Assembly election petition by virtue of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 133(3), Sch 9); and, in relation to a European parliamentary election, the European Parliamentary Election Petition Rules 1979, SI 1979/521 (as amended).

6 See PARA 765 post. In particular, the principles and rules with regard to agency (see PARA 251 et seq post), evidence (see PARA 829 et seq post) and scrutiny (see PARA 837 et seq post) must be observed.

7 See further PARA 16 et seq post. See also PARA 1 ante.

UPDATE

3 Outline of legislation relating to elections

NOTE 1--SI 2004/293 reg 2(1) substituted: SI 2009/186.

NOTE 2--SI 2002/185 reg 3(1), Sch 1 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1. SI 2000/427 replaced: Greater London Authority Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/1. INTRODUCTION AND GENERAL FRAMEWORK/(2) LEGAL FRAMEWORK/(i) The Legislative Basis/4. Outline of legislation relating to referendums.

4. Outline of legislation relating to referendums.

Historically, referendums have been called only rarely in the United Kingdom and, when called, they have taken place under specially enacted provisions. In recent times, arrangements were made for referendums to consider such questions as the future of Northern Ireland following the introduction of direct rule in that province¹; whether the United Kingdom should withdraw from membership of the European Economic Community (as it was then)²; whether certain proposals to devolve power to Scotland and to Wales should be approved³; whether a Scottish Parliament should be established and should have tax-varying powers⁴; whether a Welsh Assembly should be established⁵; whether a Greater London Authority should be established with a directly-elected Mayor and Assembly⁶; and whether the Good Friday Agreement relating to Northern Ireland should be accepted⁷.

The Fifth Report on the Funding of Political Parties in the United Kingdom published in October 1998⁸, in considering issues surrounding the funding of political parties and election campaigns, made further recommendations in relation to similar issues raised by referendum campaigns⁹. In response to that report, the Political Parties, Elections and Referendums Act 2000 was enacted, which (amongst other things) sets out a legal framework within which national and regional referendums within the United Kingdom are to be held¹⁰. However, the legislative framework does not apply to polls held to ascertain the views of the public in Wales or in any part of Wales with regard to how relevant functions of the Welsh Ministers should be exercised¹¹. Nor does it apply to referendums held at a local level such as referendums held to consider proposals for the adoption of executive arrangements under the Local Government Act 2000¹², to local polls held under the Local Government Act 2003¹³, or to polls held on a question consequent on a parish or community meeting¹⁴.

1 See the Northern Ireland (Border Poll) Act 1972 (repealed).

2 See the Referendum Act 1975 (repealed).

3 See the Scotland Act 1978 s 85, Sch 17 (repealed); and the Wales Act 1978 s 80, Sch 12 (repealed).

4 See the Referendums (Scotland and Wales) Act 1997.

5 See note 4 *supra*.

6 See the Greater London Authority (Referendum) Act 1998; and the Greater London Authority (Referendum Arrangements) Order 1998, SI 1998/746.

7 See the Northern Ireland Negotiations (Referendum) Order 1998, SI 1998/1126, which has now lapsed on the repeal of the Northern Ireland (Entry to Negotiations, etc) Act 1996.

8 *See Standards in Public Life (Fifth Report): The Funding of Political Parties in the United Kingdom* (Cm 4057) (October 1998) (the 'Neill Report').

9 See *ibid* Ch 12. In this regard, the main recommendations of the report were directed principally at ensuring that each side in a referendum campaign (which would not necessarily divide along party lines) had a fair opportunity to put its views to the public (particularly with regard to access to funding) and that referendum campaigns were not skewed by the intervention of the government of the day: see Recommendations R83-R93.

10 See the Political Parties, Elections and Referendums Act 2000 Pt VII (ss 101-129) (as amended); and PARA 519 *et seq post*. Although these provisions introduced standing statutory arrangements for the conduct of

referendums, further legislation will continue to be required to provide for the holding of any particular major referendum within this framework: see eg the Regional Assemblies (Preparations) Act 2003; and PARA 547 et seq post.

11 See the Government of Wales Act 2006 s 64; and PARA 554 et seq post.

12 See the Local Government Act 2000 ss 25-27; and LOCAL GOVERNMENT vol 69 (2009) PARA 312 et seq. Provision for the rules of conduct for such referendums is made by applying the statutory provisions and rules in a modified form: see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298 (as amended); the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870; and PARA 557 et seq post. As to the questioning of a local authority referendum and the application and modification of the Election Petition Rules 1960, SI 1960/543 (as amended) for this purpose see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19, Schs 6-7; the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15, Schs 5-6; and PARA 764 et seq post.

Provision is made for combining local authority referendums in England with any other relevant election or referendum by applying the statutory provisions and rules in a modified form: see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, regs 15-17 (as amended), Sch 5 (as substituted); and PARA 29 et seq post. See also PARA 1 ante.

13 In polls conducted by a local authority to ascertain the views of those polled about matters relating to services provided by the authority, the authority's expenditure on such services, or any other matter relating to the authority's power to promote the well-being of its area: see PARA 559 et seq post.

14 In the application of those provisions referred to in the Representation of the People Act 1983 s 187(1) (as amended) to a poll consequent on a parish or community meeting, the adaptations, alterations and exceptions have effect as specified in the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6: see PARA 558 et seq post.

UPDATE

4 Outline of legislation relating to referendums

NOTE 12--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/1. INTRODUCTION AND GENERAL FRAMEWORK/(2) LEGAL FRAMEWORK/(ii) Rights and Freedoms/5. The integrity of parliamentary elections.

(ii) Rights and Freedoms

5. The integrity of parliamentary elections.

The Crown may not interfere with the election of members of Parliament, which ought to be free¹.

¹ Bill of Rights s 1. See also 3 Edw 1 (Statute of Westminster the First) (1275) c 5, which prohibits any man by force of arms, malice or menacing from disturbing free elections. As to the history and citation of the Bill of Rights see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 35.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/1. INTRODUCTION AND GENERAL FRAMEWORK/(2) LEGAL FRAMEWORK/(ii) Rights and Freedoms/6. Elections required under European law.

6. Elections required under European law.

The EC Treaty¹ provides that elections to the European Parliament are to be by direct universal suffrage². The Treaty further provides that the European Parliament will draw up a proposal for elections by direct universal suffrage in accordance with a uniform procedure in all member states, or in accordance with principles common to all member states, and that the Council, acting unanimously after obtaining the assent of the European Parliament, which is to act by a majority of its component members, is to lay down the appropriate provisions, which it is to recommend to member states for adoption in accordance with their respective constitutional requirements³. On 20 September 1976, the Council adopted an Act concerning the election of the representatives of the European Parliament by direct universal suffrage⁴. The 1976 Act established that, subject to the other provisions of the Act⁵, the electoral procedure is governed in each member state by its national provisions, with the proviso that, while these provisions may if appropriate take account of the specific situation in the member states, they must not affect the essentially proportional nature of the voting system⁶.

The EC Treaty also provides that every citizen of the European Union residing in a member state of which he is not a national has the right to vote and to stand as a candidate in elections to the European Parliament⁷ and at municipal elections in the member state in which he resides, under the same conditions as nationals of that state⁸.

1 The Treaty Establishing the European Community (Rome, 25 March 1957; TS 1 (1973); Cmnd 5179).

2 See *ibid* art 190(1) (art 190 formerly art 138; renumbered by virtue of the Treaty of Amsterdam: see *Treaty Citation (No 2) (Note)* [1999] All ER (EC) 646, ECJ). The number of representatives elected to the European Parliament in each member state is specified in EC Treaty art 190(2) (as so renumbered). As to the term of office of elected representatives see art 190(3) (as so renumbered); and *para* 224 *post*. As to the basis of the authority for regulations and the general conditions governing the performance of their duties see art 190(5) (as so renumbered). See also the Treaty establishing the European Coal and Steel Treaty (Paris, 18 April 1951; TS 16 (1979); Cmnd 7461) (the 'ECSC Treaty') art 21; and the Treaty establishing the European Atomic Energy Community (Rome, 25 March 1957; TS 1 (1973); Cmnd 5179) (the 'Euratom Treaty') art 108.

3 See EC Treaty art 190(4) (as renumbered: see note 2 *supra*). A uniform electoral procedure has not yet been introduced. A challenge to the failure of the Community institutions to provide for such a procedure was defeated as serving no further purpose in *Case C-41/92 Liberal Democrats v European Parliament* [1993] ECR I-3153, ECJ, on the basis that the European Parliament had adopted Resolution A3-0381/92 (OJ C115, 26.04.93, p 121) on a draft uniform electoral procedure for the election of members of the European Parliament.

4 See the 1976 Act concerning the election of the representatives of the European Parliament by direct universal suffrage (OJ L278, 08.10.76, p 5) (the '1976 Act') (amended and renumbered by EC and Euratom Decision 2002/772 (OJ L283, 21.10.2002, p 1)), annexed to ECSC, EEC and Euratom Decision 76/787 (OJ L278, 08.10.76, p 1).

5 The 1976 Act confirms, for instance, that elections to the European Parliament must be by direct universal suffrage and free and secret: see art 1(3) (as amended and renumbered: see note 4 *supra*). Various other provisions of the 1976 Act allow member states to set a minimum threshold for the allocation of seats (see art 3 (as added and renumbered: see note 4 *supra*)); allow each member state to set a ceiling for candidates' campaign expenses (see art 4 (as added and renumbered: see note 4 *supra*)); require that members of the European Parliament ('MEPs') vote on an individual and personal basis (see art 6 (as amended and renumbered: see note 4 *supra*)); establish that the office of MEP is incompatible with certain offices in or connected with Community institutions (see art 7 (as amended and renumbered: see note 4 *supra*)); establish that no one may vote more than once in any election of MEPs (see art 9 (as renumbered: see note 4 *supra*)); and allow for the European Parliament to verify the credentials of MEPs (see art 12 (as amended and renumbered: see note 4

supra)). The Act also provides for when a seat falls vacant: see art 13 (as substituted and renumbered); and PARA 225 post.

6 See *ibid* art 8 (as substituted and renumbered: see note 4 supra). The 1976 Act (as amended and renumbered) specifies that members of the European Parliament in each member state must be elected on the basis of proportional representation, using the list system or the single transferable vote, and that member states may authorise voting based on a preferential list system in accordance with the procedure they adopt: see art 1(1), (2) (as so amended and renumbered). Furthermore, in accordance with its specific national situation, each member state may establish constituencies for elections to the European Parliament or subdivide its electoral area in a different manner, without generally affecting the proportional nature of the voting system: see art 2 (as so substituted). As to the national provisions which govern European parliamentary elections in the United Kingdom see PARA 13 *et seq* post.

7 In the case of elections to the European Parliament, this right is expressed to be without prejudice to EC Treaty art 190(4) (as renumbered: see note 2 supra) (see the text and note 3 supra) and to the provisions adopted for its implementation (see the text and notes 4-6 supra): art 19 (formerly art 8b; renumbered by virtue of the Treaty of Amsterdam: see *Treaty Citation (No 2) (Note)* [1999] All ER (EC) 646, ECJ).

8 EC Treaty art 19 (as renumbered: see note 7 supra). This right is to be exercised subject to detailed arrangements adopted by the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, which may provide for derogations where warranted by problems specific to a member state: see art 19. See further EC Council Directive 93/109 of 6 December 1993 (OJ L329, 30.12.93, p 34), which lays down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the European Union residing in a member state of which they are not nationals. Nothing in the Directive affects each member state's provisions concerning the right to vote or to stand as a candidate of its nationals who reside outside its electoral territory: see art 1.

UPDATE

6 Elections required under European law

NOTES 2, 4--By virtue of art 97, the ECSC Treaty has now expired. Since 24 July 2002, the sectors previously covered by this Treaty, and the procedural rules and other secondary legislation derived from it, have been subject to the rules of the EC Treaty as well as the procedural rules and other secondary legislation derived from the EC Treaty.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/1. INTRODUCTION AND GENERAL FRAMEWORK/(2) LEGAL FRAMEWORK/(ii) Rights and Freedoms/7. Rights guaranteed under the Convention for the Protection of Human Rights and Fundamental Freedoms.

7. Rights guaranteed under the Convention for the Protection of Human Rights and Fundamental Freedoms.

The right of free elections to the legislature is guaranteed in the scheme of the Convention for the Protection of Human Rights and Fundamental Freedoms (1950)¹, whereby contracting states² undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature³. The contracting states have a wide margin of appreciation in this sphere⁴, but it is for the European Court of Human Rights to determine in the last resort whether the requirements have been complied with⁵.

The right to freedom of expression, which includes the freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers⁶, has been applied to political discourse generally and to election campaign communications in particular⁷.

1 le the scheme of the Convention for the Protection of Human Rights and Fundamental Freedoms (Rome, 4 November 1950; TS 71 (1953); Cmd 8969; Council of Europe, ETS no 5) and the First Protocol (Paris, 20 March 1952; Cmd 9221; Council of Europe, ETS no 9). As to the Convention and the Protocols to the Convention see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 122 et seq. The main provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms (1950) and its Protocols have been incorporated into English law by the Human Rights Act 1998: see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

2 le the contracting states to the Convention for the Protection of Human Rights and Fundamental Freedoms (1950), First Protocol (1952).

3 Convention for the Protection of Human Rights and Fundamental Freedoms, First Protocol art 3. See further CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 167.

The main decision relating to the First Protocol art 3 is Application 9267/81 *Mathieu-Mohin and Clerfayt v Belgium* (1987) 10 EHRR 1, ECtHR, which establishes that the right of free elections guarantees individual rights, including the right to vote and the right to stand for elections, but does not require the adoption of any specific electoral system.

4 The rights in question are recognised but not set forth in express terms so they may be subject to conditions by the contracting states: *Mathieu-Mohin and Clerfayt v Belgium* (1987) 10 EHRR 1, ECtHR.

5 *Mathieu-Mohin and Clerfayt v Belgium* (1987) 10 EHRR 1, ECtHR. It is for the European Court of Human Rights to satisfy itself that any conditions imposed do not curtail the rights to such an extent as to impair their essence or remove their effectiveness, that they pursue a legitimate aim and that the means employed are proportionate to that aim: *Mathieu-Mohin and Clerfayt v Belgium* supra at [52]. See also Application 24833/94 *Matthews v United Kingdom* (1999) 28 EHRR 361 at [62], (1999) 5 BHRC 686 at [62], ECtHR.

In domestic law, the Representation of the People Act 1983 s 3(1) (as amended) (see PARA 122 post), which disqualified convicted persons detained in a penal institution from voting at parliamentary or local government elections, was held to fall within the margin of appreciation and was not incompatible with the Convention for the Protection of Human Rights and Fundamental Freedoms, First Protocol art 3: *R (on the application of Pearson and Martinez) v Secretary of State for the Home Department*, *Hirst v A-G* [2001] EWHC Admin 239, [2001] HRLR 39, (2001) Times, 17 April, [2001] All ER (D) 22 (Apr) (there was no reason why Parliament should not take the view that prisoners in custody had forfeited their right to have a say in how the country was governed; deference had to be given to the legislature on the issue of proportionality). However, in related proceedings before the European Court of Human Rights, it was held that an absolute bar on voting by any serving prisoner in any circumstances was not proportionate and did not fall within an acceptable margin of appreciation: Application 74025/01 *Hirst v United Kingdom (No 2)* (2004) 38 EHRR 825, (2004) 16 BHRC 409, (2004) Times, 8 April, ECtHR (the disenfranchisement affected a substantial number of people and was applied

without regard to length of sentence or gravity of offence; the results were arbitrary and anomalous, depending on the timing of elections; there was no evidence that the legislature had sought to weigh the competing interests or to assess the proportionality of the ban; in so far as the ban was intended to be punitive, it should cease when prisoners had completed the punitive element of their sentences and were detained only on preventive grounds). This decision was confirmed on appeal: Application 74025/01 *Hirst v United Kingdom (No 2)* (2005) 19 BHRC 546, (2005) Times, 10 October, [2005] All ER (D) 59 (Oct), ECtHR (Grand Chamber) (the principle of proportionality required a discernible and sufficient link to be made between the sanction of disenfranchisement and the conduct and circumstances of the individual).

To the extent that English and Welsh domestic law made the right to vote conditional on acquiescence in the sale of copies of the electoral register to commercial interests with no right of objection, it operated in a way which contravened the Convention for the Protection of Human Rights and Fundamental Freedoms, First Protocol art 3: *R (on the application of Robertson) v Wakefield Metropolitan District Council* [2001] EWHC 915 (Admin), [2002] QB 1052, [2002] LGR 286. The practice of selling the electoral register for direct marketing purposes without affording an individual elector a right of objection was also found to be a disproportionate interference with the individual's right to respect for his private and family life, home and correspondence under the Convention for the Protection of Human Rights and Fundamental Freedoms art 8 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 149 et seq) when the electors had provided their details under legal compulsion and for public purposes: *R (on the application of Robertson) v Wakefield Metropolitan District Council* supra. The Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 114 (see PARA 184 post) was amended as a consequence of this decision.

6 See the Convention for the Protection of Human Rights and Fundamental Freedoms art 10(1). The exercise of the right to freedom of expression may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society for preventing the disclosure of information received in confidence: see art 10(2). See also CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 158-159.

7 See eg Application 24744/94 *Huggett v United Kingdom* (1995) 82-A DR 98 (BBC policy of allocating broadcasting time only to political parties presenting candidates in at least 12.5% of seats in an election, being intended to facilitate the public expression of political opinions which are likely to be of general interest, did not disclose arbitrariness or discrimination). As to consideration before the domestic courts of the right to free expression see also *R (on the application of ProLife Alliance) v BBC* [2002] EWCA Civ 297, [2004] 1 AC 185, [2002] 2 All ER 756 (freedom of political speech enjoyed by accredited political parties at general election time must be interfered with only on exceptional grounds which would seldom be found in appeals to taste and decency); revsd on different grounds without argument on this point [2003] UKHL 23, [2004] 1 AC 185, [2003] 2 All ER 977.

The low statutory limit set on expenses incurred by outsiders in publicising a candidate or in promoting political debate at an election (see PARA 277 et seq post) was found to violate the Convention for the Protection of Human Rights and Fundamental Freedoms art 10 because it operated effectively as a total bar on the provision of information by third parties, while the press was not restricted in like fashion. The limit was found to be disproportionate to the aim pursued of ensuring that political debate in any individual constituency was not dominated by third party issues: Application 24839/94 *Bowman v United Kingdom* (1998) 26 EHRR 1, (1998) 4 BHRC 25, ECtHR (interference with applicant's freedom of expression, employed in seeking to influence voters in favour of anti-abortion candidates, was not necessary in a democratic society). The Representation of the People Act 1983 s 75 (see PARA 277 post) was amended accordingly.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/1. INTRODUCTION AND GENERAL FRAMEWORK/(2) LEGAL FRAMEWORK/(ii) Rights and Freedoms/8. Rights guaranteed under international conventions.

8. Rights guaranteed under international conventions.

The Universal Declaration of Human Rights¹ guarantees that: (1) everyone has the right to take part in the government of his country, directly or through freely chosen representatives²; (2) everyone has the right to equal access to public service in his country³; and (3) the will of the people must be the basis of the authority of government, and this will must be expressed in periodic and genuine elections by universal and equal suffrage and must be held by secret vote or by equivalent free voting procedures⁴.

Under the International Covenant on Civil and Political Rights⁵, every citizen has the right and the opportunity, without discrimination⁶ and without unreasonable restrictions: (a) to take part in the conduct of public affairs, directly or through freely chosen representatives⁷; (b) to vote and to be elected at genuine periodic elections by universal and equal suffrage and by secret ballot, guaranteeing the free expression of the will of the electors⁸; and (c) to have access, on general terms of equality, to public service in his country⁹.

1 Ie the Universal Declaration of Human Rights (Paris, 10 December 1948; UN 2 (1949); Cmd 7662): see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 122.

2 Ibid art 21(1).

3 Ibid art 21(2).

4 Ibid art 21(3).

5 Ie the International Covenant on Civil and Political Rights (New York, 16 December 1966; ratified by the United Kingdom 20 May 1976; UN TS 6 (1977); Cmnd 6702): see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 103 et seq.

6 Ie without any of the distinctions mentioned in ibid art 2.

7 See ibid art 25(a).

8 See ibid art 25(b).

9 See ibid art 25(c).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/1. INTRODUCTION AND GENERAL FRAMEWORK/(3) THE DIFFERENT TYPES OF ELECTION/9. Parliamentary elections.

(3) THE DIFFERENT TYPES OF ELECTION

9. Parliamentary elections.

In any Act, 'parliamentary election' means the election of a member to serve in Parliament for a constituency¹; and 'constituency' means² an area having separate representation in the House of Commons³. For the purpose of parliamentary elections, county and borough constituencies are established, each returning a single member⁴.

The franchise for, the conduct of, and the questioning of parliamentary elections are governed by the Representation of the People Act 1983 and associated legislation⁵. Provision is made for the combination of polls for parliamentary elections with any other relevant election or referendum⁶.

1 Interpretation Act 1978 s 5, Sch 1. The Representation of the People Act 1983 provides for a separate election in each parliamentary constituency and does not recognise the concept of a 'general election', which is simply the description that has evolved for the totality of separate parliamentary elections occurring simultaneously. Accordingly, the term 'parliamentary election' is defined in the Interpretation Act 1978 in terms which make it plain that it means an election for a particular constituency and not a panoply of elections commonly known as a general election: see *R v Tronoh Mines Ltd* [1952] 1 All ER 697, [1952] 1 TLR 461, CCA. In this title, the term 'parliamentary election' (without anything further) is used to denote an election to the United Kingdom Parliament.

2 *Ibid* in the Parliamentary Constituencies Act 1986 and, except where the context otherwise requires, in any Act passed after the Representation of the People Act 1948 (repealed), which received Royal Assent on 30 July 1948.

3 Parliamentary Constituencies Act 1986 s 1(2); and see further PARA 72 post.

4 See *ibid* s 1(1); and PARA 72 post. Constituencies are constituted and designated as either county or borough constituencies in Orders in Council under the Parliamentary Constituencies Act 1986. As to the procedure by which parliamentary constituencies are constituted, designated and reviewed see PARA 72 et seq post. As to members and constituencies of the House of Commons generally see PARLIAMENT vol 78 (2010) PARA 892 et seq.

5 See PARA 3 ante.

6 See PARA 16 et seq post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/1. INTRODUCTION AND GENERAL FRAMEWORK/(3) THE DIFFERENT TYPES OF ELECTION/10. Local government elections.

10. Local government elections.

In the Representation of the People Act 1983, 'local government election' means: (1) the election of councillors for any electoral area; or (2) any Authority election¹.

'Electoral area' means: (a) any electoral division or ward (or, in the case of a parish or community in which there are no wards, the parish or community) for which the election of councillors is held under the local government Act²; (b) Greater London³, in the case of any election of the Mayor of London⁴, or the election of the London members of the London Assembly at an ordinary election⁵; (c) any Assembly constituency for which the election of a constituency member of the London Assembly is held⁶. The procedure by which electoral areas are established and reviewed is described elsewhere in this work⁷.

'Authority election' means: (i) any election of the Mayor of London⁸; (ii) any election of a constituency member of the London Assembly⁹; or (iii) the election of the London members of the London Assembly at an ordinary election¹⁰.

The franchise for, the conduct of, and the questioning of local government elections are governed by the Representation of the People Act 1983 and associated legislation¹¹. The Representation of the People Acts¹² are applied with modifications¹³ for the purpose of electing a local authority mayor where executive arrangements are in place under the Local Government Act 2000¹⁴. Certain provisions of the Representation of the People Act 1983¹⁵ apply in relation to the City of London as if the City were a London borough and the Common Council of the City were a London borough council¹⁶. The Representation of the People Act 1983 applies in relation to the Isles of Scilly as if those isles were a county and as if the council of those isles were a county council¹⁷.

Provision is made for the combination of polls for local government elections with any other relevant election or referendum¹⁸.

1 Representation of the People Act 1983 s 203(1) (definition amended by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 39(1), (4)(c)). In the application of the Representation of the People Act 1983 in relation to England and Wales, unless the context otherwise requires, any reference to a local government election is taken to include a reference to an Authority election: s 203(1A) (added by the Greater London Authority Act 1999 Sch 3 paras 39(1), (5)). For the meaning of 'Authority election' see the text and notes 8-10 infra. For the purposes of the Representation of the People Act 1983, the expression 'local government election' includes a municipal election in the City of London: see s 191(1)(e); and PARA 30 post.

2 Ibid s 203(1)(a) (definition substituted by the Representation of the People Act 1985 s 24, Sch 4 para 71; and renumbered by the Greater London Authority Act 1999 Sch 3 paras 1, 39(1), (3)). The expression 'local government Act' means the Local Government Act 1972: Representation of the People Act 1983 s 203(1) (definition amended by the Local Government Act 1985 ss 18(1), 19, Sch 9 Pt I; and the Education Reform Act 1988 s 237, Sch 13 Pt I). In the application of the Representation of the People Act 1983 in relation to England and Wales, unless the context otherwise requires, any reference to an election under the local government Act is taken to include a reference to an Authority election: s 203(1A) (as added: see note 1 supra). For the purposes of the Representation of the People Act 1983, the expression 'election under the local government Act' includes a municipal election in the City of London; and 'electoral area' means, in relation to a ward election, the ward, and in relation to any other municipal election in the City of London, the City: see s 191(1)(e); and PARA 30 post. As to elections held under the Local Government Act 1972 see PARA 11 post.

For the purposes of the election of councillors, every non-metropolitan county in England and every county in Wales is required to be divided into electoral divisions and every district in England and Wales is required to be divided into wards: see s 6(2) (as amended), s 25(2) (as substituted); and PARA 73 post. For the same purposes,

every London borough is required to be divided into wards: see s 8(1) (as amended), Sch 2 para 7(1)(b) (as amended); and PARA 73 post. For each electoral division or ward, there must be a separate election: see s 6(2) (as amended), s 25(2) (as substituted), Sch 2 para 7(1) (as amended); and PARA 73 post. Where a parish (in England) is divided into parish wards, there must be a separate election of parish councillors for each ward, and where it is not, there must be one election of parish councillors for the whole parish: see s 16(4), (5); and PARA 73 post. Where a community (in Wales) is divided into community wards, there must be a separate election of community councillors for each ward, and where it is not, there must be one election of community councillors for the whole community: see s 35(3), (4); and PARA 73 post. The Representation of the People Act 1983 s 60, s 62A (as added), s 66 (as amended), Pt II (ss 67-119) (as amended), Pt III (ss 120-186) (as amended) and s 189 are applied to the election of councils in parishes and communities and to the chairman of parish and community meetings: see s 187(1) (as amended); and PARAS 388, 558 post.

For the purposes of the Political Parties, Elections and Referendums Act 2000, 'local government election' means a local government election within the meaning of the Representation of the People Act 1983 s 191 (as amended) (municipal elections in the City of London: see PARA 30 post), s 203 (as amended) or s 204 (Scotland) or an election under the Local Government Act 2000 Pt II (ss 10-48) (as amended) for the return of an elected mayor (see PARA 205 et seq post): Political Parties, Elections and Referendums Act 2000 s 160(1).

As to the election of councillors generally see LOCAL GOVERNMENT vol 69 (2009) PARA 126 et seq. As to London boroughs and London borough councils generally see LONDON GOVERNMENT vol 29(2) (Reissue) PARAS 30, 35 et seq. As to parishes see LOCAL GOVERNMENT vol 69 (2009) PARA 27 et seq; and as to communities see LOCAL GOVERNMENT vol 69 (2009) PARA 41 et seq.

3 As to Greater London see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 29 et seq.

4 Representation of the People Act 1983 s 203(1)(b)(i) (added by the Greater London Authority Act 1999 Sch 3 paras 1, 39(1), (3)).

'Election of the Mayor of London' means either any such election at an ordinary election or an election under the Greater London Authority Act 1999 s 16 (election to fill a vacancy in the office of Mayor of London): Representation of the People Act 1983 s 203(1) (definition added by the Greater London Authority Act 1999 Sch 3 paras 1, 39(1), (2)). As to London mayoral ordinary elections see PARA 206 post; and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 88 et seq. As to elections to fill a vacancy in the office of Mayor of London see PARA 211 post; and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 116 et seq.

5 Representation of the People Act 1983 s 203(1)(b)(ii) (added by the Greater London Authority Act 1999 Sch 3 paras 1, 39(1), (3)).

'London member', in relation to the London Assembly, has the same meaning as in the Greater London Authority Act 1999 (see ss 2(2)(b), 424(1); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 97): Representation of the People Act 1983 s 203(1) (definition added by the Greater London Authority Act 1999 Sch 3 paras 1, 39(1), (2)). As to London Assembly ordinary elections see PARA 206 post; and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 88 et seq.

6 Representation of the People Act 1983 s 203(1)(c) (added by the Greater London Authority Act 1999 Sch 3 paras 1, 39(1), (3)).

For these purposes, 'Assembly constituency' has the same meaning as in the Greater London Authority Act 1999 (see s 2(4) (as amended), s 2(5); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 93): Representation of the People Act 1983 s 203(1) (definition added by the Greater London Authority Act 1999 Sch 3 paras 1, 39(1), (2)). 'Election of a constituency member of the London Assembly' means either any such election at an ordinary election or an election under the Greater London Authority Act 1999 s 10 (election to fill a vacancy in an Assembly constituency: see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 114): Representation of the People Act 1983 s 203(1) (definition added by the Greater London Authority Act 1999 Sch 3 paras 1, 39(1), (2)).

'Constituency member', in relation to the London Assembly, has the same meaning as in the Greater London Authority Act 1999 (see ss 2(2)(a), 424(1); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 92): Representation of the People Act 1983 s 203(1) (definition added by the Greater London Authority Act 1999 Sch 3 paras 1, 39(1), (2)). As to elections to fill a vacancy in membership of the London Assembly see PARA 211 post; and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 106 et seq.

7 As to the establishment of electoral areas for the purpose of local government elections see PARA 73 et seq post; LOCAL GOVERNMENT vol 69 (2009) PARA 54 et seq; and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 30 et seq.

8 Representation of the People Act 1983 s 203(1)(a) (definition added by the Greater London Authority Act 1999 Sch 3 paras 1, 39(1), (2)).

9 Representation of the People Act 1983 s 203(1)(b) (definition as added: see note 8 supra).

10 Ibid s 203(1)(c) (definition as added: see note 8 supra).

11 See PARA 3 ante.

12 For the meaning of 'the Representation of the People Acts' see PARA 3 note 1 ante.

13 Ie by regulations made under the Local Government Act 2000 ss 44, 105 (as amended): see PARA 388 post; and LOCAL GOVERNMENT vol 69 (2009) PARA 320.

14 See PARA 205 post; and LOCAL GOVERNMENT vol 69 (2009) PARA 320.

15 Ie the Representation of the People Act 1983 Pt I (ss 1-66A) (as amended), so far as it has effect for the purposes of parliamentary elections, and Pts I-III (ss 1-186) (as amended), so far as they have effect for the purposes of Authority elections, and subject to any express provision contained in the Part or Parts in question: s 203(2) (substituted by the Greater London Authority Act 1999 Sch 3 paras 39(1), (6)). As to the conduct of parliamentary and Authority elections see PARA 388 post.

16 Representation of the People Act 1983 s 202(1), s 203(2) (as substituted: see note 15 supra). For these purposes, the Inner Temple and the Middle Temple are treated as forming part of the City of London: s 203(2) (as so substituted). The modifications made by s 203(2) (as substituted) do not affect s 52(4) (as substituted) (duty of a district council or London borough council to assign officers to assist the registration officer: see PARA 155 post): s 203(3). As to the Court of Common Council see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 51 et seq; and as to the Temples see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 32 et seq.

The law applying to elections in the City of London is unique in many respects: see PARA 30 post.

17 Ibid s 203(4). However, the council is required to appoint an officer of the council to be registration officer for the isles and s 53 (as amended), Sch 2 para 1(1) (as amended) (power to prescribe arrangements for carrying out of registration duties by a registration officer: see PARA 127 post) applies as if the isles were a district and the council were a district council: s 203(4)(a) (amended by the Representation of the People Act 1985 ss 24, 28, Sch 4 para 71(b), Sch 5). This function normally falls on the district council: see PARA 154 post. The provisions of the Representation of the People Act 1983 Pt I (as amended) relating to the conduct of local government elections have effect in relation to those isles subject to such adaptations as the Secretary of State may by regulations prescribe: s 203(4)(b). For the purposes of the Local Government Act 1972 s 265 (application to Isles of Scilly: see LOCAL GOVERNMENT vol 69 (2009) PARA 36) the provisions of the Representation of the People Act 1983 as to rules made by the Secretary of State under s 36 (as amended) (ie rules for the conduct of local government elections: see PARA 388 post) are deemed to be contained in a public general Act relating to local government: s 203(5). As to the making of regulations under the Representation of the People Act 1983 see PARA 24 note 16 post. As to the Secretary of State see PARA 2 ante. As to counties and county councils see LOCAL GOVERNMENT vol 69 (2009) PARA 24 et seq. As to the Council of the Isles of Scilly see LOCAL GOVERNMENT vol 69 (2009) PARA 36.

18 See PARA 16 et seq post.

UPDATE

10 Local government elections

NOTES--Certain functions under provisions mentioned in this paragraph are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3, see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/1. INTRODUCTION AND GENERAL FRAMEWORK/(3) THE DIFFERENT TYPES OF ELECTION/11. Elections under the Local Government Act 1972.

11. Elections under the Local Government Act 1972.

The following elections are elections under the Local Government Act 1972¹: (1) the election of the chairman of a principal council² and councillors for a principal area³; (2) the election of the mayor⁴ and councillors⁵ of a London borough; and (3) the election of the chairman⁶ and councillors⁷ of a parish or community council⁸.

1 The Representation of the People Act 1983 uses the expression 'election under the local government Act' where 'local government Act' is defined to mean the Local Government Act 1972: see the Representation of the People Act 1983 s 203(1) (definition as amended); and PARA 10 note 2 ante.

2 See the Local Government Act 1972 s 3(1); and LOCAL GOVERNMENT vol 69 (2009) PARA 144. Filling the office of vice-chairman of a principal council is not an election for this purpose, as the vice-chairman is appointed: see s 5(1). For the meaning of 'principal council' see LOCAL GOVERNMENT vol 69 (2009) PARA 23.

The election of the chairman of a principal council, although an election under the Local Government Act 1972, is not a local government election as defined in the Representation of the People Act 1983 (as to which see PARA 10 ante).

3 See the Local Government Act 1972 s 6(1) (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 127. For the meaning of 'principal area' see LOCAL GOVERNMENT vol 69 (2009) PARA 23.

4 See *ibid* s 8, Sch 2 para 2(1) (as amended); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 36. Where a London borough council is operating executive arrangements which involve a mayor and cabinet executive or a mayor and council manager executive, Sch 2 para 2(1) (as amended) has effect with the modifications specified in Sch 2 para 5D (as added): see Sch 2 para 5B (as added); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 37. As to councils operating executive arrangements see LOCAL GOVERNMENT vol 69 (2009) PARA 320.

5 See *ibid* Sch 2 para 6(1) (as amended); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 38.

6 See *ibid* ss 15(1), 34(1); and LOCAL GOVERNMENT vol 69 (2009) PARAS 145, 147. Filling the office of vice-chairman is not to be treated as an election for this purpose as the vice-chairman is appointed: see ss 15(6), 34(6).

7 See *ibid* s 16(2) (as amended), s 35(1) (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARAS 132-133.

8 In a parish not having a separate parish council, the chairman of a parish meeting is elected at its annual assembly: see *ibid* s 15(10); and LOCAL GOVERNMENT vol 69 (2009) PARA 146. Certain provisions of the Representation of the People Act 1983 have effect in relation to such an election subject to specified adaptations, modifications and exceptions: see PARA 388 post. As to the conduct of a poll consequent on a parish or community meeting on a question other than one involving appointment to an office see PARA 558 et seq post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/1. INTRODUCTION AND GENERAL FRAMEWORK/(3) THE DIFFERENT TYPES OF ELECTION/12. Elections to the National Assembly for Wales.

12. Elections to the National Assembly for Wales.

The National Assembly for Wales¹ consists of: (1) one member for each Assembly constituency ('Assembly constituency members')²; and (2) members for each Assembly electoral region ('Assembly regional members')³. Members of the National Assembly for Wales ('Assembly members') are returned in accordance with the provision made for: (a) the holding of ordinary general elections of Assembly members⁴; and (b) the filling of vacancies in Assembly seats⁵. An ordinary general election involves the holding of elections for the return of the entire Assembly⁶. Where the seat of an Assembly member returned for an Assembly constituency is vacant, an election is held in the Assembly constituency to fill the vacancy⁷. Where the seat of an Assembly member returned for an Assembly electoral region is vacant, then, if the Assembly member was returned from the list of a registered political party⁸, the regional returning officer⁹ must notify to the presiding officer the name of the person who is to fill the vacancy¹⁰ and, subject to certain conditions regarding such notification¹¹, that person is treated as declared to be returned as an Assembly member for the Assembly electoral region on the day on which notification of his name is received by the presiding officer¹². However, the seat remains vacant until the next ordinary general election if the Assembly regional member was returned as an individual candidate¹³, or if that Assembly regional member was returned from the list of a registered political party but there is no-one who satisfies the necessary conditions¹⁴.

The Secretary of State¹⁵ may by order¹⁶ make provision as to: (i) the conduct of elections for the return of Assembly members¹⁷; (ii) the questioning of an election for the return of Assembly members and the consequences of irregularities¹⁸; and (iii) the return of an Assembly member otherwise than at an election¹⁹.

Provision is made under head (i) above for the combination of polls at elections for the return of Assembly members and other elections²⁰.

1 As to the National Assembly for Wales generally see CONSTITUTIONAL LAW AND HUMAN RIGHTS. In this title, the term 'Welsh Assembly election' is used to denote an election to the National Assembly for Wales and to distinguish such an election from a 'London Assembly election'.

2 Government of Wales Act 2006 s 1(2)(a). The provisions of the Government of Wales Act 2006 come into force immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes until that date see the Government of Wales Act 1998 s 2(1)(a).

3 Government of Wales Act 2006 s 1(2)(b). As to the date at which this provision takes effect see note 2 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 2(1)(b). As to the establishment of constituencies for the purpose of elections to the National Assembly for Wales see PARA 75 et seq post; and as to the terms of office of Assembly members and resignation etc see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

4 Government of Wales Act 2006 s 1(3)(a). As to the date at which this provision takes effect see note 2 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 2(3)(a).

5 Government of Wales Act 2006 s 1(3)(b). As to the date at which this provision takes effect see note 2 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 2(3)(b).

6 See the Government of Wales Act 2006 s 1(3)(a). As to the holding of ordinary general elections and extraordinary general elections and as to the power of the Secretary of State to vary the date of an ordinary

general election see PARA 220 post. As to the entitlement to vote in such elections generally see PARA 114 post; and as to the manner of voting at such an election see PARA 369 post.

7 See PARA 221 post.

8 As to the voting system used to return Assembly members from the list of a registered political party see PARA 345 et seq post.

9 In the Government of Wales Act 2006, 'regional returning officer', in relation to any Assembly electoral region, means the person designated as the regional returning officer for the Assembly electoral region in accordance with an order under s 13 (as amended) (see the text and notes 15-20 infra): s 7(7). As to the date at which this provision takes effect see note 2 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 11(6).

10 See PARA 222 post.

11 As to the conditions referred to in the text see PARA 222 note 18 post.

12 See PARA 222 post.

13 As to Assembly regional members returned having stood as individual candidates see PARA 345 et seq post.

14 See PARA 222 post. As to the conditions referred to in the text see note 11 supra.

15 As to the Secretary of State see PARA 2 ante.

16 Such an order may:

- 1 (1) apply or incorporate, with or without modifications or exceptions, any provision of, or made under, the Representation of the People Acts, the Political Parties, Elections and Referendums Act 2000, the European Parliamentary Elections Act 2002 or any other enactment relating to parliamentary elections, European Parliamentary elections or local government elections (Government of Wales Act 2006 s 13(4)(a), (5));
- 2 (2) modify any form contained in, or in regulations or rules made under, the Representation of the People Acts so far as may be necessary to enable it to be used both for the original purpose and in relation to elections for the return of Assembly members (s 13(4)(b)); and
- 3 (3) so far as may be necessary in consequence of any provision made by the Government of Wales Act 2006 or an order under s 13, amend any provision made by or under any enactment relating to the registration of parliamentary electors or local government electors (s 13(4)(c)).

As to the date at which the provisions set out under heads (1) to (3) supra take effect see note 2 supra. As to the provisions that apply until that date see the Government of Wales Act 1998 s 11(3). No order is to be made under the Government of Wales Act 2006 s 13 unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament: s 13(7). For the meaning of 'the Representation of the People Acts' see PARA 3 note 1 ante; for the meaning of 'parliamentary election' see PARA 9 ante; and for the meaning of 'local government election' see PARA 10 ante. As to European parliamentary elections see PARA 13 post. As to the power of a Minister of the Crown or the Welsh Ministers under the Government of Wales Act 2006 generally to make an order see s 157; and CONSTITUTIONAL LAW AND HUMAN RIGHTS.

17 Ibid s 13(1)(a). The provision which may be made under s 13(1)(a) includes, in particular, provision:

- 4 (1) about the registration of electors (s 13(2)(a));
- 5 (2) for disregarding alterations in a register of electors (s 13(2)(b));
- 6 (3) about the limitation of the election expenses of candidates, and the creation of criminal offences in connection with the limitation of such expenses (s 13(2)(c));
- 7 (4) for the combination of polls at elections for the return of Assembly members and other elections (s 13(2)(d)); and
- 8 (5) for modifying the operation of ss 6, 8(2) (voting at ordinary elections: see PARA 345 post) in a case where the poll at an election for the return of the Assembly member for an Assembly constituency is abandoned, or notice of it is countermanded (s 13(2)(e)).

As to the date at which the provisions set out in the text and under heads (1) to (5) supra take effect see note 2 supra. As to the provisions that apply until that date see the Government of Wales Act 1998 s 11(1)(a), (2). In so far as orders made by the Secretary of State under s 13 relate to the matters mentioned in head (3) supra, see further the Political Parties, Elections and Referendums Act 2000 s 8 (as amended) (powers with respect to elections exercisable only on recommendation of Electoral Commission); and PARA 51 post.

As to provision made under the Government of Wales Act 2006 s 13(1)(a) see, by virtue of the Interpretation Act s 17(2)(b), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Pt II (arts 3-34) (as amended) (assembly franchise and its exercise: see generally para 127 et seq post), Pt III (arts 35-84) (the election campaign: see PARA 237 et seq post). As to the rules of conduct for elections to the National Assembly for Wales generally see PARA 388 post. As to the Welsh Language Act 1993 s 26 (power to prescribe Welsh version) see STATUTES vol 44(1) (Reissue) PARA 1368; and as to relevant orders made thereunder see the Elections (Welsh Forms) Order 1995, SI 1995/830 (as amended); the Elections (Welsh Forms) Order 2001, SI 2001/1204 (as amended); the National Assembly for Wales (Elections: Nomination Papers) (Welsh Form) Order 2001, SI 2001/2914; the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870 (as amended); the Local Elections (Communities) (Welsh Forms) Order 2004, SI 2004/1233 (as amended); the Local Elections (Principal Areas) (Welsh Forms) Order 2004, SI 2004/1234 (as amended); the European Parliamentary Elections (Welsh Forms) Order 2004, SI 2004/1373 (as amended); the Local Elections (Declaration of Acceptance of Office) (Wales) Order 2004, SI 2004/1508; and the Parliamentary Elections (Welsh Forms) Order 2005, SI 2005/1105 (as amended).

18 Government of Wales Act 2006 s 13(1)(b). As to the date at which this provision takes effect see note 2 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 11(1)(b). No return of an Assembly member at an election is to be questioned except by an election petition under the provisions of the Representation of the People Act 1983 Pt III (ss 120-186) (as amended) (see PARA 759 et seq post) as applied by or incorporated in an order under the Government of Wales Act 2006 s 13: s 13(6). As to the date at which this provision takes effect see note 2 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 11(5). As to the order that has been made see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Pt IV (arts 85-137) (as amended) (legal proceedings: see PARA 762 et seq post).

19 Government of Wales Act 2006 s 13(1)(c). As to the date at which this provision takes effect see note 2 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 11(1)(c). The provision that may be made under the Government of Wales Act 2006 s 13(1)(c) includes, in particular, provision making modifications to s 11(3)-(5) (vacancies in electoral region seats in the National Assembly for Wales: see PARA 222 post): s 13(3). Provision is made by the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended) for the filling of vacancies. See, in particular, art 16(1), Sch 5 paras 66-67; and PARAS 221-222 post.

20 See note 17 head (4) supra; and PARA 16 et seq post.

UPDATE

12 Elections to the National Assembly for Wales

NOTE 17--SI 1995/830, SI 2001/1204, SI 2004/1234 replaced: Local Elections (Principal Areas) (Welsh Forms) Order 2007, SI 2007/1015. SI 2004/870 replaced by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848. SI 2005/1105 replaced: Parliamentary Elections (Welsh Forms) Order 2007, SI 2007/1014.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/1. INTRODUCTION AND GENERAL FRAMEWORK/(3) THE DIFFERENT TYPES OF ELECTION/13. European parliamentary elections.

13. European parliamentary elections.

There are 78 members of the European Parliament ('MEPs') elected for the United Kingdom¹. For the purposes of electing MEPs, the area of England and Gibraltar² is divided into nine electoral regions³, and Wales forms a single electoral region⁴. The procedure by which European parliamentary electoral regions are established and reviewed is described elsewhere in this title⁵. The system of election of MEPs in an electoral region is a regional list system, whereby a vote may be cast for a registered party or an individual candidate, with seats being allocated according to calculations based on the totals of votes cast for each party or candidate⁶. When a seat is or becomes vacant, a by-election may be held in specified circumstances⁷ or a seat last filled from a party's list of candidates⁸ may be filled, in specified circumstances, from such a list (without a by-election)⁹.

The Secretary of State¹⁰ may¹¹ by regulations¹² make provision as to: (1) the conduct of elections to the European Parliament¹³; and (2) the questioning of such an election and the consequences of irregularities¹⁴.

Provision is made also for the combination of polls for European Parliamentary elections with any other relevant election or referendum¹⁵.

1 See the European Parliamentary Elections Act 2002 s 1(1) (as substituted and amended); and PARA 76 post. As to the basis of European parliamentary elections in EU law see PARA 6 ante. In this title, the term 'European parliamentary election' is used to denote an election to the European Parliament.

In any Act, unless the contrary intention appears, 'United Kingdom' means Great Britain and Northern Ireland: Interpretation Act 1978 s 5, Sch 1. 'Great Britain' means England, Scotland and Wales: Union with Scotland Act 1706 preamble art I; Interpretation Act 1978 s 22(1), Sch 2 para 5(a). Neither the Channel Islands nor the Isle of Man are within the United Kingdom. 'England' means, subject to any alteration of boundaries of local government areas, the area consisting of the counties established by the Local Government Act 1972 s 1 (see LOCAL GOVERNMENT vol 69 (2009) PARAS 5, 24), Greater London and the Isles of Scilly: Interpretation Act 1978 Sch 1. 'Wales' means the combined area of the counties which were created by the Local Government Act 1972 s 20 (as originally enacted) (see LOCAL GOVERNMENT vol 69 (2009) PARAS 5, 37), but subject to any alteration made under s 73 (as amended) (consequential alteration of boundary following alteration of watercourse: see LOCAL GOVERNMENT vol 69 (2009) PARA 90); Interpretation Act 1978 Sch 1 (definition substituted by the Local Government (Wales) Act 1994 s 1(3), Sch 2 para 9). As to local government areas see LOCAL GOVERNMENT vol 69 (2009) PARA 22 et seq; and as to boundary changes see LOCAL GOVERNMENT vol 69 (2009) PARA 54 et seq. As to Greater London see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 29. As to Scotland see further CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 51 et seq; and as to Northern Ireland see further CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 3.

Although Gibraltar now forms part of a 'combined region' in the United Kingdom for the purpose of elections to the European Parliament (see the European Parliament (Representation) Act 2003 Pt II (ss 9-24) (as amended); notes 2, 12 infra; and PARA 76 post), Gibraltar is discussed in this title only within the context of general arrangements. As to the constitution of Gibraltar see COMMONWEALTH vol 13 (2009) PARA 859.

2 In Application 24833/94 *Matthews v United Kingdom* (1999) 28 EHRR 361, ECtHR, it was held that the United Kingdom was responsible for securing for the citizens of Gibraltar the right to free elections to the European Parliament, as that body forms part of Gibraltar's legislature. Accordingly, Gibraltar now forms part of a 'combined region' in the United Kingdom for the purpose of elections to the European Parliament: see note 12 infra; and PARA 76 post. The terms of the European Parliament (Representation) Act 2003, which apply to the European Parliament elections in Gibraltar the rules governing the franchise (as to which see PARA 115 post) and eligibility to stand as a candidate for election (as to which see PARA 235 post) laid down both for national elections in the United Kingdom and for elections to the Gibraltar House of Assembly, is not contrary to Community law: Case C-145/04 *Spain v United Kingdom* [2006] All ER (D) 55 (Sep), ECJ (definition of persons entitled to vote and to stand as a candidate in elections to the European Parliament fell within the competence

of each member state in compliance with Community law; qualifying Commonwealth citizens resident in Gibraltar who were not Community nationals had the right to vote and to stand as candidates in elections).

3 See the European Parliamentary Elections Act 2002 s 1(2)(a) (as substituted and amended); and PARA 76 post. The electoral regions for these purposes are those specified in s 1 (as substituted), Sch 1 (as amended) and the number of MEPs to be elected for each electoral region is specified in s 1(3) (as substituted): see PARA 76 post.

4 See *ibid* s 1(2)(b) (as substituted); and PARA 76 post. Scotland and Northern Ireland also each form a single electoral region for these purposes: see s 1(2)(b) (as substituted); and PARA 76 post.

5 See PARA 76 post.

6 See the European Parliamentary Elections Act 2002 s 2 (as amended); and PARA 345 post. The first seat is allocated to the party or individual candidate with the greatest number of votes, and the second and subsequent seats are allocated in the same way, except that the number of votes given to a party to which one or more seats have already been allocated is adjusted: see s 2 (as amended); and PARA 345 post.

7 See *ibid* s 5(2)(a); and PARA 225 *et seq* post. The circumstances mentioned in the text are specified in regulations: see the European Parliamentary Elections Regulations 2004, SI 2004/293 (as amended); and PARA 225 *et seq* post.

8 As to MEPs returned from the list of a registered political party see PARA 345 post.

9 See the European Parliamentary Elections Act 2002 s 5(2)(b); and PARA 225 *et seq* post. The circumstances mentioned in the text are specified in regulations: see the European Parliamentary Elections Regulations 2004, SI 2004/293 (as amended); and PARA 226 *et seq* post.

10 As to the Secretary of State see PARA 2 *ante*.

11 *le* subject to the provisions of the European Parliamentary Elections Act 2002.

12 Regulations under the European Parliamentary Elections Act 2002 may apply, with such modifications or exceptions as may be specified in the regulations: (1) any provision of the Representation of the People Acts or of any other enactment relating to parliamentary elections or local government elections (s 7(3)(a)); and (2) any provision made under any enactment (s 7(3)(b)). Such regulations may amend any form contained in regulations made under the Representation of the People Acts so far as may be necessary to enable it to be used both for the purpose indicated in regulations so made and for the corresponding purpose in relation to elections to the European Parliament: European Parliamentary Elections Act 2002 s 7(4). Without prejudice to the generality of the power under which they are made, regulations under the European Parliamentary Elections Act 2002 may make different provision for different electoral regions and, in particular, for the part of the combined region which is in England and Wales, and for Gibraltar: s 7(4A) (added by the European Parliament (Representation) Act 2003 s 22). In the European Parliamentary Elections Act 2002, 'combined region' means the electoral region which includes Gibraltar: s 17 (definition added by the European Parliament (Representation) Act 2003 s 20(1), (5)). The Welsh Language Act 1993 s 26 (power to prescribe Welsh version: see STATUTES vol 44(1) (Reissue) PARA 1368) applies in relation to regulations under the European Parliamentary Elections Act 2002 as it applies in relation to Acts of Parliament: s 7(5). For the meaning of 'the Representation of the People Acts' see PARA 3 note 1 *ante*. As to the combined region and Gibraltar see PARA 76 post. As to the regulations made under the European Parliamentary Elections Act 2002 s 7 (as amended) see notes 13-14 *infra*; and as to relevant orders made under the Welsh Language Act 1993 s 26 see PARA 12 note 17 *ante*.

Regulations and orders made under the European Parliamentary Elections Act 2002 must be made by statutory instrument: s 13(1). However, no such regulations may be made unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House of Parliament: s 13(2). A statutory instrument containing an order under either s 10(2)(d) or s 11(5) (as amended) (entitlement to be an MEP: see PARA 235 post) is subject to annulment in pursuance of a resolution of either House of Parliament (s 13(3) (amended by the European Parliament (Representation) Act 2003 s 8(1), (2))); and an order under the European Parliamentary Elections Act 2002 s 10(4A) (as added) (disqualification from the office of MEP of persons connected to Gibraltar: see PARA 235 post) may not be made unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament (s 13(3A) (s 13(3A)-(3C) added by the European Parliament (Representation) Act 2003 s 21(3))). However, the European Parliamentary Elections Act 2002 s 13(3A) (as added) does not apply if it appears to the Secretary of State that by reason of urgency the order should be made without being approved in draft (s 13(3B) (as so added; and amended by the Secretary of State for Constitutional Affairs Order 2003, SI 2003/1887, art 9, Sch 2 para 15(1)(b))); and, where an order is made without being approved in draft, by virtue of the European Parliamentary Elections Act 2002 s 13(3A) (as added), it must be laid before Parliament after being made and, if it is not approved by a resolution of each House of Parliament within the period of 40 days after the date on which it is made, the order ceases to have effect at the end of that period (s 13(3C) (as so added)). A statutory instrument containing an order under s 4

(date of elections: see PARA 229 post) or s 5(3) (regulations providing for a by-election: see PARA 225 post) is to be laid before Parliament after being made: s 13(4).

13 Ibid s 7(1)(a). Such regulations may make provision (including the creation of criminal offences):

- 9 (1) about the limitation of election expenses of candidates (s 7(2)(a));
- 10 (2) for the allocation of seats in the case of an equality of votes (s 7(2)(b)); and
- 11 (3) for securing that no person stands for election more than once at a general election, whether by being nominated as a candidate or by being included in a party's list of candidates (s 7(2)(c)).

As to the regulations so made see the European Parliamentary Elections Regulations 2004, SI 2004/293, Pts 1-3 (regs 1-85) (as amended); and PARA 388 post.

14 European Parliamentary Elections Act 2002 s 7(1)(b).

As to the regulations so made see the European Parliamentary Elections Regulations 2004, SI 2004/293, Pt 4 (regs 86-122) (as amended); and PARA 763 et seq post. As to the questioning of elections to the European Parliament see also the European Parliamentary Election Petition Rules 1979, SI 1979/521 (as amended), which, by virtue of the Interpretation Act 1978 s 17(2)(b), have effect under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 120 (rules of procedure); and PARA 765 et seq post.

15 See PARA 16 et seq post.

UPDATE

13 European parliamentary elections

NOTE 2--Case C-145/04, cited, reported at [2007] All ER (EC) 486; see also Case C-300/04 *Eman v College van burgemeester en wethouders van Den Haag* [2007] 1 CMLR 139.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/1. INTRODUCTION AND GENERAL FRAMEWORK/(4) THE DIFFERENT TYPES OF REFERENDUM/14. National and regional referendums.

(4) THE DIFFERENT TYPES OF REFERENDUM

14. National and regional referendums.

Part VII of the Political Parties, Elections and Referendums Act 2000¹ provides standing arrangements for the conduct of any referendum² held throughout: (1) the United Kingdom³; (2) one or more of England⁴, Scotland, Wales⁵ and Northern Ireland⁶; or (3) any region in England specified in the Regional Development Agencies Act 1998⁷. Within the framework of these arrangements, further legislation is required to provide for the holding of any particular referendum⁸.

A poll held in an area consisting of Wales or any part (or parts) of Wales for the purpose of ascertaining the views of those polled about whether or how any of the functions of the Welsh Ministers should be exercised⁹ is not a referendum to which the Political Parties, Elections and Referendums Act 2000¹⁰ applies¹¹. Nor do the provisions of that Act apply to referendums or polls which are not included in heads (1) to (3) above, most notably those held by local authorities or those held consequent on parish or community meetings¹².

1 Ie the Political Parties, Elections and Referendums Act 2000 Pt VII (ss 101-129) (as amended): see PARA 519 et seq post.

2 For the meaning of 'referendum' for these purposes see PARA 519 post.

3 See the Political Parties, Elections and Referendums Act 2000 s 101(a); and PARA 519 post. For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

4 For the meaning of 'England' see PARA 13 note 1 ante.

5 For the meaning of 'Wales' see PARA 13 note 1 ante. See also the text and notes 9-11 infra.

6 See the Political Parties, Elections and Referendums Act 2000 s 101(b); and PARA 519 post. As to Northern Ireland see further CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 3.

7 See *ibid* s 101(c); and PARA 519 post. The text refers to any region in England specified in the Regional Development Agencies Act 1998 s 1, Sch 1. As to the regions in England so specified see further TRADE AND INDUSTRY vol 97 (2010) PARA 988 et seq.

8 See eg the Regional Assemblies (Preparations) Act 2003; and PARA 547 et seq post.

9 Ie a poll held under the Government of Wales Act 2006 s 64 (see PARA 554 et seq post). As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

10 Ie the Political Parties, Elections and Referendums Act 2000 Pt VII (as amended).

11 See *ibid* s 101(3); and PARA 519 post.

12 See PARA 15 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/1. INTRODUCTION AND GENERAL FRAMEWORK/(4) THE DIFFERENT TYPES OF REFERENDUM/15. Local referendums and polls.

15. Local referendums and polls.

A local authority¹ must hold a referendum under the Local Government Act 2000² on proposals for the operation of executive arrangements³ involving certain forms of executive⁴ before taking any steps to implement them⁵.

A local authority may conduct a poll to ascertain the views of those polled about: (1) any matter relating to services provided in pursuance of the authority's functions or the authority's expenditure on such services; or (2) any other matter if it is one relating to the authority's power to promote the economic, social or environmental well-being of its area⁶.

A poll may be demanded before the conclusion of a parish or community meeting⁷ on any question arising at the meeting⁸.

1 For the meaning of 'local authority' for these purposes see LOCAL GOVERNMENT vol 69 (2009) PARA 23.

2 Ie under the Local Government Act 2000 Pt II (ss 10-48) (as amended) (arrangements with respect to executives etc: see LOCAL GOVERNMENT vol 69 (2009) PARA 303 et seq).

3 As to proposals for the operation of local authority executive arrangements generally see LOCAL GOVERNMENT vol 69 (2009) PARA 312 et seq.

4 The following are forms of local authority executive for which a referendum is required: (1) a mayor and cabinet executive; (2) a mayor and council manager executive; or (3) a form of executive prescribed in regulations which is expressed in those regulations to be a form of executive for which a referendum is required: see the Local Government Act 2000 s 26(2); and LOCAL GOVERNMENT vol 69 (2009) PARA 314. As to the mayor and cabinet executive generally see LOCAL GOVERNMENT vol 69 (2009) PARAS 327-328; and as to the mayor and council manager executive generally see LOCAL GOVERNMENT vol 69 (2009) PARAS 327, 333.

5 See *ibid* s 27(1); and LOCAL GOVERNMENT vol 69 (2009) PARA 314. As to the conduct of such a referendum see PARA 557 et seq post.

6 See the Local Government Act 2003 s 116; and PARA 559 et seq post.

7 As to parish and community meetings see LOCAL GOVERNMENT vol 69 (2009) PARA 635 et seq.

8 See the Local Government Act 1972 s 99 (as amended), Sch 12 Pt III para 18(4)-(6) (as amended), Pt V para 34(4)-(6) (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 638. As to the conduct of such a poll see PARA 558 post. Such a poll may be taken also on a question relating to an appointment to office: see PARA 388 et seq post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/1. INTRODUCTION AND GENERAL FRAMEWORK/(5) COMBINED POLLS/(i) In general/16. General provision for the combination of polls.

(5) COMBINED POLLS

(i) In general

16. General provision for the combination of polls.

Provision is made in statute and in related legislation for polls that are to be taken on the same date to be taken together in the following combinations¹:

- 1 (1) a parliamentary general election and a European Parliamentary general election²;
- 2 (2) an ordinary local government election and a parliamentary general election³;
- 3 (3) an ordinary local government election and a European Parliamentary general election⁴;
- 4 (4) an election for the return of an elected mayor and any other election⁵ specified in regulations⁶;
- 5 (5) an election for the return of elected executive members and any other election⁷ specified in regulations⁸;
- 6 (6) an ordinary National Assembly for Wales election and an ordinary local government election⁹;
- 7 (7) elections for related areas¹⁰, being:
 - 1 (a) the ordinary election of district councillors for any district ward or an election to fill a casual vacancy occurring in the office of such a councillor and the ordinary election of parish councillors for any parish or an election to fill a casual vacancy occurring in the office of such a councillor¹¹;
 - 2 (b) the ordinary election of councillors for any electoral division of a county in England in which there are no district councils or an election to fill a casual vacancy occurring in the office of such a councillor, and the ordinary election of parish councillors for any parish or an election to fill a casual vacancy occurring in the office of such a councillor¹²;
 - 3 (c) the ordinary election of councillors for any electoral division of a Welsh county or county borough or an election to fill a casual vacancy occurring in the office of such a councillor, and the ordinary election of community councillors for any community or an election to fill a casual vacancy occurring in the office of such a councillor¹³;
 - 4 (d) elections (or the polls at elections and a local authority referendum) which are not otherwise required by head (1), (2), (3) or (6) above or heads (a) to (c) above to be taken together, if the returning officer for each election thinks fit¹⁴;
- 8 (8) referendums held under the Local Government Act 2000 and any other election specified in regulations¹⁵.

The rules of conduct that relate to each type of election or referendum mentioned in heads (1) to (8) above are applied and modified for the purposes of accommodating each combination of poll specified in heads (1) to (8) above¹⁶.

- 1 As to the combination of polls generally see PARAS 1, 3 et seq ante.
- 2 See PARA 21 post.
- 3 See PARA 22 post. This category includes a parliamentary general election taken together with an election for the return of the London Mayor or for the return of a London Assembly member: see PARA 22 post.
- 4 See PARA 23 post. This category includes a European parliamentary general election taken together with an election for the return of the London Mayor or for the return of a London Assembly member: see PARA 23 post.
- 5 le including elections for the return of elected executive members: see head (5) in the text. This category also includes a local authority mayoral election (other than a Greater London Authority election) taken together with an election for the return of the London Mayor or for the return of a London Assembly member: see PARA 26 post.
- 6 See PARA 26 post. The regulations referred to in the text are those made under the Local Government Act 2000 s 44(2)(d), which specify that the poll at a local authority mayoral election may be taken together with the poll at a parliamentary election, a European parliamentary election, a local government election, another mayoral election, or a referendum: see PARA 26 post.
- 7 le including elections for the return of elected mayors: see head (4) in the text.
- 8 See PARA 26 post. The regulations referred to in the text are those provided for under the Local Government Act 2000 s 44(2)(e). However, at the date at which this volume states the law, no such regulations had been made: see PARA 26 post.
- 9 Provision is made for Assembly elections taken together with a local authority mayoral election, an election of county or county borough councillors, or an election of community councillors: see PARA 28 post.
- 10 For the meaning of 'related areas' see PARA 29 post.
- 11 See PARA 24 post.
- 12 See PARA 24 post.
- 13 See PARA 24 post.
- 14 See PARA 29 post. This category includes a local government election (other than a Greater London Authority election) taken together with an election for the return of the London Mayor or for the return of a London Assembly member: see PARA 29 post.
- 15 See PARA 27 post. The regulations referred to in the text are those made under the Local Government Act 2000 s 45(6) which specify that the poll at a referendum in England may be taken together with the poll at a parliamentary general election, a European parliamentary election, a local government election, a local authority mayoral election or another referendum: see PARA 27 post. This category includes a referendum taken together with an election for the return of the London Mayor or for the return of a London Assembly member: see PARA 27 post. At the date at which this volume states the law, provision had not been made for combining the poll at a referendum in Wales with any other poll.
- 16 See PARAS 21-29 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/1. INTRODUCTION AND GENERAL FRAMEWORK/(5) COMBINED POLLS/(i) In general/17. Expenses at combined polls.

17. Expenses at combined polls.

Where the polls at certain elections are combined¹ the cost of taking the combined polls (excluding any cost solely attributable to one election) and any cost attributable to their combination must be apportioned equally among the elections² or, where the polls at an ordinary National Assembly for Wales election and an ordinary local government election are combined³, in such proportions as the Assembly may by order specify⁴.

Where the poll at a local authority referendum is combined with the poll at any election⁵, or where the polls at local authority referendums for related areas are combined⁶, the cost of taking the combined poll (excluding any cost solely attributable to one election or, as the case may be, referendum) and any cost attributable to the combination must be apportioned equally among the referendums or, as the case may be, the elections and the referendum⁷.

1 Ie those elections specified under the Representation of the People Act 1985 s 15(1), (2) (s 15(1) as amended), the Representation of the People Act 1983 s 36 (as amended), including both those provisions as applied by regulations made under the Local Government Act 2000 ss 44, 105 (as amended) (elected local authority mayors), or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 15(2) (combined polls at an National Assembly for Wales election and local government election for related areas): see PARA 21 et seq post.

2 Representation of the People Act 1985 s 15(4); Representation of the People Act 1983 s 36(3B) (substituted by the Representation of the People Act 1985 s 17); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 15(5). As to the discharge of a returning officer's functions including payments made consequently see PARA 355 et seq post. See also the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(2), which applies the Representation of the People Act 1983 and the Representation of the People Act 1985, in relation to a mayoral election in England, as they have effect in relation to an election of councillors for any county electoral division or district or London borough ward and, in relation to a mayoral election in Wales, as they have effect in relation to an election of councillors for any county electoral division or county borough ward, subject to the modifications set out in the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 2 (as amended) (as to which see PARA 388 post).

3 Ie under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 15(1): see PARA 28 post. For these purposes, 'local government election' includes a mayoral election; and 'mayoral election' means an election for the return of an elected mayor of a local authority in Wales: art 2(1). As to elections for the return of an elected mayor of a local authority see PARA 205 post.

4 Ibid arts 2(1), 15(4). An order under art 15(4) may specify different proportions in relation to different functions: art 15(4). See the National Assembly for Wales (Combination of Polls) (Apportionment of Cost) Order 1999, SI 1999/943, art 3, which has effect as if made under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 15(4), by virtue of the Interpretation Act 1978 s 17(2)(b).

5 Ie under the Representation of the People Act 1985 s 15(1)(d) (s 15 as applied and modified by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, regs 15-17, Sch 5): see PARA 27 post.

6 Ie under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 14(9), (10): see PARA 27 post.

7 Representation of the People Act 1985 s 15(4) (as applied and modified: see note 5 supra); Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 17(5).

UPDATE

17 Expenses at combined polls

NOTE 2--SI 2002/185 reg 3(2), Sch 2 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(2)-(5), Sch 2.

NOTES 5-7--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/1. INTRODUCTION AND GENERAL FRAMEWORK/(5) COMBINED POLLS/(i) In general/18. Transferred functions of returning officer where polls are combined.

18. Transferred functions of returning officer where polls are combined.

Where polls are combined, the following functions of the returning officer at one election or referendum¹ must be discharged by the returning officer at the other election or referendum²:

- 9 (1) preparing the corresponding number list³, both to the extent that it relates to ballot papers to be provided to polling stations⁴ and to proceedings on the issue and receipt of postal ballot papers where more than one election or referendum are taken together⁵;
- 10 (2) giving notice of the situation of polling stations⁶;
- 11 (3) the issue, receipt and return of postal ballot papers (including verification of the date of birth and signature of the elector or proxy) when proceedings for more than one election or referendum are taken together⁷;
- 12 (4) the provision of polling stations⁸;
- 13 (5) appointment of presiding officers and clerks to assist them⁹;
- 14 (6) equipment of polling stations¹⁰;
- 15 (7) notification of requirement of secrecy at polling stations¹¹;
- 16 (8) signature of certificate as to employment¹²;
- 17 (9) authorisation to order removal of persons from polling stations¹³;
- 18 (10) functions in connection with the verification of the ballot paper accounts and the separation of the ballot papers¹⁴; and
- 19 (11) where the proceedings on the issue and receipt of postal ballot papers at more than one election or referendum are taken together¹⁵, those functions¹⁶.

Where those functions of a returning officer at an election or referendum which are specified in heads (1) to (11) above are discharged by the returning officer at another election or referendum¹⁷, the provisions about expenses in the Representation of the People Act 1983¹⁸ (or, in the case of National Assembly for Wales elections, the provisions about expenses in both that Act and the National Assembly for Wales (Representation of the People) Order 2003¹⁹) are modified²⁰.

1 The functions are specified by reference: (1) at a parliamentary election, to corresponding rules in the Representation of the People Act 1983 s 23(1), Sch 1 (as amended) (see PARA 388 post); (2) at a European parliamentary election, to corresponding rules in the regulations made under the European Parliamentary Elections Act 2002 s 7 (as amended) (see PARAS 13 ante, 388 post); (3) at a local government election, to corresponding rules made under the Representation of the People Act 1983 s 36 (as amended) (see PARA 388 post); (4) at a mayoral election, to corresponding rules in regulations made under the Local Government Act 2000 ss 44, 105 (as amended) (see PARA 388 post; and LOCAL GOVERNMENT vol 69 (2009) PARA 320); (5) at a local authority referendum, to corresponding rules in regulations under the Local Government Act 2000 ss 45, 105 (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 319); Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 5(1)(a)-(e).

For the purposes of elections to the National Assembly for Wales, the functions are specified by reference: (a) in the case of an National Assembly for Wales election, to corresponding rules in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 (as amended) (see PARA 388 post); and (b) in the case of a local government election which is not a mayoral election, to corresponding rules made under the Representation of the People Act 1983 s 36 (as amended) (see PARA 388 post); or (c) in the case of a local government election which is a mayoral election, to corresponding rules in regulations made under the Local Government Act 2000 ss 44, 105 (as amended) (see PARA 388 post; and LOCAL GOVERNMENT vol 69 (2009)

PARA 320): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 15(7), Sch 4 para 2(1)(a)-(c). As to the meaning of 'local government election' for these purposes see PARA 17 note 3 ante.

2 Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 4; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 15(7), Sch 4 para 1. Where the poll at a parliamentary general election is taken together with the poll at another election or referendum under a relevant enactment those functions of the returning officer at the poll at the other election or referendum which are specified in heads (1)-(10) in the text must be discharged by the returning officer at the parliamentary election for such part of the electoral region, local government area or voting area (as the case may be) as is situated in the parliamentary constituency: Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 4(1)(a). For these purposes, 'relevant enactment' means any of the Representation of the People Act 1985 s 15(1) (as amended) (see PARA 21 et seq post), or the Representation of the People Act 1983 s 36(3) (as substituted and amended), s 36(3AB) (as added) or s 36(3AC) (as added) (see PARA 24 post), and includes a reference to each provision as applied in regulations made under the Local Government Act 2000 ss 44, 105 (as amended) (see PARA 388 post; and LOCAL GOVERNMENT vol 69 (2009) PARA 320) and ss 45, 105 (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 319): Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 4(10). For the purposes of the Representation of the People Act 1983, 'local government area' means Greater London, a county, county borough, London borough district, parish or community, and includes the City of London: s 191(1)(e), s 203(1) (definition amended by the Local Government Act 1985 ss 18(1), 19, Sch 9 Pt I; the Education Reform Act 1988 s 237, Sch 13 Pt I; the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 68(16); and the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 39(1), (4)(b)). Where the polls at two or more elections or referendums are taken together other than under a relevant enactment, but one or more such polls are also taken together with the poll at another election or a referendum under a relevant enactment, the provisions of the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 4(1)-(7) apply as if each election (other than a mayoral election) were an ordinary election, and the polls at each election or referendum were taken together under a relevant enactment: reg 4(9).

Where reg 4(1) does not apply and the poll at an ordinary Authority election is taken together with the poll at another election or referendum under a relevant enactment, those functions of the returning officer at the poll at the other election or referendum which are specified in heads (1)-(10) in the text must be discharged by the returning officer at the Authority election for such part of the electoral region, local government area or voting area (as the case may be) as is situated in the area for which he acts: reg 4(2)(a). For the meaning of 'Authority election' see PARA 10 ante.

Where neither reg 4(1) nor reg 4(2) applies, and the poll at an ordinary county council election is taken together with the poll at another election or referendum under a relevant enactment, those functions of the returning officer at the poll at the other election or referendum which are specified in heads (1)-(10) in the text must be discharged by the returning officer at the county council election for such part of the electoral region, local government area or voting area (as the case may be) as is situated in the county or county borough: reg 4(3)(a). For these purposes, 'county council election' means an election of councillors of a county or county borough: reg 4(10).

Where none of reg 4(1)-(3) applies, and the poll at an ordinary principal area council election (other than a county council election) is taken together with the poll at another election or referendum under a relevant enactment those functions of the returning officer at the poll at the other election or referendum which are specified in heads (1)-(10) in the text must be discharged by the returning officer at the principal area council election for such part of the electoral region, local government area or voting area (as the case may be) as is situated in the principal area: reg 4(4)(a). For these purposes, 'principal area' means a county, district or London borough in England, or a county or county borough in Wales; and 'principal area council election' means an election of councillors or London borough councillors (as the case may be) of a principal area: reg 4(10).

Where none of reg 4(1)-(4) applies, and the poll at a mayoral election is taken together with the poll at an election under a relevant enactment those functions of the returning officer at the poll at the other election which are specified in heads (1)-(10) in the text must be discharged by the returning officer at the mayoral election for such part of the electoral region or local government area (as the case may be) as is situated in the local government area as respects which the mayoral election is held: reg 4(5)(a).

Where none of reg 4(1)-(5) applies, and the poll at a referendum is taken together with the poll at an election under a relevant enactment those functions of the returning officer at the poll at the election which are specified in heads (1)-(10) in the text must be discharged by the returning officer at the referendum for such part of the electoral region or local government area (as the case may be) as is situated in the voting area: reg 4(6)(a).

Where none of reg 4(1)-(6) applies, and the poll at an ordinary parish or community council election is taken together with the poll at a European parliamentary election under a relevant enactment, those functions of the returning officer at the European parliamentary election which are specified in heads (1)-(10) in the text must be discharged by the returning officer at the parish or community council election for such part of the electoral region as is situated in the area of the parish or community council: reg 4(7)(a).

Where the polls at an ordinary National Assembly for Wales election and an ordinary local government election are taken together under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 15(1) (see PARA 28 post), those functions of the returning officer at the local government election which are specified in heads (1)-(10) in the text must be discharged by the constituency returning officer for an Assembly constituency for such part of the local government area as is situated in the constituency: Sch 4 para 1(a).

Where the polls at an election and another election or referendum for related areas (within the meaning of the Representation of the People Act 1985 s 15(3) (as amended): see PARA 29 post) are taken together under s 15(2) (including by virtue of s 15(2) or s 15(3) (as amended) as applied by regulations made under the Local Government Act 2000 ss 44, 105 (as amended) and ss 45, 105 (as amended)), the returning officers for each election or referendum must decide which returning officer is to discharge in the related area those functions of the other (or others) which are specified in heads (1)-(10) in the text, but the returning officer at a European parliamentary election must not discharge those functions: Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 4(8)(a). For these purposes, except the first reference in reg 4(8)(a), any reference to a returning officer which applies to the returning officer at a European parliamentary election, must be construed as including a reference to the local returning officer, and the returning officer at an Authority election must be construed as a reference to the constituency returning officer for the Assembly constituency in which the functions specified in heads (1)-(10) in the text are to be discharged: reg 4(11).

For the purposes of elections to the National Assembly for Wales, where the polls at a National Assembly for Wales and a local government election for related areas (within the meaning of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 15(3) (see PARA 29 post)) are taken together under art 15(2) (see PARA 29 post), the returning officers for those elections must decide which returning officer is to discharge in the area in which the polls are combined (the 'combined area') those functions of the other which are specified in heads (1)-(10) in the text: Sch 4 para 1(2)(a). Where the polls at an ordinary National Assembly for Wales election and a local government election for related areas are taken together under art 15(2), then Sch 4 para 1(2)(a) also applies: Sch 4 para 1(4). Where, by virtue of Sch 4 para 1(2)(a), functions in respect of another election fall to be discharged by a regional returning officer, he in turn must delegate the discharge of those functions to the constituency returning officer for a National Assembly for Wales constituency that is wholly or partly situated in the combined area in relation to such part of the combined area as is situated in the National Assembly for Wales constituency; and, where functions are so delegated, subsequent references in Sch 4 Pt I paras 1-3 to the returning officer who discharges the functions specified in heads (1)-(10) in the text are to be treated as references to such a constituency returning officer: Sch 4 para 1(3). For these purposes, 'constituency returning officer' means the person who is the returning officer for a constituency election; and 'regional returning officer' means the person who is the returning officer for a regional election: art 2(1). For the meanings of 'constituency election' and 'regional election' see PARA 3 note 1 ante. As to returning officers for elections to the National Assembly for Wales see PARA 362 et seq post.

3 Ie under the Representation of the People Act 1983 s 19A (as added): see PARA 392 post.

4 Ie under ibid Sch 1 r 29 (as amended) or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34 (see PARA 396 et seq post): Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 5(2)(za) (added by SI 2006/3278).

5 Ie under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 65 or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 2 (see PARA 20 post): Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 5(2)(zb) (added by SI 2006/3278).

6 Ie under the Representation of the People Act 1983 Sch 1 r 23(2) (as amended) or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 29(2), (3) (see PARA 393 post): Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 5(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 4 para 2(2)(a).

7 Ie under the Representation of the People Act 1983 Sch 1 r 24 (as substituted) or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 30 (issue and receipt of postal ballot papers: see PARA 411 et seq post) and under the Representation of the People Act 1983 Sch 1 r 31A (as added) (return of postal ballot papers to returning officer: see PARA 425 post) and Sch 1 r 45(1B)(d) (as added) (verification of the date of birth and signature of the elector or proxy: see PARA 432 post): Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 5(2)(b), (fa), (j) (reg 5(2)(fa), (j) added by SI 2006/3278); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 4 para 2(2)(b). The text refers to more than one election or referendum which are taken together under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 65 or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 2 (see PARA 20 post).

8 le under the Representation of the People Act 1983 Sch 1 r 25 (as amended) or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 31 (see PARA 395 post): Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 5(2)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 4 para 2(2)(c).

9 le to the extent that the rule under the Representation of the People Act 1983 Sch 1 r 26(1), (2) or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 32(1), (3) (see PARA 398 post) concerns such assistance: Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 5(2)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 4 para 2(2)(d).

10 le under the Representation of the People Act 1983 Sch 1 r 29 (as amended) or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34 (see PARA 396 et seq post): Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 5(2)(e); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 4 para 2(2)(e).

11 le under the Representation of the People Act 1983 Sch 1 r 31(a) (as substituted) or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 36(a) (see PARA 390 post): Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 5(2)(f); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 4 para 2(2)(f).

12 le under the Representation of the People Act 1983 Sch 1 r 32(3) or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 37(4) (see PARA 402 post): Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 5(2)(g); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 4 para 2(2)(g).

13 le under the Representation of the People Act 1983 Sch 1 r 33(2)(b) or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 38(2)(b) (see PARA 401 post): Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 5(2)(h); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 4 para 2(2)(h).

14 le under the Representation of the People Act 1983 Sch 1 r 45(1), (5) (r 45(1) as substituted; and applied and modified by the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 8, Sch 2 para 22) or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 50(1), (1A), (2), (11), (12) (substituted by Sch 5 para 18): Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 5(2)(i); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 4 para 2(2)(i). As to the functions under the Representation of the People Act 1983 Sch 1 r 45(1) (as substituted, applied and modified) and equivalent provisions in other rules see PARA 432 et seq post.

15 le under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 65 or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 2 (see PARA 20 post). For these purposes, references to the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 65 include references to: (1) the provisions in regulations made under the European Parliamentary Elections Act 2002 s 7 (as amended) which correspond to that regulation; and (2) that regulation as applied by regulations made under the Local Government Act 2000 ss 44, 105 (as amended) or ss 45, 105 (as amended): Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 5(3).

16 Ibid reg 5(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 4 para 2(1). The functions referred to in the text are those conferred by the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, Pt 5 regs 64-91 (as amended) or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 (see PARA 20 post). For these purposes, references to the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, Pt 5 (as amended) include references to: (1) the provisions in regulations made under the European Parliamentary Elections Act 2002 s 7 (as amended) which correspond to that Part; and (2) that Part as applied by regulations made under the Local Government Act 2000 ss 44, 105 (as amended) or ss 45, 105 (as amended): Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 5(3).

17 le under ibid reg 4 or under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 4 para 1: see note 2 supra.

18 In the Representation of the People Act 1983 s 29(3), (5), (7), (8) (s 29(3), (8) as substituted, and s 29(5), (7) as amended; s 29(3)-(8) prospectively substituted) (payments by and to returning officer: see PARA 357 post), s 30 (taxation of returning officer's account: see PARA 358 post), s 36(4) (as amended), s 36(4B) (as added), s 36(5) (as amended), s 36(5A) (as added) (expenses at local elections: see PARA 360 post), s 36(6), s 36(6A) (as added) (advance of expenses by council: see PARA 360 post). For these purposes, references to any provision of an enactment include references to any provision in regulations made under the European Parliamentary Elections Act 2002 s 7 (as amended) which corresponds to that provision; and that provision as applied by regulations made under the Local Government Act 2000 ss 44, 105 (as amended) or ss 45, 105 (as amended): Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 6(5).

19 In the Representation of the People Act 1983 s 36(4) (as amended), s 36(5A) (as added) (expenses at local elections: see PARA 360 post), s 36(6) (advance of expenses by council: see PARA 360 post) and the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 21(1)-(4), (7), (9), (10) (payments by and to returning officer: see PARA 363 post), art 22 (taxation of returning officer's account: see PARA 364 post).

20 See the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 6; and the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 4 para 3.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/1. INTRODUCTION AND GENERAL FRAMEWORK/(5) COMBINED POLLS/(i) In general/19. Polling stations to be used where polls are combined.

19. Polling stations to be used where polls are combined.

Where polls are combined, statute makes provision as to which polling stations are to be used, as follows:

- 20 (1) where the poll at a parliamentary general election is taken together with the poll at another election or referendum under a relevant enactment¹, only polling stations used for the parliamentary election are to be used for the other election or referendum²;
- 21 (2) where head (1) above does not apply and the poll at an ordinary Authority election is taken together with the poll at another election or referendum under a relevant enactment, only polling stations used for the Authority election are to be used for the poll at the other election or referendum³;
- 22 (3) where neither head (1) above nor head (2) above applies and the poll at an ordinary county council election⁴ is taken together with the poll at another election or referendum under a relevant enactment, only polling stations used for the county council election are to be used for the poll at the other election or referendum⁵;
- 23 (4) where none of heads (1) to (3) above applies and the poll at an ordinary principal area council election⁶ (other than a county council election) is taken together with the poll at another election or referendum under a relevant enactment, only polling stations used for the principal area council election are to be used for the poll at the other election or referendum⁷;
- 24 (5) where none of heads (1) to (4) above applies and the poll at a mayoral election is taken together with the poll at an election under a relevant enactment, only polling stations used for the mayoral election are to be used for the poll at the other election⁸;
- 25 (6) where none of heads (1) to (5) above applies and the poll at a referendum is taken together with the poll at an election under a relevant enactment, only polling stations used for the referendum are to be used for the poll at the election⁹;
- 26 (7) where none of heads (1) to (6) above applies and the poll at an ordinary parish or community council election is taken together with the poll at a European parliamentary election under a relevant enactment, only polling stations used for the parish or community council election are to be used for the European parliamentary election¹⁰;
- 27 (8) where the polls at an ordinary National Assembly for Wales election and an ordinary local government election are taken together, only polling stations used for the ordinary Assembly election are to be used for the local government election¹¹;
- 28 (9) where the polls at an election and another election or referendum for related areas¹² are taken together, the only polling stations which are to be used at each election or referendum are the polling stations used at the election or referendum for which the returning officer who discharges the conferred functions¹³ acts as returning officer¹⁴; and
- 29 (10) where the polls at a National Assembly for Wales election and a local government election for related areas are taken together, the only polling stations which are to be used in the combined area¹⁵ at such elections are the polling

stations used at the election for which the returning officer who discharges the conferred functions¹⁶ acts as returning officer¹⁷.

1 For these purposes, 'relevant enactment' means any of the Representation of the People Act 1985 s 15(1) (as amended) (see PARA 21 et seq post) or the Representation of the People Act 1983 s 36(3) (as substituted and amended), s 36(3AB) (as added) or s 36(3AC) (as added) (see PARA 24 et seq post), and includes a reference to each provision as applied in regulations made under the Local Government Act 2000 ss 44, 105 (as amended) (elections for the return of elected mayors or elected executive members: see PARA 388 post; and LOCAL GOVERNMENT vol 69 (2009) PARA 320) or in regulations made under ss 45, 105 (as amended) (the conduct of local authority referendums: see LOCAL GOVERNMENT vol 69 (2009) PARA 319): Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 4(10). Where the polls at two or more elections or referendums are taken together other than under a relevant enactment, but one or more such polls are also taken together with the poll at another election or a referendum under a relevant enactment, the provisions of reg 4(1)-(7) apply as if each election (other than a mayoral election) were an ordinary election, and the polls at each election or referendum were taken together under a relevant enactment: reg 4(9).

2 Ibid reg 4(1)(b).

3 Ibid reg 4(2)(b). For the meaning of 'Authority election' see PARA 10 ante.

4 For the meaning of 'county council election' for these purposes see PARA 18 note 2 ante.

5 Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 4(3)(b).

6 For the meanings of 'principal area' and 'principal area council election' for these purposes see PARA 18 note 2 ante.

7 Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 4(4)(b).

8 Ibid reg 4(5)(b).

9 Ibid reg 4(6)(b).

10 Ibid reg 4(7)(b).

11 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 15(7), Sch 4 para 1(1)(b). Where the polls at an ordinary National Assembly for Wales election and a local government election for related areas are taken together under art 15(2) (see PARA 29 post), then Sch 4 para 1(1)(b) also applies: Sch 4 para 1(4). As to the meaning of 'local government election' for these purposes see PARA 17 note 3 ante.

12 For the meaning of 'related areas' see PARA 29 post.

13 Ie the functions referred to in the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 4(8)(a) (see PARA 18 note 2 ante).

14 Ibid reg 4(8)(b).

15 Ie the area where the polls at a National Assembly for Wales and a local government election for related areas are taken together.

16 Ie the functions referred to in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 4 para 1(2)(a) (see PARA 18 note 2 ante).

17 Ibid Sch 4 para 1(2)(b).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/1. INTRODUCTION AND GENERAL FRAMEWORK/(5) COMBINED POLLS/(i) In general/20. Proceedings on issue and receipt of postal ballot papers where polls are combined.

20. Proceedings on issue and receipt of postal ballot papers where polls are combined.

Where the polls at elections or referendums are taken together¹, the proceedings on the issue and receipt of postal ballot papers² in respect of each election or referendum may, if the returning officers concerned agree, be taken together³.

1 le under the Representation of the People Act 1985 s 15(1), (2) (s 15(1) as amended) (combination of polls at parliamentary, European parliamentary and local government elections: see PARA 21 et seq post), the Representation of the People Act 1983 s 36(3) (as substituted and amended), s 36(3AB) (as added) (combination of polls at local elections: see PARA 24 post), including each of those provisions as applied by regulations made under the Local Government Act 2000 ss 44, 105 (as amended) (elections for the return of elected mayors or elected executive members: see PARA 388 post; and LOCAL GOVERNMENT vol 69 (2009) PARA 320) or by regulations made under ss 45, 105 (as amended) (the conduct of local authority referendums: see LOCAL GOVERNMENT vol 69 (2009) PARA 319), or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 15(1), (2) (combined polls at a National Assembly for Wales election and local government election: see PARA 28 post).

2 As to the issue and receipt of postal ballot papers see PARA 411 et seq post.

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 65; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 2; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 27. The proceedings on the issue and receipt of postal ballot papers may also be taken together where the polls at an ordinary London Authority election are taken together: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 4, Sch 4 r 4(a).

UPDATE

20 Proceedings on issue and receipt of postal ballot papers where polls are combined

NOTE 3--SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848. SI 2000/427 replaced: Greater London Authority Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/1. INTRODUCTION AND GENERAL FRAMEWORK/(5) COMBINED POLLS/ (ii) The Different Combinations of Polls/21. Combined polls at parliamentary general election and European parliamentary general election.

(ii) The Different Combinations of Polls

21. Combined polls at parliamentary general election and European parliamentary general election.

Where the polls at a parliamentary general election¹ and a European parliamentary general election² are to be taken on the same date, they must be taken together³. The Secretary of State⁴ may by regulations⁵ make such provision as he thinks fit in connection with the combining of polls at such elections including provision modifying the Representation of the People Acts⁶ in relation to them⁷. Accordingly, provision has been made in relation to the discharge of the functions of the respective returning officers⁸, the polling stations to be used⁹, and proceedings on the issue and receipt of postal ballot papers¹⁰; and where the polls at such elections are taken together, the elections rules which apply at each election have effect subject to certain modifications¹¹.

1 For the meaning of 'parliamentary election' and as to use of the expression 'parliamentary general election' see PARA 9 ante.

2 For these purposes, 'European parliamentary election' means an election of a representative to the European Parliament; and 'European parliamentary general election' means a general election of such representatives: Representation of the People Act 1985 s 27(1) (definition amended by the European Communities (Amendment) Act 1986 s 3). As to European parliamentary elections see PARA 13 et seq ante.

3 Representation of the People Act 1985 s 15(1)(a) (amended by the European Communities (Amendment) Act 1986 s 3).

4 As to the Secretary of State see PARA 2 ante.

5 As to the making of regulations under the Representation of the People Act 1985 generally see PARA 24 note 16 post.

6 For the meaning of 'the Representation of the People Acts' see PARA 3 note 1 ante.

7 Representation of the People Act 1985 s 15(5). As to the regulations made under s 15(5) see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended); the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294 (as amended); and the text and notes 8-11 infra.

8 As to the transferred functions of returning officer where polls are combined see PARA 18 ante.

9 As to the polling stations to be used where polls are combined see PARA 19 ante.

10 As to proceedings on the issue and receipt of postal ballot papers where polls are combined see PARA 20 ante.

11 Where the poll at a parliamentary election is to be taken with the poll at a European parliamentary general election under the Representation of the People Act 1985 s 15(1)(a) (as amended), s 15(2) (see PARA 29 post): (1) the parliamentary elections rules contained in s 23(1), Sch 1 (as amended) (as to which see PARA 388 post) have effect subject to the modifications contained in the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 8, Sch 2 (amended by SI 2006/3278); and (2) the European parliamentary elections rules contained in the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 (as amended) (as to which see PARA 388 post) have effect in England and Wales subject to the modifications contained in reg 11(a), (i), Sch 3 Pt 1 (rr 1-28): Representation of the People

(Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 8; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 11.

UPDATE

21 Combined polls at parliamentary general election and European parliamentary general election

NOTE 11--SI 2004/293 Sch 3 substituted: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/1. INTRODUCTION AND GENERAL FRAMEWORK/(5) COMBINED POLLS/ (ii) The Different Combinations of Polls/22. Combined polls at parliamentary general election and ordinary local government election.

22. Combined polls at parliamentary general election and ordinary local government election.

Where the polls at an ordinary local government election¹ and a parliamentary general election² are to be taken on the same date, they must be taken together³. The Secretary of State⁴ may by regulations⁵ make such provision as he thinks fit in connection with the combining of polls at such elections including provision modifying the Representation of the People Acts⁶ in relation to them⁷. Accordingly, provision has been made in relation to the discharge of the functions of the respective returning officers⁸, the polling stations to be used⁹, and proceedings on the issue and receipt of postal ballot papers¹⁰; and, where the polls at such elections are taken together, the elections rules which apply at each election have effect subject to certain modifications¹¹.

1 The Representation of the People Act 1985 s 15 (as amended) has effect as if contained in the Representation of the People Act 1983 Pt I (ss 1-66A) (as amended): Representation of the People Act 1985 s 27(2). Accordingly, for the meaning of 'local government election' see PARA 10 ante. As to ordinary local government elections see PARA 204 et seq post.

2 For the meaning of 'parliamentary election', and as to use of the expression 'parliamentary general election', see PARA 9 ante.

3 Representation of the People Act 1985 s 15(1)(b). However, any poll at a parish or community council election is postponed: see PARA 25 post.

4 As to the Secretary of State see PARA 2 ante.

5 As to the making of regulations under the Representation of the People Act 1985 generally see PARA 24 note 16 post.

6 For the meaning of 'the Representation of the People Acts' see PARA 3 note 1 ante.

7 Representation of the People Act 1985 s 15(5). As to the regulations made under s 15(5) see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended); the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294 (as amended); and the text and notes 8-11 infra.

8 As to the transferred functions of returning officer where polls are combined see PARA 18 ante.

9 As to the polling stations to be used where polls are combined see PARA 19 ante.

10 As to proceedings on the issue and receipt of postal ballot papers where polls are combined see PARA 20 ante.

11 Where the poll at a parliamentary election is to be taken with the poll at an ordinary local government election under the Representation of the People Act 1985 s 15(1)(b), (2) (see PARA 29 post): (1) the parliamentary elections rules contained in the Representation of the People Act 1983 s 23(1), Sch 1 (as amended) (as to which see PARA 388 post) have effect subject to the modifications contained in the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 8, Sch 2 (amended by SI 2006/3278); and (2) the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 has effect subject to the modifications as set out in r 4, Sch 3: Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 8; Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, rr 2(2)(a), 4.

In relation to London Authority elections (which are included in the definition of 'local government election' for the purposes of the Representation of the People Act 1983: see PARA 10 ante): (a) the constituency members election rules in the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1) (substituted by r

8), Sch 8 (substituted by SI 2004/227; and amended by SI 2005/2114) have effect for the purposes of the election of constituency members of the London Assembly whether at an ordinary election or in the circumstances mentioned in the Greater London Authority Act 1999 s 10 (filling a vacancy in an Assembly constituency: see PARA 211 post) (see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1) (substituted by r 8)); (b) the London members election rules in r 3(2) (substituted by r 8), Sch 9 (substituted by SI 2004/227; and amended by SI 2005/2114), with the exception of the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 9 Pt VII (rr 56-60) (substituted by SI 2004/227) (list candidates and the filling of vacancies), have effect for the purposes of the allocation of seats for London members at any ordinary election, and the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 9 Pt VII (as so substituted) has effect for the purposes of the Greater London Authority Act 1999 s 11 (filling a vacancy among the London members: see PARA 211 post) (see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2) (substituted by r 8)); and (c) the Mayoral Election Rules in the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3) (substituted by r 8), Sch 10 (substituted by SI 2004/227; and amended by SI 2005/2114) have effect for the purposes of the election of the Mayor of London and any election under the Greater London Authority Act 1999 s 16(2) (filling a vacancy in the office of Mayor: see PARA 211 post) (see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3) (substituted by r 8)). As to the modification of the combined poll rules contained in Schs 8-10 (all as substituted and amended) where votes are counted by electronic means see r 3(6) (substituted by r 8), Sch 11 (substituted by SI 2004/227).

UPDATE

22 Combined polls at parliamentary general election and ordinary local government election

NOTE 11--SI 2000/427 replaced: Greater London Authority Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/1. INTRODUCTION AND GENERAL FRAMEWORK/(5) COMBINED POLLS/ (ii) The Different Combinations of Polls/23. Combined polls at ordinary local government election and European parliamentary general election.

23. Combined polls at ordinary local government election and European parliamentary general election.

Where the polls at an ordinary local government election¹ and a European parliamentary general election² are to be taken on the same date, they must be taken together³. The Secretary of State⁴ may by regulations⁵ make such provision as he thinks fit in connection with the combining of polls at such elections including provision modifying the Representation of the People Acts⁶ in relation to them⁷. Accordingly, provision has been made in relation to the discharge of the functions of the respective returning officers⁸, the polling stations to be used⁹, and proceedings on the issue and receipt of postal ballot papers¹⁰; and, where the polls at such elections are taken together, the elections rules which apply at each election have effect subject to certain modifications¹¹.

1 The Representation of the People Act 1985 s 15 (as amended) has effect as if contained in the Representation of the People Act 1983 Pt I (ss 1-66A) (as amended): Representation of the People Act 1985 s 27(2). Accordingly, for the meaning of 'local government election' see PARA 10 ante. As to ordinary local government elections see PARA 204 et seq post.

2 For the meaning of 'European parliamentary general election' for these purposes see PARA 21 note 2 ante.

3 Representation of the People Act 1985 s 15(1)(c) (amended by the European Communities (Amendment) Act 1986 s 3). However, any poll at a parish or community council election is postponed: see PARA 25 post.

4 As to the Secretary of State see PARA 2 ante.

5 As to the making of regulations under the Representation of the People Act 1985 generally see PARA 24 note 16 post.

6 For the meaning of 'the Representation of the People Acts' see PARA 3 note 1 ante.

7 Representation of the People Act 1985 s 15(5). As to the regulations made under s 15(5) see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended); the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294 (as amended); and the text and notes 8-11 infra.

8 As to the transferred functions of returning officer where polls are combined see PARA 18 ante.

9 As to the polling stations to be used where polls are combined see PARA 19 ante.

10 As to proceedings on the issue and receipt of postal ballot papers where polls are combined see PARA 20 ante.

11 Where the poll at an ordinary local government election is to be taken with the poll at a European parliamentary election under the Representation of the People Act 1985 s 15(1)(c), s 15(2) (see PARA 29 post): (1) the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 (as to which see PARA 388 post) has effect subject to the modifications as set out in r 4, Sch 3; and (2) the European parliamentary elections rules contained in the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 (as amended) (as to which see PARA 388 post) have effect in England and Wales subject to the modifications contained in reg 11(a), (i), Sch 3 Pt 1 (rr 1-28): reg 11; Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, rr 2(1), (2)(b), 4. As to the rules that apply when the polls at London Authority elections (which are included in the definition of 'local government election' for the purposes of the Representation of the People Act 1983: see PARA 10 ante) are taken together with the poll at a European parliamentary election see PARA 22 note 11 ante.

UPDATE

23 Combined polls at ordinary local government election and European parliamentary general election

NOTE 11--SI 2004/293 Sch 3 substituted: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/1. INTRODUCTION AND GENERAL FRAMEWORK/(5) COMBINED POLLS/ (ii) The Different Combinations of Polls/24. Combined polls at principal area election and parish or community council election.

24. Combined polls at principal area election and parish or community council election.

Where certain combinations of polls for local government elections¹ are to be taken on the same day and the elections are for related electoral areas², the polls at those elections are taken together³, namely:

- 30 (1) the ordinary election of district councillors for any district ward⁴ or an election to fill a casual vacancy occurring in the office of such a councillor⁵ and the ordinary election of parish councillors for any parish⁶ or an election to fill a casual vacancy occurring in the office of such a councillor⁷;
- 31 (2) the ordinary election of councillors for any electoral division of a county in England in which there are no district councils⁸ or an election to fill a casual vacancy occurring in the office of such a councillor⁹, and the ordinary election of parish councillors for any parish or an election to fill a casual vacancy occurring in the office of such a councillor¹⁰; or
- 32 (3) the ordinary election of councillors for any electoral division of a Welsh county or county borough¹¹ or an election to fill a casual vacancy occurring in the office of such a councillor¹², and the ordinary election of community councillors for any community¹³ or an election to fill a casual vacancy occurring in the office of such a councillor¹⁴.

The Secretary of State¹⁵ has power to make regulations¹⁶ making such provision as he thinks fit in connection with the combining of polls at any elections under head (1), head (2) or head (3) above, including provision modifying the Representation of the People Acts¹⁷ in relation to them¹⁸. Accordingly, provision has been made in relation to the discharge of the functions of the respective returning officers¹⁹, the polling stations to be used²⁰, and proceedings on the issue and receipt of postal ballot papers²¹; and, where the polls at such elections are taken together, the elections rules which apply at each election have effect subject to certain modifications²².

1 For the meaning of 'local government election' see PARA 10 ante.

2 For these purposes, electoral areas are 'related' if they are coterminous or if one is situated within the other: Representation of the People Act 1983 s 36(3A) (added by the Representation of the People Act 1985 s 17). For the meaning of 'electoral area' see PARA 10 ante.

3 Representation of the People Act 1983 s 36(3) (substituted by the Representation of the People Act 1985 s 17); Representation of the People Act 1983 s 36(3AB) (added by the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 68(8)); Representation of the People Act 1983 s 36(3AC) (added by the Local Government and Rating Act 1997 s 33(1), Sch 3 para 17).

4 As to the establishment of district wards for the purpose of local government elections see PARA 73 post; and as to the ordinary election of district councillors see PARA 204 post.

5 Representation of the People Act 1983 s 36(3)(a) (as substituted: see note 2 supra). As to elections to fill a casual vacancy occurring in the office of district councillor see PARA 209 post.

6 As to parishes see LOCAL GOVERNMENT vol 69 (2009) PARA 27 et seq. As to the ordinary elections of parish councillors for any parish see PARA 207 post.

7 Representation of the People Act 1983 s 36(3)(b) (s 36(3) as substituted (see note 3 supra); and s 36(3)(b) amended by the Local Government (Wales) Act 1994 s 66(6), (8), Sch 16 para 68(8), Sch 18). As to elections to fill a casual vacancy occurring in the office of parish councillor see PARA 212 post.

8 As to electoral divisions of a county in England in which there are no district councils see PARA 73 post; and as to the ordinary election of councillors for such an area see PARA 204 post.

9 Representation of the People Act 1983 s 36(3AC)(a) (as added: see note 3 supra). As to elections to fill a casual vacancy occurring in the office of councillor for a county in England in which there are no district councils see PARA 209 post.

10 Ibid s 36(3AC)(b) (as added: see note 3 supra).

11 As to the establishment of electoral divisions of a Welsh county or county borough for the purpose of local government elections see PARA 73 post; and as to the ordinary election of county or county borough councillors see PARA 204 post.

12 Representation of the People Act 1983 s 36(3AB)(a) (as added: see note 3 supra). As to elections to fill a casual vacancy occurring in the office of county or county borough councillor see PARA 209 post.

13 As to communities see LOCAL GOVERNMENT vol 69 (2009) PARA 41 et seq. As to the ordinary elections of community councillors for any community see PARA 207 post.

14 Representation of the People Act 1983 s 36(3AB)(b) (as added: see note 3 supra). As to elections to fill a casual vacancy occurring in the office of community councillor see PARA 212 post.

15 As to the Secretary of State see PARA 2 ante.

16 Any power conferred by the Representation of the People Act 1983 to make regulations is, except where the Act otherwise provides, a power exercisable by the Secretary of State by statutory instrument: s 201(1) (amended by the Political Parties, Elections and Referendums Act 2000 s 158(1), (2), Sch 21 para 6(1), (7)(a), Sch 22). No regulations are to be so made, otherwise than under the Representation of the People Act 1983 s 110(7) (as substituted) (provision regarding details to appear on election publications: see PARA 751 post) or s 203(4) (as amended) (application in relation to the Isles of Scilly: see PARA 10 ante), unless a draft of the regulations has been laid before and approved by a resolution of each House of Parliament: s 201(2) (substituted by the Representation of the People Act 1985 s 24, Sch 4 para 69; and amended by the Political Parties, Elections and Referendums Act 2000 s 158(1), Sch 21 para 6(1), (7)(b); and the Transfer of Functions (Returning Officers Charges) Order 1991, SI 1991/1728, art 5(b)). Any regulations under the Representation of the People Act 1983 may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the Secretary of State or the Electoral Commission (in the case of any regulations made by the Commission) thinks fit: s 201(3) (added by the Representation of the People Act 2000 s 8, Sch 1 paras 1, 21; and amended by the Political Parties, Elections and Referendums Act 2000 Sch 21 para 6(1), (7)(d)). Any regulations under the Representation of the People Act 1983 s 110(7) (as substituted) are subject to annulment in pursuance of a resolution of either House of Parliament: s 201(2A) (added by the Political Parties, Elections and Referendums Act 2000 Sch 21 para 6(1), (7)(c)). As to the Electoral Commission see PARA 31 et seq post. The Representation of the People Act 1983 s 201 (as amended) applies to the Representation of the People Act 1985 by virtue of s 27(2), which provides that the Representation of the People Act 1983 and the Representation of the People Act 1985 ss 1-12 (as amended) (see PARAS 111, 116, 147, 151, 188, 738 post), ss 15-18 (as amended) (see PARAS 16-23 ante, 25-29 post), s 21 (as amended) (see PARAS 207-208 post) and Sch 1 (special polling stations in Northern Ireland) have effect as if the latter provisions were contained in the Representation of the People Act 1983 Pt I (ss 1-66A) (as amended).

17 For the meaning of 'the Representation of the People Acts' see PARA 3 note 1 ante.

18 Representation of the People Act 1983 s 36(3C) (added by the Representation of the People Act 1985 s 17). As to the regulations made under the Representation of the People Act 1983 s 36(3C) (as added) see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended); the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294 (as amended); and the text and notes 19-22 infra.

19 As to the transferred functions of returning officer where polls are combined see PARA 18 ante.

20 As to the polling stations to be used where polls are combined see PARA 19 ante.

21 As to proceedings on the issue and receipt of postal ballot papers where polls are combined see PARA 20 ante.

22 Where the poll at a principal area local government election is to be taken with the poll at a parish or community council local government election under the Representation of the People Act 1983 s 36(3) (as amended), s 36(3AB), (3C) (as added): (1) the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 (see PARA 388 post) has effect subject to the modifications as set out in r 4, Sch 3; and (2) the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 (as to which see PARA 388 post) has effect subject to the modifications as set out in r 4, Sch 3: Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, rr 2(2)(c), 4; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, rr 2(2)(c), 4. As to the rules that apply when the polls at London Authority elections (which are included in the definition of 'local government election' for the purposes of the Representation of the People Act 1983: see PARA 10 ante) are taken together with the poll at a local government election (other than a London Authority election) see PARA 22 note 11 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/1. INTRODUCTION AND GENERAL FRAMEWORK/(5) COMBINED POLLS/ (ii) The Different Combinations of Polls/25. Poll at parish or community council elections not to be combined with a parliamentary or European parliamentary election.

25. Poll at parish or community council elections not to be combined with a parliamentary or European parliamentary election.

Where the date of the poll at a parliamentary general election¹ or at a European parliamentary general election² is the same as the ordinary day of election³ of councillors for local government areas⁴, any poll at an election of parish or community councillors to be held on that date⁵ must be postponed for three weeks⁶. The date to which any such poll is so postponed is to be taken to be the ordinary day of election for the purposes of the provisions concerning the election, term of office and retirement of parish or community⁷ councillors and the day of election for the purposes of any rules concerning the conduct of elections of such councillors made by the Secretary of State⁸.

Any expenses of any returning officer for an election at which the poll is postponed under this provision which are attributable to the postponement must be charged on and paid out of the Consolidated Fund⁹.

1 For the meaning of 'parliamentary election' and as to use of the expression 'parliamentary general election' see PARA 9 ante.

2 For the meaning of 'European parliamentary general election' for these purposes see PARA 21 note 2 ante. As to the polls at European parliamentary general elections see PARA 224 et seq post.

3 As to the ordinary day of election of councillors for local government areas see PARA 204 et seq post.

4 Representation of the People Act 1985 s 16(1) (amended by the European Communities (Amendment) Act 1986 s 3). For the meaning of 'local government area' see PARA 18 note 2 ante. As to the date of the poll at a parliamentary general election or by-election see PARA 202 post; as to the date of the poll at local government elections (including elections to fill vacancies) see PARAS 213-216 post; and as to the date of the poll at a European parliamentary election see PARA 229 post.

5 As to the election of councillors of the council of a parish or community see PARA 207 et seq post. Where the date of the poll at a parliamentary or European parliamentary general election is the same as the ordinary day of local government elections, the polls are required to be taken together: see PARAS 22-23 ante. The poll at a parish or community council election (whether an ordinary election or an election to fill a casual vacancy) and the poll at a district council election (whether an ordinary election or an election to fill a casual vacancy) would, apart from this provision, be required to be taken together if the polls are to be taken on the same date and (in effect) the parish or community is situated in the district: see PARA 24 ante.

6 Representation of the People Act 1985 s 16(1)(a). If the date to which the election is postponed is a Saturday, Sunday, Christmas Eve, Christmas Day, Good Friday, bank holiday or a day appointed for public thanksgiving or mourning, the date of election is again postponed to the first day thereafter which is not one of the days specified: Representation of the People Act 1983 s 40(1) (amended by the Representation of the People Act 1985 ss 16(2), 19(1), 28(1), Sch 5; and the Electoral Administration Act 2006 ss 20, 74(2), Sch 1 Pt 4 paras 49, 50, Sch 2). Any amendment effected by the Electoral Administration Act 2006 Sch 1 Pt 4 paras 49, 50 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. Accordingly, until that date, Maundy Thursday appears in the list of days excluded under the Representation of the People Act 1983 s 40(1) (as amended). Where the day of election is postponed under s 40(1) (as amended), the day to which it is postponed must be treated as the day of election for the purposes of the Representation of the People Act 1983 and the Local Government Act 1972: Representation of the People Act 1983 s 40(2) (amended by the Education Reform Act 1988 s 237, Sch 12 Pt II para 51).

7 The provisions referred to in the text are the Local Government Act 1972 s 16(3), s 35(2) (as substituted) (see PARA 207 post).

8 Representation of the People Act 1985 s 16(1)(b). The rules referred to in the text are those made under the Representation of the People Act 1983 s 36 (as amended): see the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305; and PARA 388 post. As to the Secretary of State see PARA 2 ante.

9 Representation of the People Act 1985 s 16(1)(c). As to the expenses of returning officers generally see PARA 357 et seq post. As to the Consolidated Fund generally see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 711 et seq; PARLIAMENT vol 78 (2010) PARAS 1028-1031.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/1. INTRODUCTION AND GENERAL FRAMEWORK/(5) COMBINED POLLS/ (ii) The Different Combinations of Polls/26. Combined polls involving elections of the local authority mayor and executive members.

26. Combined polls involving elections of the local authority mayor and executive members.

The Secretary of State¹ may by regulations² make provision as to the conduct of elections for the return of elected mayors or elected executive members³, including provision for the combination of polls at elections for the return of elected mayors and other elections⁴; and such regulations may apply or incorporate, with or without modifications or exceptions, any provision of, or made under, the Representation of the People Acts⁵ or any provision of any other enactment (whenever passed or made) relating to parliamentary elections or local government elections⁶.

Accordingly, where the polls at a local authority mayoral election and a parliamentary election⁷, a European parliamentary election⁸, or an ordinary local government election⁹ are to be taken on the same date, they must be taken together¹⁰. Where the polls at a local authority mayoral election and at certain local government elections are to be taken on the same day and the elections are for related electoral areas¹¹, the polls at those elections are taken together, as follows:

- 33 (1) the election of an elected mayor of a district council and the ordinary election of parish councillors for any parish¹² or an election to fill a casual vacancy occurring in the office of such a councillor¹³;
- 34 (2) the election of an elected mayor of the council of a county in England in which there are no district councils¹⁴, and the ordinary election of parish councillors for any parish or an election to fill a casual vacancy occurring in the office of such a councillor¹⁵; or
- 35 (3) the election of an elected mayor of a Welsh county or county borough council¹⁶, and the ordinary election of community councillors for any community¹⁷ or an election to fill a casual vacancy occurring in the office of such a councillor¹⁸.

Where the polls at any such elections are taken together, provision has been made in relation to the discharge of the functions of the respective returning officers¹⁹, the polling stations to be used²⁰, and proceedings on the issue and receipt of postal ballot papers²¹. The elections rules which apply at each election have effect subject to certain modifications²².

1 As to the Secretary of State see PARA 2 ante.

2 As to the making of regulations under the Local Government Act 2000 generally see LOCAL GOVERNMENT vol 69 (2009) PARA 98.

3 See *ibid* s 44(1)(a); and PARA 388 post. At the date at which this volume states the law, no regulations had been made in relation to elections for the return of elected executive members. As to elections for the return of elected mayors or elected executive members see PARA 205 et seq post.

4 *Ibid* s 44(2)(d). Such provision includes the combination of polls at elections for the return of elected mayors and elections for the return of elected executive members: s 44(2)(d). Further provision is made for the combination of polls at elections for the return of elected executive members and other elections, including elections for the return of elected mayors: s 44(2)(e). See, however, note 3 *supra*.

5 For the meaning of 'the Representation of the People Acts' see PARA 3 note 1 ante.

6 Local Government Act 2000 s 44(3)(a). As to the regulations made under s 44 (as amended) see the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185 (as amended); and the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294 (as amended).

The Political Parties, Elections and Referendums Act 2000, the Representation of the People Act 2000, the Representation of the People Act 1985, the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294 (by virtue of the Interpretation Act 1978 s 17(2)(b)), the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, and, subject to any provision made by or under the Local Government Act 2000 Pt II (ss 10-48) (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 303 et seq), the Representation of the People Act 1983, have effect: (1) in relation to a mayoral election in England, as they have effect in relation to an election of councillors for any county electoral division or district or London borough ward; and (2) in relation to a mayoral election in Wales, as they have effect in relation to an election of councillors for any county electoral division or county borough ward, subject to the modifications set out in the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(2), Sch 2 (as amended): reg 3(2).

7 For the meaning of 'parliamentary election', and as to use of the expression 'parliamentary general election', see PARA 9 ante.

8 For the meaning of 'European parliamentary general election' for these purposes see PARA 21 note 2 ante. As to the polls at European parliamentary general elections see PARA 224 et seq post.

9 The Representation of the People Act 1985 s 15 (as amended) has effect as if contained in the Representation of the People Act 1983 Pt I (ss 1-66A) (as amended): Representation of the People Act 1985 s 27(2). Accordingly, for the meaning of 'local government election' see PARA 10 ante. As to the polls at ordinary local government elections see PARA 204 et seq post.

10 Ibid s 15(1)(d) (s 15 applied and modified by the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(2), Sch 2).

11 For the meaning of 'related electoral areas' see PARA 24 note 2 ante.

12 As to parishes see LOCAL GOVERNMENT vol 69 (2009) PARA 27 et seq. As to the ordinary elections of parish councillors for any parish see PARA 207 post.

13 Representation of the People Act 1983 s 36(3) (applied and modified by the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(2), Sch 2). As to elections to fill a casual vacancy occurring in the office of parish councillor see PARA 212 post.

14 As to electoral divisions of a county in England in which there are no district councils see PARA 73 post; and as to the ordinary election of councillors for such an area see PARA 204 post.

15 Representation of the People Act 1983 s 36(3AC) (added by the Local Government and Rating Act 1997 s 33(1), Sch 3 para 17; and applied and modified by the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(2), Sch 2). As to elections to fill a casual vacancy occurring in the office of councillor for a county in England in which there are no district councils see PARA 209 post.

16 As to the establishment of electoral divisions of a Welsh county or county borough for the purpose of local government elections see PARA 73 post.

17 As to communities see LOCAL GOVERNMENT vol 69 (2009) PARA 41 et seq. As to the ordinary elections of community councillors for any community see PARA 207 post.

18 Representation of the People Act 1983 s 36(3AB)(b) (s 36(3AB) added by the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 68(8); and applied and modified by the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(2), Sch 2). As to elections to fill a casual vacancy occurring in the office of community councillor see PARA 212 post.

19 As to the transferred functions of returning officer where polls are combined see PARA 18 ante.

20 As to the polling stations to be used where polls are combined see PARA 19 ante.

21 As to proceedings on the issue and receipt of postal ballot papers where polls are combined see PARA 20 ante.

22 Where the poll at a local authority mayoral election is taken together with the poll at a parliamentary election, a European parliamentary election, a local government election, or another mayoral election or a

referendum conducted under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, the mayoral elections rules contained in the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 (as amended) (see PARA 388 post) are modified so as to have effect as set out in reg 5 (as substituted), Sch 3 (as substituted and amended): see reg 5 (substituted by SI 2004/225).

Where the poll at a local authority mayoral election is taken together with the poll at a parliamentary election, the parliamentary elections rules contained in the Representation of the People Act 1983 s 23(1), Sch 1 (as amended) (see PARA 388 post) have effect subject to the modifications contained in the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 8, Sch 2 (amended by SI 2006/3278): see the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 8.

Where the poll at a local authority mayoral election is taken together with the poll at a European parliamentary election, the European parliamentary elections rules contained in the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 (as amended) (see PARA 388 post) have effect in England and Wales subject to the modifications contained in reg 11(b), (i), Sch 3 Pt 1 (rr 1-28): see reg 11.

Where the poll at a local authority mayoral election, conducted under the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, is taken together with the poll at a local government election, the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 (see PARA 388 post) has effect subject to the modifications as set out in r 4, Sch 3 (see rr 2(1), (2)(d), 4); and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 has effect subject to the modifications as set out in r 4, Sch 3 (see rr 2(1), (2)(d), 4). As to the rules that apply when the polls at London Authority elections (which are included in the definition of 'local government election' for the purposes of the Representation of the People Act 1983: see PARA 10 ante) are taken together with the poll at a local authority mayoral election see PARA 22 note 11 ante.

Where the poll at a local authority mayoral election is taken together with the poll at a referendum conducted under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) and the Local Elections (Principal Areas) Rules 1986, SI 1986/2214 (as amended; revoked with savings) are modified as specified in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, regs 15-17, Sch 5: see Sch 5 para 1 (substituted by SI 2004/226; and amended by SI 2005/2114). See further PARA 557 post.

Regulations made under the Local Government Act 2000 s 44 (as amended) may: (1) modify any form contained in, or in regulations or rules made under, the Representation of the People Acts so far as may be necessary to enable it to be used both for the original purpose and in relation to elections for the return of elected mayors or elected executive members (Local Government Act 2000 s 44(3)(b)); and (2) so far as may be necessary in consequence of any such regulations or any provision made by or under the provisions relating to arrangements with respect to executives, amend any provision of any enactment (whenever passed or made) relating to the registration of parliamentary electors or local government electors (s 44(3)(c)). As to the forms so modified see the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 3 Appendix of Forms (substituted by SI 2004/225; and amended by SI 2005/2114).

UPDATE

26 Combined polls involving elections of the local authority mayor and executive members

TEXT AND NOTES 6, 10, 13, 15, 18, 22--SI 2002/185 replaced: Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024. SI 2002/185 regs 3, 5, Schs 1-3 now SI 2007/1024, reg 3, 4, Schs 1-3.

NOTE 22--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/293 Sch 3 substituted: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/1. INTRODUCTION AND GENERAL FRAMEWORK/(5) COMBINED POLLS/ (ii) The Different Combinations of Polls/27. Combined poll at local authority referendum and election poll in England.

27. Combined poll at local authority referendum and election poll in England.

The Secretary of State¹ may by regulations² make provision for the combination of polls at local authority referendums with polls at any elections³. Such regulations may apply or incorporate, with or without modifications or exceptions, any provision of any enactment (whenever passed or made) relating to elections or referendums⁴.

Accordingly, when the polls at a local authority referendum and a parliamentary election⁵, a European parliamentary election⁶ or an ordinary local government election⁷ are to be taken on the same date, they must be taken together⁸. Where the polls at any such election are taken together, provision has been made in relation to the discharge of the functions of the respective returning officers⁹, the polling stations to be used¹⁰, and proceedings on the issue and receipt of postal ballot papers¹¹. The elections rules which apply at each election have effect subject to certain modifications¹².

1 As to the Secretary of State see PARA 2 ante.

2 As to the making of regulations under the Local Government Act 2000 generally see LOCAL GOVERNMENT vol 69 (2009) PARA 98.

3 Local Government Act 2000 s 45(6). As to the regulations made under s 45 (as amended) for these purposes see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298 (as amended); and the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294 (as amended). Although the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, have been made under the Local Government Act 2000 s 45 (as amended), they make no provision for polls at local authority referendums in Wales to be taken together with polls at another election or referendum.

4 Ibid s 45(7).

Where the poll at a local authority referendum conducted under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298 (as amended) is taken together with the poll at a parliamentary election, a European parliamentary election, a local government election, a mayoral election conducted under the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185 (as amended), or another referendum conducted under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298 (as amended), the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) and the Local Elections (Principal Areas) Rules 1986, SI 1986/2214 (revoked with savings) are modified as specified in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, regs 15-17, Sch 5 (as substituted and amended): Sch 5 para 1 (substituted by SI 2004/226; and amended by SI 2005/2114).

5 Representation of the People Act 1985 s 15(1)(d)(i) (s 15 as applied and modified by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, regs 14-17, Sch 5). For the meaning of 'parliamentary election' and as to use of the expression 'parliamentary general election' see PARA 9 ante.

6 Representation of the People Act 1985 s 15(1)(d)(ii) (as applied and modified: see note 5 supra). For the meaning of 'European parliamentary general election' for these purposes see PARA 21 note 2 ante. As to the polls at European parliamentary general elections see PARA 224 et seq post.

7 Ibid s 15(1)(d)(iii) (as applied and modified: see note 5 supra). Section 15 (as amended) has effect as if contained in the Representation of the People Act 1983 Pt I (ss 1-66A) (as amended): Representation of the People Act 1985 s 27(2). Accordingly, for the meaning of 'local government election' see PARA 10 ante. As to the polls at ordinary local government elections see PARA 204 et seq post.

8 Ibid s 15(1)(d) (as applied and modified: see note 5 supra).

9 As to the transferred functions of returning officer where polls are combined see PARA 18 ante.

10 As to the polling stations to be used where polls are combined see PARA 19 ante.

11 As to proceedings on the issue and receipt of postal ballot papers where polls are combined see PARA 20 ante.

12 Where the poll at a local authority referendum conducted under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298 (as amended) is taken together with the poll at a parliamentary election, the parliamentary elections rules contained in the Representation of the People Act 1983 s 23(1), Sch 1 (as amended) (see PARA 388 post) have effect subject to the modifications contained in the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 8, Sch 2 (amended by SI 2006/3278): see the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 8.

Where the poll at a local authority referendum conducted under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298 (as amended) is taken together with the poll at a European parliamentary election, the European parliamentary elections rules contained in the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 (as amended) (see PARA 388 post) have effect in England and Wales subject to the modifications contained in reg 11(b), (i), Sch 3 Pt 1 (rr 1-28): see reg 11.

Where the poll at a local authority referendum conducted under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298 (as amended) is taken together with the poll at a local government election, the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 (see PARA 388 post) has effect subject to the modifications as set out in r 4, Sch 3 (see rr 2(1), (2)(e), 4); and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 has effect subject to the modifications as set out in r 4, Sch 3 (see rr 2(1), (2)(e), 4). As to the rules that apply when the polls at London Authority elections (which are included in the definition of 'local government election' for the purposes of the Representation of the People Act 1983: see PARA 10 ante) are taken together with the poll at a local authority referendum see PARA 22 note 11 ante.

Where the poll at a local authority referendum conducted under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298 (as amended) is taken together with the poll at a mayoral election conducted under the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, the mayoral elections rules contained in the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 (as amended) (see PARA 388 post) are modified so as to have effect as set out in reg 5 (as substituted), Sch 3 (substituted by SI 2004/225; amended by SI 2005/2114; SI 2006/752): see the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 5 (substituted by SI 2004/225).

UPDATE

27 Combined poll at local authority referendum and election poll in England

NOTES 3-5, 12--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089.

NOTE 12--SI 2004/293 Sch 3 substituted: SI 2009/186. SI 2002/185 regs 3(1), 5, Schs 1, 3 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, regs 3(1), 4, Schs 1, 3.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/1. INTRODUCTION AND GENERAL FRAMEWORK/(5) COMBINED POLLS/ (ii) The Different Combinations of Polls/28. Combined poll at election to the National Assembly for Wales and local government election.

28. Combined poll at election to the National Assembly for Wales and local government election.

Where the polls at an ordinary Assembly election¹ and an ordinary local government election² are to be taken on the same date, they must be taken together³. Where those polls are taken together, provision has been made in relation to the discharge of the functions of the respective returning officers⁴, the polling stations to be used⁵, and proceedings on the issue and receipt of postal ballot papers⁶.

Provision is made also for the conduct of polls at Assembly elections when they are taken together with polls at local government elections⁷.

1 'Ordinary election' means the holding of constituency and regional elections for the return of all Assembly members: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 2(1). For the meanings of 'Assembly election', 'constituency election' and 'regional election' see PARA 3 note 1 ante.

2 As to the meaning of 'local government election' for these purposes see PARA 17 note 3 ante.

3 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 15(1).

4 As to the transferred functions of returning officer where polls are combined see PARA 18 ante.

5 As to the polling stations to be used where polls are combined see PARA 19 ante.

6 As to proceedings on the issue and receipt of postal ballot papers where polls are combined see PARA 20 ante.

7 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 15(7). The provision referred to in the text is made by art 15(7), Sch 4, although where the poll at an Assembly election is combined with a mayoral election only Sch 4 Pt I (paras 1-3) (general: see PARA 18 ante) and Pt II (paras 4-22) apply: art 15(7).

Where the poll at an Assembly election is taken with the poll at a local government election under art 15(1) or art 15(2) (see PARA 29 post), then art 16(1), Sch 5 (see PARA 388 post) has effect subject to the modifications set out in Sch 4 Pt II paras 5-22: Sch 4 Pt II para 4. Where the poll at an election of county or county borough councillors is taken together with the poll at an Assembly election under art 15(1) or art 15(2), then the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 (revoked with savings) (as to which see PARA 388 post) have effect subject to the modifications set out in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 4 Pt III paras 24-43: Sch 4 Pt III para 23. Where the poll at an election of community councillors is taken together with the poll at an Assembly election under art 15(1) or art 15(2), the Local Elections (Parishes and Communities) Rules 1986, SI 1986/2215, r 5, Sch 2 (revoked with savings) (as to which see PARA 388 post) have effect subject to the modifications set out in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 4 Pt IV paras 45-64: Sch 4 Pt IV para 44.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/1. INTRODUCTION AND GENERAL FRAMEWORK/(5) COMBINED POLLS/ (ii) The Different Combinations of Polls/29. Combined polls at elections or referendums for related areas.

29. Combined polls at elections or referendums for related areas.

Where the polls at elections¹ for related areas (or the polls at elections and a local authority referendum for related areas²) are to be taken on the same date but are not required to be taken together³, they may nevertheless be so taken if the returning officer for each election thinks fit⁴. For these purposes two areas are related if one is coterminous with or situated wholly or partly within the other⁵.

The Secretary of State⁶ may by regulations⁷ make such provision as he thinks fit in connection with the combining of polls at such elections (or at such elections and a referendum) including provision modifying the Representation of the People Acts⁸ in relation to them⁹. Accordingly, provision has been made in relation to the discharge of the functions of the respective returning officers¹⁰, the polling stations to be used¹¹, and proceedings on the issue and receipt of postal ballot papers¹². Furthermore, where the polls at such elections or referendums are taken together, the rules which apply at each election or referendum have effect subject to certain modifications¹³.

1 The expression 'elections' includes European parliamentary elections but does not include elections under the local government Act which are not local government elections: Representation of the People Act 1985 s 15(3) (amended by the European Communities (Amendment) Act 1986 s 3). The Representation of the People Act 1983 and the Representation of the People Act 1985 ss 15-17 (as amended) have effect as if those provisions were contained in the Representation of the People Act 1983 Pt I (ss 1-66) (as amended): Representation of the People Act 1985 s 27(2). Accordingly, for the meanings of 'election under the local government Act' and 'local government election' see PARA 10 ante. Section 15 (as amended) is applied and modified by regulations made under the Local Government Act 2000 ss 44, 105 (as amended) for the purposes of elections for the return of elected mayors or elected executive members: see the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(2), Sch 2 (as amended); and PARA 26 ante.

2 I.e. a referendum under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298 (as amended): see PARA 27 ante. The Representation of the People Act 1985 s 15 (as amended) is applied and modified by regulations made under the Local Government Act 2000 ss 45, 105 (as amended) for the purposes of the conduct of local authority referendums: see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, regs 15-17, Sch 5 (as substituted and amended); and PARA 27 ante.

3 I.e. they are not required to be taken together by the Representation of the People Act 1985 s 15(1) (as amended) and the Representation of the People Act 1983 s 36 (as amended) or by the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 15(1) (see PARAS 21-24 ante). See also notes 1-2 supra.

4 Representation of the People Act 1985 s 15(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 15(2). See also notes 1-2 supra.

5 Representation of the People Act 1985 s 15(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 15(3). See also notes 1-2 supra.

6 As to the Secretary of State see PARA 2 ante.

7 As to the making of regulations under the Representation of the People Act 1985 generally see PARA 24 note 16 ante.

8 For the meaning of 'the Representation of the People Acts' see PARA 3 note 1 ante.

9 Representation of the People Act 1985 s 15(5). As to Welsh Assembly elections see PARA 12 ante. See also notes 1-2 supra.

As to the regulations made under s 15(5) see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) and the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294 (as amended). As to the regulations made in relation to Welsh Assembly elections see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended). See also the text and notes 10-13 *infra*.

10 As to the transferred functions of returning officer where polls are combined see PARA 18 *ante*.

11 As to the polling stations to be used where polls are combined see PARA 19 *ante*.

12 As to proceedings on the issue and receipt of postal ballot papers where polls are combined see PARA 20 *ante*.

13 As to the rules for combined polls see PARA 21 *et seq ante*.

UPDATE

29 Combined polls at elections or referendums for related areas

NOTE 1--SI 2002/185 reg 3(2), Sch 2 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(2)-(5), Sch 2.

NOTE 2--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/1. INTRODUCTION AND GENERAL FRAMEWORK/(6) ELECTIONS IN THE CITY OF LONDON/30. City elections.

(6) ELECTIONS IN THE CITY OF LONDON

30. City elections.

Certain provisions of the Representation of the People Act 1983¹ apply in relation to the City of London as if the City were a London borough and the Common Council of the City were a London borough council²; and expressions used for certain purposes in the Representation of the People Act 1983³ are modified so that 'local government election'⁴ and 'election under the local government Act'⁵ include a municipal election in the City of London⁶, 'local government area'⁷ includes the City, and 'electoral area'⁸ means, in relation to a ward election⁹, the ward and, in relation to any other municipal election in the City, the City¹⁰.

Further provision is made in relation to municipal elections in the City¹¹, subject to modifications affecting personation and other voting offences¹², broadcasting during the period of elections¹³, disturbances at election meetings¹⁴ and the payment of certain costs and expenses¹⁵. The Representation of the People Act 1983 also applies with modifications to ward elections in the City of London¹⁶. In relation to City elections generally, special provision is made regarding the expenses of candidates at certain elections¹⁷ and the effect of the avoidance of an election to corporate office¹⁸.

In most of its other respects, the law that applies to elections in the City of London is unique, being governed by custom, by certain local Acts and by various Acts of the Common Council, and is discussed elsewhere in this work¹⁹.

1 In the Representation of the People Act 1983 Pt I (ss 1-66A) (as amended), so far as it has effect for the purposes of parliamentary elections, and Pts I-III (ss 1-186) (as amended), so far as they have effect for the purposes of Authority elections, and subject to any express provision contained in the Part or Parts in question: s 203(2) (substituted by the Greater London Authority Act 1999 s 17, Sch 3 para 39(1), (6)). For the meaning of 'parliamentary election' see PARA 9 ante; and for the meaning of 'Authority election' see PARA 10 ante.

2 Representation of the People Act 1983 s 202(1), s 203(2) (as substituted: see note 1 supra). For these purposes, the Inner Temple and the Middle Temple are treated as forming part of the City: s 203(2) (as so substituted). The modifications made by s 203(2) (as substituted) do not affect s 52(4) (as substituted) (duty of a district council or London borough council to assign officers to assist the registration officer: see PARA 155 post): s 203(3). As to London boroughs and London borough councils generally see LONDON GOVERNMENT vol 29(2) (Reissue) PARAS 30, 35 et seq; as to the Temples see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 32; and as to the Court of Common Council see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 51 et seq.

3 In the Representation of the People Act 1983 s 60 (personation: see PARA 733 post), s 61 (as amended) (other voting offences: see PARA 703 post) and s 62A (as added) (offences associated with postal or proxy voting: see PARA 734 post), Pt II (ss 67-119) (as amended) (the election campaign: see PARA 237 et seq post) except s 96 (as substituted and amended) (schools and rooms for local election meetings: see PARA 342 post) and s 99 (as amended) (officials not to act for candidates: see PARA 749 post), Pt III (ss 120-186) (as amended) (legal proceedings: see PARA 759 et seq post), s 189 (voting offences at certain local elections: see PARA 703 post), s 193-198 (as amended) (City elections) and Pt V (ss 200-207) (as amended) (general and supplemental): s 191(1) (amended by the Representation of the People Act 1985 ss 24, 28, Sch 4 para 66, Sch 5; and the Electoral Administration Act 2006 s 74(1), Sch 1 Pt 7 paras 104, 125).

4 For the meaning of 'local government election' generally see PARA 10 ante.

5 As to the expression 'election under the local government Act' generally see PARA 10 ante.

6 For these purposes, a 'municipal election in the City of London' means an election to the office of mayor, alderman, common councilman or sheriff and also the election of any officer elected by the mayor, aldermen

and liverymen in common hall: Representation of the People Act 1983 ss 191(1), 202(1). As to the election of the Lord Mayor of London see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 44; as to the election of aldermen see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 49; as to the election of common councilmen see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 52; and as to elections in Common Hall see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 56.

7 For the meaning of 'local government area' see PARA 18 note 2 ante.

8 For the meaning of 'electoral area' generally see PARA 10 ante.

9 As to ward elections in the City of London see the text and note 16 infra.

10 Representation of the People Act 1983 s 191(1).

11 Ie the provisions of the Representation of the People Act 1983 listed at note 3 supra have effect.

12 See *ibid* s 191(1) (as amended: see note 3 supra), s 193 (amended by the Electoral Administration Act 2006 s 74(1), Sch 1 Pt 7 paras 104, 126). As to personation and other voting offences generally see PARAS 703, 733-734 post.

13 See the Representation of the People Act 1983 s 191(1) (as amended: see note 3 supra), s 194. As to broadcasting offences generally see PARAS 336-337 post.

14 See *ibid* s 191(1) (as amended: see note 3 supra), s 195. As to disturbances at election meetings generally see PARA 343 post.

15 See *ibid* s 191(1) (as amended: see note 3 supra), s 196 (amended by the Representation of the People Act 1985 Sch 5). The text refers to any costs or expenses directed to be paid under the Representation of the People Act 1983 s 132 (remuneration and allowances to be paid to the election commissioner: see PARA 776 post).

16 Without prejudice to the provisions applied by virtue of *ibid* ss 191-196 (as amended) (see the text and notes 3-15 supra), Sch 6 (as amended) (ward elections in the City) also has effect as regards the operation of the City of London (Various Powers) Act 1957 Pt II (ss 4-11) (as amended) (ward elections) and the City of London (Ward Elections) Act 2002: see the Representation of the People Act 1983 s 191(2) (amended by the City of London (Ward Elections) Act 2002 s 9(1), Sch 1 Pt 2 para 4). See also the City of London (Various Powers) Act 1957 s 8 (as amended), which applies specified provisions of the Representation of the People Act 1983, in addition to the provisions which apply by virtue of ss 191-196 (as amended), to and in respect of ward elections. The City of London (Various Powers) Act 1957 Pt II (as amended) and the City of London (Ward Elections) Act 2002 both make provision with respect to the franchise and its exercise in relation to such elections: see further LONDON GOVERNMENT vol 29(2) (Reissue) PARA 41 et seq.

17 See the Representation of the People Act 1983 s 197 (amended by the Representation of the People Act 1985 Sch 4 para 67; the Electoral Administration Act 2006 s 74(1), Sch 1 paras 104, 127; and the Representation of the People (Variation of Limits of Candidates' Election Expenses) (City of London) Order 2005, SI 2005/153, arts 3-4). The elections referred to in the text are ward and liverymen in common hall elections. As to candidates' expenses generally see PARA 274 et seq post.

18 See the Representation of the People Act 1983 s 198. For these purposes, 'corporate office' includes each of the offices referred to in the definition of a 'municipal election in the City of London' (see note 6 supra): s 191(1). As to the avoidance of elections generally see PARA 892 et seq post.

19 See further LONDON GOVERNMENT vol 29(2) (Reissue) PARA 41 et seq.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(i) The Commission and Bodies with Related Functions/A. CONSTITUTION, ADMINISTRATION AND PROCEEDINGS OF THE ELECTORAL COMMISSION/31. Establishment and constitution of the Electoral Commission.

2. THE ELECTORAL COMMISSION ETC

(1) THE ELECTORAL COMMISSION

(i) The Commission and Bodies with Related Functions

A. CONSTITUTION, ADMINISTRATION AND PROCEEDINGS OF THE ELECTORAL COMMISSION

31. Establishment and constitution of the Electoral Commission.

The Political Parties, Elections and Referendums Act 2000¹ established a body corporate known as the Electoral Commission². The Commission consists of not less than five but not more than nine members, known as Electoral Commissioners³ and appointed by Her Majesty⁴, who also appoints one of their number to be the chairman⁵.

The Commission is not to be regarded as the servant or agent of the Crown⁶ or as enjoying any status, immunity or privilege of the Crown⁷, and the Commission's property is not to be regarded as property of the Crown or as property held on its behalf⁸.

1 The Political Parties, Elections and Referendums Act 2000 Pt I (ss 1-21) (as amended); see also PARA 32 et seq post. These provisions were enacted following the publication of *Standards in Public Life (Fifth Report): The Funding of Political Parties in the United Kingdom* (Cm 4057) (October 1998) (the 'Neill Report'). In the opinion of the authors of the report, a new body with widespread executive and investigative powers was required to oversee compliance with the serious and continuing duties they had proposed for political parties, to institute action where necessary, and to make proposals to government as to any necessary reforms in the working of the machinery: see PARA 2.32; Ch 11; and Recommendations R70-R82.

2 Political Parties, Elections and Referendums Act 2000 s 1(1). In Welsh, the Commission is known as 'Comisiwn Etholiadol': s 1(1).

Further provision in relation to the Electoral Commission is made by Sch 1: s 1(6). The Commission may do anything (except borrow money) which is calculated to facilitate, or is incidental or conducive to, the carrying out of any of its functions: Sch 1 para 2. For these purposes, 'functions' includes powers and duties: s 160(1). As to the Commission's functions generally see PARA 46 et seq post. The Electoral Commission is subject to investigation by the Parliamentary Commissioner: see the Parliamentary Commissioner Act 1967 s 4 (as substituted and amended), Sch 2 (as substituted); and ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) PARA 41 et seq.

The Secretary of State may by order provide for the transfer to the Commission of such property, rights and liabilities to which he is entitled or subject, and which are specified in the order, as he considers appropriate in connection with the establishment of the Commission: Political Parties, Elections and Referendums Act 2000 Sch 1 para 14(7). Such an order may in particular provide for the order to have effect despite any provision (of whatever nature) which would prevent or restrict the transfer of any such property, rights or liabilities otherwise than by the order: Sch 1 para 14(8). At the date at which this volume states the law no such order had been made. As to the Secretary of State see PARA 2 ante.

Any power of the Secretary of State to make any order or regulations under the Political Parties, Elections and Referendums Act 2000 must be exercised by statutory instrument: s 156(1). A statutory instrument containing any order or regulations so made by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament (s 156(2)) apart from: (1) any order under s 16(3) (see PARA 64 post) or s 163(2) (commencement) or Sch 1 para 14(7) (s 156(3)(a)); (2) any order made in pursuance of s 155(2)(a) (power to vary sums: see PARA 304 post) (s 156(3)(b)); and (3) any order under s 18(1) (see PARA 65 post), s 51(4) (see

CONSTITUTIONAL LAW AND HUMAN RIGHTS), s 67(1) (see PARA 316 post), s 71F(13) (as added) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS), s 71H(4) (as added) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS), s 71U(1) (as added) (see PARA 317 post), s 101(4) (see PARA 519 post), s 108(3) (see PARA 522 post), s 109(6) (see PARA 522 post), s 129 (see PARA 546 post), s 71Q(5), Sch 6A para 9 (as added) (see PARA 317 post), s 71, Sch 7 para 3(4) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS), s 71Y, Sch 7A paras 2(9), 4(4) (as added) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS), s 72, Sch 8 para 4 (see PARA 304 post), s 95, Sch 11 para 3(4) (see PARA 330 post), s 111, Sch 13 para 4 (see PARA 527 post), s 118, Sch 14 para 2 (see PARA 533 post) or s 119, Sch 15 para 3(4) (see PARA 538 post) (s 156(4) (amended by the Electoral Administration Act 2006 s 61(4), (7), Sch 1 paras 97, 100)). No such order is to be made under the Political Parties, Elections and Referendums Act 2000 s 156(4) (as amended), whether alone or with other provisions, unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament: s 154(4). Any order or regulations made by the Secretary of State under the Political Parties, Elections and Referendums Act 2000 may contain such consequential, incidental, supplementary or transitional provisions or savings (including provisions amending, repealing or revoking enactments) as the Secretary of State considers appropriate and may make different provision for different cases (s 156(5)); and nothing in the Political Parties, Elections and Referendums Act 2000 is to be read as affecting the generality of s 156(5), including s 156(5) as applied by s 19(9) (transfer of functions from the Local Boundary Commission for Scotland) (s 156(6)). As to provisions relating to regulations made by the Electoral Commission see Sch 1 paras 21-23 (see PARAS 42-43 post): s 156(7).

3 Ibid s 1(2), (3). Members of the Electoral Commission are disqualified for membership of the House of Commons: House of Commons Disqualification Act 1975 s 1(1), Sch 1 Pt II (amended by the Political Parties, Elections and Referendums Act 2000 s 158(1), Sch 21 para 3(a)). See further PARLIAMENT vol 78 (2010) PARAS 905, 908.

4 Political Parties, Elections and Referendums Act 2000 s 1(4). The Commissioners are appointed by Her Majesty in accordance with s 3 (see PARA 32 post). As to the appointment of Deputy and Assistant Electoral Commissioners (whose functions are confined to serving on or assisting Boundary Committees) see PARA 61 post.

5 Ibid s 1(5). The chairman of the Commission is appointed by Her Majesty in accordance with s 3 (see PARA 32 post).

6 Ibid s 1(6), Sch 1 para 1(1)(a). As to the position of the staff of the Commission see PARA 35 et seq post.

7 Ibid Sch 1 para 1(1)(b).

8 Ibid Sch 1 para 1(2). For these purposes, 'property' includes any description of property: s 160(1).

The administrative and departmental records of the Electoral Commission are public records as defined for the purposes of the Public Records Act 1958 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 835): s 10, Sch 1 para 3, Table Pt II (amended by the Political Parties, Elections and Referendums Act 2000 Sch 21 para 1).

UPDATE

31 Establishment and constitution of the Electoral Commission

NOTE 2--Political Parties, Elections and Referendums Act 2000 s 71H amended, s 71HA added: SI 2009/185. Political Parties, Elections and Referendums Act 2000 s 156(3)(a), (4) amended: Local Democracy, Economic Development and Construction Act 2009 Sch 7 Pt 3.

NOTE 5--Political Parties, Elections and Referendums Act 2000 s 1(5) amended: Political Parties and Elections Act 2009 Sch 6 para 9.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(i) The Commission and Bodies with Related Functions/A. CONSTITUTION, ADMINISTRATION AND PROCEEDINGS OF THE ELECTORAL COMMISSION/32. Appointment of Electoral Commissioners and Commission chairman.

32. Appointment of Electoral Commissioners and Commission chairman.

The powers of Her Majesty to appoint Electoral Commissioners¹ and to appoint the chairman of the Commission² are exercisable on an address from the House of Commons³. Such an address must specify the period, not exceeding ten years, for which each proposed Electoral Commissioner to whom the address relates is to hold office as such Commissioner or (as the case may be) the period for which the proposed chairman of the Commission is to hold office as such chairman⁴.

A person may not be appointed as an Electoral Commissioner if the person: (1) is a member of a registered party⁵; (2) is an officer or employee of a registered party or of any accounting unit of such a party⁶; (3) holds a relevant elective office⁷; or (4) has at any time within the last ten years been such an officer or employee as is mentioned in head (2) above⁸, or has held such an office as is mentioned in head (3) above⁹, or has been named either as a donor in the register of donations¹⁰ or as a participant in the register of recordable transactions¹¹.

An Electoral Commissioner, or the chairman of the Commission, may be re-appointed, or further re-appointed¹².

1 Ie under the Political Parties, Elections and Referendums Act 2000 s 1(4): see PARA 31 ante.

2 Ie under *ibid* s 1(5): see PARA 31 ante.

3 *Ibid* s 3(1). No motion is to be made for such an address except: (1) with the agreement of the Speaker of the House of Commons (s 3(2)(a)); and (2) after consultation with the registered leader of each registered party to which two or more members of the House of Commons then belong (s 3(2)(b)). For the purposes of head (2) *supra*, the reference to members of the House of Commons does not include any member of that House who at the time in question: (a) has not made and subscribed the oath required by the Parliamentary Oaths Act 1866 (or the corresponding affirmation); or (b) is disqualified from sitting and voting in that House: Political Parties, Elections and Referendums Act 2000 s 3(6). For these purposes, 'registered party' means a party registered under Pt II (ss 22-40) (as amended) (see PARA 260 post): s 160(1). As to the disqualification of members of the House of Commons see PARLIAMENT vol 78 (2010) PARA 897 et seq; as to the Speaker of the House of Commons see PARLIAMENT vol 78 (2010) PARA 931 et seq; and as to the oath or affirmation required by the Parliamentary Oaths Act 1866 see PARLIAMENT vol 78 (2010) PARA 1001.

4 Political Parties, Elections and Referendums Act 2000 s 3(3).

5 *Ibid* s 3(4)(a).

6 *Ibid* s 3(4)(b). For these purposes, 'registered party' includes, in relation to times before 1 April 1999, any political party: s 3(7)(b). There was no registration of political parties before the enactment of the Registration of Political Parties Act 1998 (largely repealed).

7 Political Parties, Elections and Referendums Act 2000 s 3(4)(c). The text refers to a relevant elective office within the meaning of s 71, Sch 7 (as amended) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS).

8 *Ibid* s 3(4)(d)(i).

9 *Ibid* s 3(4)(d)(ii).

10 *Ibid* s 3(4)(d)(iii). The text refers to a donor reported under Pt IV Ch III (ss 62-69) (reporting of donations to registered parties) or Pt IV Ch V (s 71) (control of donations to individuals and members associations) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS).

11 Ibid s 3(4)(d)(iv) (added by the Electoral Administration Act 2006 s 74(1), Sch 1 Pt 7 paras 138, 139). The text refers to a participant reported under the Political Parties, Elections and Referendums Act 2000 Pt IVA (ss 71F-71Y) (as added) (see PARA 317 post; and CONSTITUTIONAL LAW AND HUMAN RIGHTS).

12 Ibid s 3(5).

UPDATE

32 Appointment of Electoral Commissioners and Commission chairman

TEXT AND NOTES--Four of the Electoral Commissioners must each be a person whom the registered leader of a qualifying party put forward to be considered for appointment as an Electoral Commissioner (a 'nominated Commissioner'): Political Parties, Elections and Referendums Act 2000 s 3A(1) (s 3A added by the Political Parties and Elections Act 2009 s 5(2)). 'Qualifying party' means a registered party with two or more members of the House of Commons at the time of the person's appointment: Political Parties, Elections and Referendums Act 2000 s 3A(2). Three of the nominated Commissioners must each be a person put forward by the registered leader of one of the three largest nominating parties at the time of the person's appointment: s 3A(3). 'Nominating party' means a party whose registered leader (1) has put forward three persons to be considered for appointment as a nominated Commissioner, or (2) previously put forward persons one of whom was appointed as a nominated Commissioner and is expected to continue to hold office: s 3A(4). No appointment may be made that would result in two or more nominated Commissioners being persons put forward by the leader of the same party, and nothing in s 3A has effect so as to require that result: s 3A(5). A nominated Commissioner may not be appointed as the chairman of the Electoral Commission: s 3A(6). For the purposes of s 3A, the relative size of any two or more registered parties is to be determined according to the number of members of the House of Commons belonging to each party at the time in question, or, in the case of two parties with the same number of members, according to the total number of votes cast for persons standing for election in the name of each of those parties at the most recent parliamentary general election: s 3A(7). A reference in s 3A to a member of the House of Commons does not include any member of that House who at the time in question (a) has not made and subscribed the oath required by the Parliamentary Oaths Act 1866 (see PARLIAMENT vol 78 (2010) PARA 1001), or the corresponding affirmation, or (b) is disqualified from sitting and voting in that House: s 3A(8).

NOTE 3--A motion for such an address may be made only if (1) the Speaker of the House of Commons agrees that the motion may be made; (2) the motion has been the subject of consultation with the registered leader of each registered party to which two or more members of the House of Commons then belong; and (3) each person whose appointment is proposed in the motion has been selected in accordance with a procedure put in place and overseen by the Speaker's Committee: Political Parties, Elections and Referendums Act 2000 s 3(2) (s 3(2) substituted, s 3(5A) added by the Political Parties and Elections Act 2009 s 4(1)-(3)). In the case of a re-appointment, or further re-appointment of an Electoral Commissioner, the reference in head (3) to being selected in accordance with a procedure put in place and overseen by the Speaker's Committee is to be read as including a reference to being recommended for re-appointment, or further re-appointment, by that Committee: Political Parties, Elections and Referendums Act 2000 s 3(5A).

NOTES 5-11--Political Parties, Elections and Referendums Act 2000 s 3 amended: Political Parties and Elections Act 2009 Sch 6 para 10.

NOTES 5, 8-11--The Political Parties, Elections and Referendums Act 2000 s 3(4)(a), (d) do not apply to the appointment of a person as a nominated Electoral Commissioner, within the meaning of s 3A: s 3(4A) (added by the Political Parties and Elections Act 2009 s 5(1)).

TEXT AND NOTE 8--For 'within the last ten years' read 'within the last five years': Political Parties, Elections and Referendums Act 2000 s 3(4)(d) (amended by the Political Parties and Elections Act 2009 s 7(1)).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(i) The Commission and Bodies with Related Functions/A. CONSTITUTION, ADMINISTRATION AND PROCEEDINGS OF THE ELECTORAL COMMISSION/33. Tenure of Electoral Commissioners and Commission chairman.

33. Tenure of Electoral Commissioners and Commission chairman.

An Electoral Commissioner¹ holds office² as such Commissioner for the period for which he is appointed³, and otherwise in accordance with the terms of his appointment⁴. An Electoral Commissioner ceases to hold office on the occurrence of any of the following events: (1) he consents to being nominated as a candidate at a relevant election⁵ or to being included in a registered party's list of candidates at such an election⁶; (2) he takes up any office or employment in or with a registered party or any accounting unit⁷ of such a party⁸, a recognised third party⁹, or a permitted participant¹⁰; (3) he is named as a donor in the register of donations¹¹ or in any statement of donations included in a return delivered to the Commission¹²; (4) he is named as a participant in the register of recordable transactions¹³; (5) he becomes a member of a registered party¹⁴. An Electoral Commissioner may be removed from office by Her Majesty in pursuance of an address from the House of Commons¹⁵, or he may be relieved of his office by Her Majesty at his own request¹⁶.

The chairman of the Commission¹⁷ holds office¹⁸ as such chairman for the period for which he is appointed¹⁹, and otherwise in accordance with the terms of his appointment²⁰. The chairman of the Commission may be relieved of his office of chairman by Her Majesty at his own request²¹. If the chairman of the Commission ceases to be an Electoral Commissioner, he also ceases to be chairman²².

1 As to the appointment of Electoral Commissioners see PARA 32 ante.

2 Ie subject to the provisions of the Political Parties, Elections and Referendums Act 2000 s 1(6), Sch 1 para 3.

3 Ibid Sch 1 para 3(1)(a). The period for which an Electoral Commissioner is appointed is the period specified in relation to him in the address pursuant to which he is appointed (see PARA 32 ante): Sch 1 para 3(2).

4 Ibid Sch 1 para 3(1)(b).

5 Ie within the meaning of ibid Pt II (ss 22-40) (as amended) (see PARA 260 post).

6 Ibid Sch 1 para 3(3)(a). For the meaning of 'registered party' for these purposes see PARA 32 note 3 ante. As to a registered party's list of candidates see PARA 260 et seq post.

7 For the meaning of 'accounting unit' see PARA 260 note 15 post.

8 Political Parties, Elections and Referendums Act 2000 Sch 1 para 3(3)(b)(i).

9 Ibid Sch 1 para 3(3)(b)(ii). The text refers to a recognised third party within the meaning of Pt VI (ss 85-100) (as amended) (controls relating to third party national election campaigns): see PARA 318 note 15 post.

10 Ibid Sch 1 para 3(3)(b)(iii). The text refers to a permitted participant within the meaning of Pt VII (ss 101-129) (as amended) (referendums): see PARA 521 post.

11 Ie under ibid Pt IV Ch III (ss 62-69) (reporting of donations to registered parties) or Pt IV Ch V (s 71) (control of donations to individuals and members associations) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS).

12 Ibid Sch 1 para 3(3)(c). The text refers to a return delivered under s 98 (see PARA 327 post) or s 122 (see PARA 535 post).

13 Ibid Sch 1 para 3(3)(ca) (added by the Electoral Administration Act 2006 s 74(1), Sch 1 paras 138, 152). The text refers to a participant reported under the Political Parties, Elections and Referendums Act 2000 Pt IVA (ss 71F-71Y) (as added) (see PARA 317 post; and CONSTITUTIONAL LAW AND HUMAN RIGHTS).

14 Ibid Sch 1 para 3(3)(d).

15 Ibid Sch 1 para 3(4). No motion is to be made for such an address unless the Speaker's Committee has presented a report to the House of Commons stating that the Committee is satisfied that one or more of the following grounds is made out in the case of the Electoral Commissioner in question: (1) he has failed to discharge the functions of his office for a continuous period of at least three months (Sch 1 para 3(5)(a)); (2) he has failed to comply with the terms of his appointment (Sch 1 para 3(5)(b)); (c) he has been convicted of a criminal offence (Sch 1 para 3(5)(c)); (4) he is an undischarged bankrupt or his estate has been sequestrated in Scotland and he has not been discharged (Sch 1 para 3(5)(d)); (5) he has made an arrangement or composition contract with, or has granted a trust deed for, his creditors (Sch 1 para 3(5)(e)); (6) he is otherwise unfit to hold his office or unable to carry out its functions (Sch 1 para 3(5)(f)). A motion for such an address is not to be made on the ground mentioned in head (1) supra if more than three months have elapsed since the end of the period in question: Sch 1 para 3(6). As to the meaning of 'functions' see PARA 31 note 2 ante. As to the Speaker's Committee see PARA 44 post. As to discharge from bankruptcy see BANKRUPTCY AND INDIVIDUAL INSOLVENCY vol 3(2) (2002 Reissue) PARA 629 et seq; and as to compositions and arrangements with creditors see BANKRUPTCY AND INDIVIDUAL INSOLVENCY vol 3(2) (2002 Reissue) PARA 859 et seq.

16 Ibid Sch 1 para 3(7).

17 As to the appointment of the chairman of the Electoral Commission see PARA 32 ante.

18 le subject to the provisions of the Political Parties, Elections and Referendums Act 2000 Sch 1 para 4 (see the text and notes 19-22 infra).

19 Ibid Sch 1 para 4(1)(a). The period for which a person is appointed as chairman of the Commission is the period specified in relation to him in the address pursuant to which he is appointed (see PARA 32 ante): Sch 1 para 4(2).

20 Ibid Sch 1 para 4(1)(b).

21 Ibid Sch 1 para 4(3).

22 Ibid Sch 1 para 4(4).

UPDATE

33 Tenure of Electoral Commissioners and Commission chairman

TEXT AND NOTES 5-14--Political Parties, Elections and Referendums Act 2000 Sch 1 para 3(3) amended, Sch 1 para 3(3A) added: Political Parties and Elections Act 2009 Sch 6 para 27(2).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(i) The Commission and Bodies with Related Functions/A. CONSTITUTION, ADMINISTRATION AND PROCEEDINGS OF THE ELECTORAL COMMISSION/34. Salaries, pensions etc of Electoral Commissioners.

34. Salaries, pensions etc of Electoral Commissioners.

There is paid to an Electoral Commissioner¹ such remuneration, and any such allowances or expenses, as may be specified in a resolution of the House of Commons². If a resolution of the House of Commons so provides in the case of any person who is an Electoral Commissioner or former Electoral Commissioner, such amounts are to be paid towards the provision of superannuation benefits for or in respect of him as may be specified in the resolution³ and, in the case of a former Electoral Commissioner, such pension⁴ is to be paid to or in respect of him as may be so specified⁵.

Any amount so payable (other than by way of expenses) must be charged on and issued out of the Consolidated Fund⁶; and any amount so payable by way of expenses must be paid by the Commission⁷.

1 As to the appointment and tenure of Electoral Commissioners see PARAS 32-33 ante.

2 Political Parties, Elections and Referendums Act 2000 s 1(6), Sch 1 para 5(1). A resolution for these purposes may: (1) specify the amounts to be paid (Sch 1 para 5(3)(a)); (2) provide that the amounts to be paid are the same as, or calculated on the same basis as, those payable to or in respect of a person employed in a specified office under, or in a specified capacity in the service of, the Crown (Sch 1 para 5(3)(b)); (3) specify the amounts to be paid and provide for them to be increased by reference to such variables as may be specified in the resolution (Sch 1 para 5(3)(c)); (4) have the effect of making different provision for different Electoral Commissioners or former Electoral Commissioners (Sch 1 para 5(3)(d)). A resolution for these purposes may take effect from the date on which it is passed or from any earlier or later date specified in the resolution: Sch 1 para 5(4).

3 Ibid Sch 1 para 5(2)(a).

4 For these purposes, 'pension' includes allowance and gratuity: ibid Sch 1 para 5(7).

5 Ibid Sch 1 para 5(2)(b).

6 Ibid Sch 1 para 5(5). As to the Consolidated Fund see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 711 et seq; PARLIAMENT vol 78 (2010) PARAS 1028-1031.

7 Ibid Sch 1 para 5(6).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(i) The Commission and Bodies with Related Functions/A. CONSTITUTION, ADMINISTRATION AND PROCEEDINGS OF THE ELECTORAL COMMISSION/35. The chief executive and staff of the Electoral Commission.

35. The chief executive and staff of the Electoral Commission.

The Electoral Commission¹ must appoint a chief executive² and may appoint such other staff as the Commission considers necessary to assist it and its committees³ in the performance of its functions⁴. A person may not be appointed as chief executive of the Commission if he is a person who⁵ may not be appointed as an Electoral Commissioner⁶ nor may a person be appointed as any other member of the staff of the Commission if he is a person who⁷ may not be appointed as an Electoral Commissioner⁸. The staff of the Commission are to be appointed on such terms and conditions as the Commission may determine; and the Commission must pay its staff such remuneration as may be provided for by or under their terms of appointment⁹. However, the appointment of any member of the staff of the Commission must terminate on the occurrence of such events as are specified¹⁰.

Service as an officer or employee of the Commission is included in the kinds of employment to which a scheme under the Superannuation Act 1972¹¹ can apply¹². The Commission must pay to the Minister for the Civil Service¹³, at such times as he may direct, such sums as he may determine in respect of any increase¹⁴ in the sums payable out of money provided by Parliament under the Superannuation Act 1972¹⁵.

No member of the staff of the Commission is to be regarded as the servant or agent of the Crown¹⁶ or as enjoying any status, immunity or privilege of the Crown¹⁷.

1 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 Political Parties, Elections and Referendums Act 2000 s 1(6), Sch 1 para 11(1)(a). As to the power that was available to the Secretary of State to make arrangements until such time as the first person to be appointed by the Commission as its chief executive took up office see Sch 1 para 11(9)-(11).

3 As to committees of the Electoral Commission see PARA 36 post.

4 Political Parties, Elections and Referendums Act 2000 Sch 1 para 11(1)(b). As to the power that was available to the Secretary of State to make arrangements until such time as the Commission appointed its own staff see Sch 1 para 11(9)-(11). As to the meaning of 'functions' see PARA 31 note 2 ante. As to the functions of the Electoral Commission see PARA 46 et seq post.

Members of the staff of the Electoral Commission are disqualified for membership of the House of Commons: House of Commons Disqualification Act 1975 s 1(1), Sch 1 Pt III (amended by the Political Parties, Elections and Referendums Act 2000 s 158(1), Sch 21 para 3(b)). See further PARLIAMENT vol 78 (2010) PARAS 905, 908.

5 Ie by virtue of the Political Parties, Elections and Referendums Act 2000 s 3(4)(a)-(d) (see PARA 32 ante).

6 Ibid Sch 1 para 11(2)(a).

7 Ie by virtue of ibid s 3(4)(b)-(d) (see PARA 32 ante).

8 Ibid Sch 1 para 11(2)(b).

9 Ibid Sch 1 para 11(3). In determining the terms and conditions of staff under Sch 1 para 11(3), the Commission must have regard to the desirability of keeping the remuneration and other terms and conditions of employment of its staff broadly in line with those applying to persons employed in the civil service of the state: Sch 1 para 11(5).

10 Ibid Sch 1 para 11(4). The events mentioned in the text are those specified in any of Sch 1 para 3(3)(a)-(d) (see PARA 33 ante) if the member of staff in question is the chief executive (Sch 1 para 11(4)(a)) or those specified in any of Sch 1 para 3(3)(a)-(c) (see PARA 33 ante) in any other case (Sch 1 para 11(4)(b)).

11 Ie under the Superannuation Act 1972 s 1 (as amended): see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 567.

12 Political Parties, Elections and Referendums Act 2000 Sch 1 para 11(6); and see the Superannuation Act 1972 s 1 (as amended), Sch 1 (amended by the Political Parties, Elections and Referendums Act 2000 Sch 1 para 11(6)).

The Superannuation Act 1972 s 1(2) (delegation of functions relating to civil service superannuation schemes by the Minister for the Civil Service to another officer of the Crown etc: see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 567) has effect as if the reference to an officer of the Crown other than a minister included the Commission's chief executive: Political Parties, Elections and Referendums Act 2000 Sch 1 para 13(1). Any administration function so conferred on the Commission's chief executive, as it has effect in accordance with Sch 1 para 13(1), may be exercised by (or by employees of) such person as may be authorised in that behalf by the Commission's chief executive: Sch 1 para 13(2). For these purposes, an 'administration function' is a function of administering schemes made under the Superannuation Act 1972 s 1 (as amended) and from time to time in force: Political Parties, Elections and Referendums Act 2000 Sch 1 para 13(3). An authorisation given by virtue of Sch 1 para 13(2) may authorise the exercise of an administration function: (1) either wholly or to such extent as may be specified in the authorisation (Sch 1 para 13(4)(a)); (2) either generally or in such cases as may be so specified (Sch 1 para 13(4)(b)); and (3) either unconditionally or subject to the fulfilment of such conditions as may be so specified (Sch 1 para 13(4)(c)). Such an authorisation is to be treated for all purposes as if it were given by virtue of an order under the Deregulation and Contracting Out Act 1994 s 69 (contracting out of functions of ministers and office-holders: see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 364) and may be revoked at any time by the Commission (as well as by the chief executive): Political Parties, Elections and Referendums Act 2000 Sch 1 para 13(5).

13 As to the Minister for the Civil Service see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 427.

14 Ie attributable to the Political Parties, Elections and Referendums Act 2000 Sch 1 para 11(6) (see the text and notes 11-12 supra).

15 Ibid Sch 1 para 11(7).

16 Ibid Sch 1 para 11(8)(a). As to the position of the Commission itself see PARA 31 ante.

17 Ibid Sch 1 para 11(8)(b).

UPDATE

35 The chief executive and staff of the Electoral Commission

TEXT AND NOTES--As to political restrictions on staff see PARA 35A.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(i) The Commission and Bodies with Related Functions/A. CONSTITUTION, ADMINISTRATION AND PROCEEDINGS OF THE ELECTORAL COMMISSION/35A. Political restrictions on staff.

35A. Political restrictions on staff.

A person may not be appointed as a member of the staff of the Electoral Commission if the person (1) is an officer or employee of a registered party or of any accounting unit of such a party; (2) holds a relevant elective office, within the meaning of the Political Parties, Elections and Referendums Act 2000 Sch 7 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS); (3) has at any time within the relevant period been such an officer or employee as is mentioned in head (1), or held such an office as is mentioned in head (2), or been named as a donor in the register of donations reported under Pt IV (ss 62-69, 71; see CONSTITUTIONAL LAW AND HUMAN RIGHTS), or been named as a participant in the register of recordable transactions reported under Pt IVA (ss 71F-71Z2; see PARA 317 and CONSTITUTIONAL LAW AND HUMAN RIGHTS): Sch 1 para 11A(1) (Sch 1 paras 11A, 11B added: Political Parties and Elections Act 2009 s 7(2)). The relevant period is (a) in relation to appointment as chief executive of the Electoral Commission, the last five years; (b) in relation to appointment to a post on the staff of the Electoral Commission that is designated by a notice in force under Sch 1 para 11B, the period, immediately preceding the appointment, specified by the notice; (c) in relation to appointment as any other member of the staff of the Electoral Commission, the last 12 months: Sch 1 para 11A(2). A member of a registered party may not be appointed as chief executive of the Electoral Commission: Sch 1 para 11A(3). As to the termination of the appointment of any member of the staff of the Electoral Commission see Sch 1 para 11A(4). The chief executive of the Electoral Commission may by giving notice to the Speaker's Committee (i) designate a particular post on the staff of the Electoral Commission; and (ii) specify as the relevant period for that post, for the purposes of head (b) above, a period of two years or more, if the chief executive reasonably believes that it is necessary to do so in order to maintain public confidence in the effectiveness of the Electoral Commission in carrying out any of its functions: Sch 1 para 11B(1). The period specified under head (ii) may not be more than five years: Sch 1 para 11B(2). In deciding what that period should be, the chief executive of the Electoral Commission must take into account the level of seniority of the post and how likely it is that any holder of the post will be required to deal with politically sensitive matters: Sch 1 para 11B(3). Each notice must relate to only one post: Sch 1 para 11B(4). As to further provisions regarding notices under Sch 1 para 11B(1) see Sch 1 paras 11B(5)-(9). Schedule 1 paras 11A, 11B do not apply to the appointment of a person to assist the Boundary Committee for England in the performance of its functions, to assist the Electoral Commission in carrying out functions transferred to them by an order under the Political Parties, Elections and Referendums Act 2000 s 18(1) (see para 65) or to perform duties including either or both of those: Political Parties and Elections Act 2009 s 7(3).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(i) The Commission and Bodies with Related Functions/A. CONSTITUTION, ADMINISTRATION AND PROCEEDINGS OF THE ELECTORAL COMMISSION/36. Committees of the Electoral Commission.

36. Committees of the Electoral Commission.

The Electoral Commission¹ may establish² any committees which the Commission considers appropriate³; and any committee so established may establish one or more sub-committees⁴. A person is not to be a member of a committee or sub-committee so established unless he is an Electoral Commissioner⁵.

1 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 Ie in addition to the Boundary Committees (see PARA 60 et seq post).

3 Political Parties, Elections and Referendums Act 2000 s 1(6), Sch 1 para 8(1).

4 Ibid Sch 1 para 8(2).

5 Ibid Sch 1 para 8(3). As to the appointment and tenure of Electoral Commissioners see PARAS 32-33 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(i) The Commission and Bodies with Related Functions/A. CONSTITUTION, ADMINISTRATION AND PROCEEDINGS OF THE ELECTORAL COMMISSION/37. Delegation to committees and to staff.

37. Delegation to committees and to staff.

The Electoral Commission¹ may delegate² its functions³, to such extent as it may determine, to any committee⁴ of the Commission⁵. Such a committee may delegate its functions, to such extent as it may determine, to any sub-committee of the committee⁶.

Each of: (1) the Commission⁷; (2) any committee of the Commission⁸; (3) any sub-committee of such a committee⁹; and (4) the Commission's chief executive¹⁰, may delegate functions of theirs or his, to such extent as they or he may determine, to the Commission's staff¹¹, either generally or otherwise¹².

1 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 For these purposes, 'delegate' includes further delegate: Political Parties, Elections and Referendums Act 2000 s 1(6), Sch 1 para 25.

3 As to the meaning of 'functions' see PARA 31 note 2 ante.

4 Ie any committee established under the Political Parties, Elections and Referendums Act 2000 Sch 1 para 8(1) (see PARA 36 ante).

5 Ibid Sch 1 para 9(1). However, this provision does not apply to any function transferred to the Commission by virtue of s 16(1) (functions of Boundary Commissions: see PARA 64 post) or by an order under s 18(1) (transfer of functions of the Local Government Commission for England: see PARA 65 post), s 19(1) (transfer of functions of the Local Government Boundary Commission for Scotland) or s 20(1) (transfer of functions of the Local Government Boundary Commission for Wales: see PARA 66 post): Sch 1 para 9(2).

6 Ibid Sch 1 para 9(3).

7 Ibid Sch 1 para 12(a).

8 Ibid Sch 1 para 12(b). This provision applies to any committee whether established under Sch 1 para 8 (see PARA 36 ante) or s 14 (Boundary Committees: see PARA 60 post).

9 Ibid Sch 1 para 12(c).

10 Ibid Sch 1 para 12(d). As to the appointment of the Commission's chief executive see PARA 35 ante; and as to the delegation of functions relating to civil service superannuation schemes by the Minister for the Civil Service to the Commission's chief executive see PARA 35 note 12 ante.

11 As to the appointment of staff of the Commission see PARA 35 ante.

12 Political Parties, Elections and Referendums Act 2000 Sch 1 para 12.

UPDATE

37 Delegation to committees and to staff

NOTES 4, 5, 8--Political Parties, Elections and Referendums Act 2000 Sch 1 paras 8(1), 12(b) amended, Sch 1 para 9(2) repealed: Local Democracy, Economic Development and Construction Act 2009 Sch 7 Pt 3.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(i) The Commission and Bodies with Related Functions/A. CONSTITUTION, ADMINISTRATION AND PROCEEDINGS OF THE ELECTORAL COMMISSION/38. Proceedings of the Electoral Commission.

38. Proceedings of the Electoral Commission.

The Electoral Commission¹ must regulate its own procedure, and the procedure of its committees and sub-committees², including the quorum for meetings³. The validity of any proceedings of the Commission, or of any of its committees or sub-committees, is not affected by any vacancy among the members of the Commission, or of the committee or sub-committee⁴, or by any defect in the appointments of any such member⁵.

1 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 Ie whether established under the Political Parties, Elections and Referendums Act 2000 s 1(6), Sch 1 para 8 (see PARA 36 ante) or s 14 (Boundary Committees: see PARA 60 post).

3 Ibid Sch 1 para 10(1).

4 Ibid Sch 1 para 10(2)(a).

5 Ibid Sch 1 para 10(2)(b).

UPDATE

38 Proceedings of the Electoral Commission

NOTE 3--Political Parties, Elections and Referendums Act 2000 Sch 1 para 10(1) amended: Local Democracy, Economic Development and Construction Act 2009 Sch 7 Pt 3.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(i) The Commission and Bodies with Related Functions/A. CONSTITUTION, ADMINISTRATION AND PROCEEDINGS OF THE ELECTORAL COMMISSION/39. Finances, financial estimates and the five-year plan.

39. Finances, financial estimates and the five-year plan.

The expenditure of the Electoral Commission¹, so far as it cannot be met out of income received by the Commission, must be met² out of money provided by Parliament³.

For each financial year⁴ the Commission must prepare, and submit to the Speaker's Committee⁵, an estimate of the Commission's income and expenditure⁶; and the Speaker's Committee must: (1) examine each such estimate submitted to it⁷; and (2) decide whether it is satisfied that the estimated level of income and expenditure is consistent with the economical, efficient and effective discharge by the Commission of its functions⁸; and (3) if it is not so satisfied, must make such modifications⁹ to the estimate as it considers appropriate for the purpose of achieving such consistency¹⁰. Before deciding whether it is so satisfied or making any such modifications, the Speaker's Committee must have regard to the most recent report made to it by the Comptroller and Auditor General¹¹ and to any recommendations contained in that report¹², and must consult the Treasury¹³ and have regard to any advice which the Treasury may give¹⁴. The Speaker's Committee must, after concluding its examination and making its modifications (if any) to the estimate, lay the estimate before the House of Commons¹⁵. If the Speaker's Committee, in the discharge of these functions¹⁶, does not follow any recommendation contained in the report of the Comptroller and Auditor General¹⁷, does not follow any advice given to it by the Treasury¹⁸, or makes any modification to the estimate¹⁹, it must include in the next statutory report which it makes to the House of Commons²⁰ a statement of its reasons for so doing²¹.

When the Commission submits to the Speaker's Committee such an estimate, the Commission must also submit to the Committee a plan prepared by the Commission setting out the Commission's aims and objectives for the period of five years beginning with the financial year to which the estimate relates²², and estimated requirements for resources during that five-year period²³. The Speaker's Committee must: (a) examine each plan submitted to it²⁴; (b) decide whether it is satisfied that the plan is consistent with the economical, efficient and effective discharge by the Commission of its functions²⁵; and (c) if it is not so satisfied, make such modifications to the plan as it considers appropriate for the purpose of achieving such consistency²⁶. Before deciding whether it is so satisfied or making any such modifications, the Speaker's Committee must have regard to the most recent report made to it by the Comptroller and Auditor General²⁷ and to any recommendations contained in that report²⁸, and must consult the Treasury and have regard to any advice which the Treasury may give²⁹. The Speaker's Committee must, after concluding its examination and making its modifications (if any) to the plan, lay the plan before the House of Commons³⁰. If the Speaker's Committee, in the discharge of these functions³¹, does not follow any recommendation contained in the report of the Comptroller and Auditor General³², does not follow any advice given to them by the Treasury³³, or makes any modification to the plan³⁴, it must include in the next statutory report which it makes to the House of Commons³⁵ a statement of its reasons for so doing³⁶.

For the purpose of assisting the Speaker's Committee to discharge its functions in relation to the Commission's financial estimates³⁷ and in relation to the Commission's five-year plan³⁸, the Comptroller and Auditor General must in each year: (i) carry out an examination into the economy, efficiency or effectiveness (or, if he so determines, any combination thereof) with which the Commission has used its resources in discharging its functions (or, if he so

determines, any particular functions)³⁹; (ii) report to the Speaker's Committee the results of the examination⁴⁰; and (iii) include in his report such recommendations as he considers appropriate in the light of the examination⁴¹.

1 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 le in accordance with the Political Parties, Elections and Referendums Act 2000 s 1(6), Sch 1 para 14, except so far as it is: (1) reimbursed by the Secretary of State under s 18(9) (provision of advice to the Secretary of State relating to the transfer of functions of the Local Government Commission for England: see PARA 65 post) or the Scottish Ministers in pursuance of s 13(9) (education about electoral and democratic systems), s 19(11) (provision of advice relating to the transfer of functions of the Local Government Boundary Commission for Scotland) or s 145(6) (monitoring compliance with controls in relation to local government elections in Scotland) (Sch 1 para 14(1)(a)); or (2) met by the National Assembly for Wales in pursuance of s 5(3) (report on the administration of a poll regarding the functions of the National Assembly for Wales: see PARA 46 post) or s 20(12) (transfer of functions of the Local Government Boundary Commission for Wales: see PARA 66 post) (Sch 1 para 14(1)(b)).

If the Secretary of State designates the Electoral Commission as a CORE keeper (as to which see PARA 59 post), any grant which is paid to the Commission in pursuance of the Electoral Administration Act 2006 s 3 (CORE scheme grants: see PARA 185 post) must be treated as income received by the Commission for the purposes of the Political Parties, Elections and Referendums Act 2000 Sch 1 para 14(1): Electoral Administration Act 2006 s 4(2). The following payments made by the Secretary of State to the Electoral Commission under the Regional Assemblies (Preparations) Act 2003 also must be treated as income received by the Commission for the purposes of the Political Parties, Elections and Referendums Act 2000 Sch 1 para 14(1): (a) payments made to enable the Boundary Committee for England to carry out its functions in relation to a local government review under the Regional Assemblies (Preparations) Act 2003 Pt 2 (ss 13-20) (see s 19; and PARA 553 post); and (b) payments made to enable the Electoral Commission to give advice under Pt 4 (ss 21-24) regarding the establishment of an elected assembly for a region (see s 24; and PARA 552 post). As to the Secretary of State see PARA 2 ante.

3 Political Parties, Elections and Referendums Act 2000 Sch 1 para 14(1).

4 le other than the Commission's first financial year. For the purposes of ibid Pt I (ss 1-21) (as amended), 'financial year', in relation to the Commission, means a period of 12 months ending with 31 March; but the first financial year of the Commission is the period beginning with the date of the establishment of the Commission and ending with the next 31 March: s 21.

5 As to the Speaker's Committee see PARA 44 post.

6 Political Parties, Elections and Referendums Act 2000 Sch 1 para 14(2).

7 Ibid Sch 1 para 14(3)(a).

8 Ibid Sch 1 para 14(3)(b). As to the meaning of 'functions' see PARA 31 note 2 ante.

9 For these purposes, 'modifications' includes additions, omissions and amendments; and 'modify' must be construed accordingly: ibid s 160(1).

10 Ibid Sch 1 para 14(3)(c).

11 le under ibid Sch 1 para 16 (see the text and notes 37-41 infra). As to the Comptroller and Auditor General see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 724-726.

12 Ibid Sch 1 para 14(4)(a).

13 As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 512-517.

14 Political Parties, Elections and Referendums Act 2000 Sch 1 para 14(4)(b).

15 Ibid Sch 1 para 14(5).

16 le under ibid Sch 1 para 14 (see the text and notes 4-15 supra).

17 Ibid Sch 1 para 14(6)(a).

18 Ibid Sch 1 para 14(6)(b).

- 19 Ibid Sch 1 para 14(6)(c).
- 20 Ie under ibid Sch 2 para 1: see PARA 44 post.
- 21 Ibid Sch 1 para 14(6).
- 22 Ibid Sch 1 para 15(1)(a).
- 23 Ibid Sch 1 para 15(1)(b).
- 24 Ibid Sch 1 para 15(2)(a).
- 25 Ibid Sch 1 para 15(2)(b).
- 26 Ibid Sch 1 para 15(2)(c).
- 27 Ie under ibid Sch 1 para 16 (see the text and notes 37-41 infra).
- 28 Ibid Sch 1 para 15(3)(a).
- 29 Ibid Sch 1 para 15(3)(b).
- 30 Ibid Sch 1 para 15(4).
- 31 Ie under ibid Sch 1 para 15 (see the text and notes 22-30 supra).
- 32 Ibid Sch 1 para 15(5)(a).
- 33 Ibid Sch 1 para 15(5)(b).
- 34 Ibid Sch 1 para 15(5)(c).
- 35 Ie under ibid Sch 2 para 1: see PARA 44 post.
- 36 Ibid Sch 1 para 15(5).
- 37 Ie under ibid Sch 1 para 14 (see the text and notes 4-21 supra).
- 38 Ie under ibid Sch 1 para 15 (see the text and notes 22-36 supra).
- 39 Ibid Sch 1 para 16(1)(a). The National Audit Act 1983 s 8 (right to obtain documents and information) applies in relation to any examination under the Political Parties, Elections and Referendums Act 2000 Sch 1 para 16 as it applies in relation to an examination under the National Audit Act 1983 s 6 (as amended): Political Parties, Elections and Referendums Act 2000 Sch 1 para 16(2). As to economy, efficiency and effectiveness examinations of public departments conducted under the National Audit Act 1983 see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 717.
- 40 Political Parties, Elections and Referendums Act 2000 Sch 1 para 16(1)(b).
- 41 Ibid Sch 1 para 16(1)(c).

UPDATE

39 Finances, financial estimates and the five-year plan

TEXT AND NOTES 1-3--2000 Act Sch 1 para 14(a) amended, Sch 1 para 14(b), (c) substituted for Sch 1 para 14(b): SI 2007/1388.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(i) The Commission and Bodies with Related Functions/A. CONSTITUTION, ADMINISTRATION AND PROCEEDINGS OF THE ELECTORAL COMMISSION/40. Accounts of the Electoral Commission.

40. Accounts of the Electoral Commission.

The Electoral Commission¹ must keep proper accounting records² and, for each financial year³, must prepare accounts in accordance with directions given to the Commission by the Treasury⁴. Such directions include, in particular, directions as to: (1) the information to be contained in the accounts and the manner in which it is to be presented⁵; (2) the methods and principles in accordance with which the accounts are to be prepared⁶; and (3) the additional information, if any, that is to accompany the accounts⁷.

The accounts prepared by the Commission for any financial year must be submitted by the Commission to the Comptroller and Auditor General⁸, and to the Speaker's Committee⁹, as soon after the end of the financial year as may be practicable¹⁰. The Comptroller and Auditor General must examine and certify any accounts submitted to him in this way¹¹ and lay before each House of Parliament a copy of the accounts as certified by him together with his report on them¹².

The Speaker's Committee must designate a member of the Commission's staff to be the Commission's accounting officer¹³, who has, in relation to the Commission's accounts and finances, the responsibilities¹⁴ that are from time to time specified by the Speaker's Committee¹⁵.

1 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 Political Parties, Elections and Referendums Act 2000 s 1(6), Sch 1 para 17(1). For these purposes, 'record' means a record in whatever form it is kept: s 160(1).

3 For the meaning of 'financial year' for these purposes see PARA 39 note 4 ante.

4 Political Parties, Elections and Referendums Act 2000 Sch 1 para 17(2). As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 512-517.

5 Ibid Sch 1 para 17(3)(a).

6 Ibid Sch 1 para 17(3)(b).

7 Ibid Sch 1 para 17(3)(c).

8 Ibid Sch 1 para 18(1)(a). As to the Comptroller and Auditor General see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 724-726.

9 Ibid Sch 1 para 18(1)(b). As to the Speaker's Committee see PARA 44 post.

10 Ibid Sch 1 para 18(1).

11 Ibid Sch 1 para 18(2)(a).

12 Ibid Sch 1 para 18(2)(b).

13 Ibid Sch 1 para 19(1). As to the Secretary of State's power to designate any member of the Commission's staff or other person to be the Commission's accounting officer until such time as the first designation took effect see Sch 1 para 19(6). As to the Secretary of State see PARA 2 ante.

14 For these purposes, references to responsibilities include in particular: (1) responsibilities in relation to the signing of accounts (ibid Sch 1 para 19(3)(a)); (2) responsibilities for the propriety and regularity of the Commission's finances (Sch 1 para 19(3)(b)); and (3) responsibilities for the economy, efficiency and effectiveness with which the Commission's resources are used (Sch 1 para 19(3)(c)).

15 Ibid Sch 1 para 19(2). The responsibilities which may be specified under Sch 1 para 19 include responsibilities owed to the Commission, the Speaker's Committee or the House of Commons or its Committee of Public Accounts (Sch 1 para 19(4)); and any reference to the Public Accounts Committee of the House of Commons must, if the name of the Committee is changed, be taken to be references to the Committee by its new name (Sch 1 para 19(5)).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(i) The Commission and Bodies with Related Functions/A. CONSTITUTION, ADMINISTRATION AND PROCEEDINGS OF THE ELECTORAL COMMISSION/41. Annual report of the Electoral Commission.

41. Annual report of the Electoral Commission.

The Electoral Commission¹ must: (1) as soon after the end of each financial year² as may be practicable, prepare and lay before each House of Parliament a report about the performance of the Commission's functions³ during that financial year⁴; and (2) on so laying such a report, publish the report in such manner as it determines⁵.

1 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 For the meaning of 'financial year' for these purposes see PARA 39 note 4 ante.

3 As to the meaning of 'functions' see PARA 31 note 2 ante.

4 Political Parties, Elections and Referendums Act 2000 s 1(6), Sch 1 para 20(1).

5 Ibid Sch 1 para 20(2).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(i) The Commission and Bodies with Related Functions/A. CONSTITUTION, ADMINISTRATION AND PROCEEDINGS OF THE ELECTORAL COMMISSION/42. Regulations made by the Electoral Commission.

42. Regulations made by the Electoral Commission.

If the Electoral Commission¹ makes any regulations, it must give a copy to the Secretary of State² without delay³; and if the Commission alters or revokes any regulations, it must give notice to the Secretary of State without delay⁴.

Any power conferred on the Commission to make regulations⁵ is exercisable in writing⁶. An instrument by which regulations are made by the Commission (a 'regulation-making instrument') must specify the provision under which the regulations are made⁷ and, to the extent to which a regulation-making instrument does not comply with this requirement, it is void⁸. Immediately after a regulation-making instrument is made, it must be printed and made available to the public⁹. The Commission may charge a reasonable fee for providing a person with a copy of a regulation-making instrument¹⁰.

Regulations made by the Commission are not statutory instruments and are not recorded in this work¹¹.

1 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 As to the Secretary of State see PARA 2 ante.

3 Political Parties, Elections and Referendums Act 2000 s 1(6), Sch 1 para 21(1).

4 Ibid Sch 1 para 21(2). Notice of an alteration must include details of the alteration: Sch 1 para 21(3).

5 Any power of the Commission to make regulations includes power to make different provision for different cases: ibid Sch 1 para 22(7).

6 Ibid Sch 1 para 22(1).

7 Ibid Sch 1 para 22(2).

8 Ibid Sch 1 para 22(3). As to the proof of regulation-making instruments see PARA 43 post.

9 Ibid Sch 1 para 22(4). A person is not to be taken to have contravened any regulation made by the Commission if he shows that at the time of the alleged contravention the regulation-making instrument concerned had not been made available in accordance with Sch 1 para 22: Sch 1 para 22(6).

10 Ibid Sch 1 para 22(5).

11 However, the regulations so made may be ascertained by reference to the Electoral Commission website (which, at the date at which this volume states the law, is to be found at www.electoralcommission.org.uk).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(i) The Commission and Bodies with Related Functions/A. CONSTITUTION, ADMINISTRATION AND PROCEEDINGS OF THE ELECTORAL COMMISSION/43. Proof of instruments.

43. Proof of instruments.

A document¹ purporting to be duly executed under the seal of the Electoral Commission², or signed on behalf of the Commission or a Boundary Committee³, must be received in evidence and, unless the contrary is proved, be taken to be so executed or signed⁴.

The production of a printed copy of a regulation-making instrument⁵ purporting to be made by the Commission on which is endorsed a certificate signed by a member of the Commission's staff authorised by the Commission for that purpose⁶, and which contains the required statements⁷, is evidence of the facts stated in the certificate⁸.

1 For these purposes, 'document' means a document in whatever form it is kept: Political Parties, Elections and Referendums Act 2000 s 160(1).

2 Ibid s 1(6), Sch 1 para 24(a). As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

3 Ibid Sch 1 para 24(b). As to Boundary Committees see PARA 60 et seq post.

4 Ibid Sch 1 para 24.

5 For the meaning of 'regulation-making instrument' see PARA 42 ante.

6 Political Parties, Elections and Referendums Act 2000 Sch 1 para 23(1)(a). A certificate purporting to be signed as mentioned in Sch 1 para 23(1) is to be taken to have been properly signed unless the contrary is shown: Sch 1 para 23(3).

7 Ibid Sch 1 para 23(1)(b). The required statements are: (1) that the instrument was made by the Commission (Sch 1 para 23(2)(a)); (2) that the copy is a true copy of the instrument (Sch 1 para 23(2)(b)); and (3) that on a specified date the instrument was made available to the public in accordance with Sch 1 para 22(4) (see PARA 42 ante) (Sch 1 para 23(2)(c)).

8 Ibid Sch 1 para 23(1). A person who wishes in any legal proceedings to rely on a regulation-making instrument may require the Commission to endorse a copy of the instrument with a certificate of the kind mentioned in Sch 1 para 23(1): Sch 1 para 23(4).

UPDATE

43 Proof of instruments

NOTE 3--Political Parties, Elections and Referendums Act 2000 Sch 1 para 24(b) amended: Local Democracy, Economic Development and Construction Act 2009 Sch 7 Pt 3.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(i) The Commission and Bodies with Related Functions/B. ESTABLISHMENT AND CONSTITUTION OF RELATED BODIES/44. Speaker's Committee.

B. ESTABLISHMENT AND CONSTITUTION OF RELATED BODIES

44. Speaker's Committee.

A Committee known as the 'Speaker's Committee' performs the functions conferred on it by the Political Parties, Elections and Referendums Act 2000¹. The Committee consists of the Speaker of the House of Commons², who is the chairman of the Committee, and the following other members, namely: (1) the member of the House of Commons who is for the time being the Chairman of the Home Affairs Select Committee of the House of Commons³; (2) the Lord Chancellor⁴; (3) a member of the House of Commons who is a Minister of the Crown with responsibilities in relation to local government⁵; and (4) five members of the House of Commons who are not Ministers of the Crown⁶.

An appointed member of the Speaker's Committee⁷ ceases to be a member of the Speaker's Committee if he ceases to be a Member of the House of Commons⁸ or if another person is appointed to be a member of the Committee in his place⁹. An appointed member may resign from the Committee at any time by giving notice to the Speaker¹⁰ but is otherwise¹¹ a member of the Committee for the duration of the Parliament in which he is appointed¹². An appointed member may be re-appointed, or further re-appointed, to membership of the Committee¹³.

The validity of any proceedings of the Committee is not affected by any vacancy among¹⁴, or any defect in the appointment of any of¹⁵, the members of the Committee¹⁶. The Committee may determine its own procedure¹⁷ and may appoint a member of the Committee to act as chairman at any meeting of the Committee in the absence of the Speaker¹⁸.

The Committee must, at least once in each year, make to the House of Commons a report on the exercise by the Committee of its functions¹⁹.

1 Political Parties, Elections and Referendums Act 2000 s 2(1). As to the meaning of 'functions' see PARA 31 note 2 ante. As to the functions so conferred see s 1(6), Sch 1 para 3 (report on Electoral Commissioner's removal from office: see PARA 33 ante), Sch 1 para 14 (submission of Electoral Commission's estimate of income and expenditure: see PARA 39 ante), Sch 1 para 15 (submission of Electoral Commission's five-year plan: see PARA 39 ante), Sch 1 para 18 (submission of accounts prepared by Electoral Commission: see PARA 40 ante), Sch 1 para 19 (appointment of Electoral Commission's accounting officer: see PARA 40 ante), s 15(2) (agreement to number of Deputy Electoral Commissioners: see PARA 61 post); and see the text and notes 2-19 infra.

2 As to the Speaker of the House of Commons see PARLIAMENT vol 78 (2010) PARA 931 et seq.

3 Political Parties, Elections and Referendums Act 2000 s 2(2)(a). For these purposes, references to the Home Affairs Select Committee must, if the name of that Committee is changed, be taken to be references to the Committee by its new name: s 2(6). As to select committees of the House of Commons generally see PARLIAMENT vol 78 (2010) PARA 979 et seq; and as to the Home Affairs Select Committee of the House of Commons see PARLIAMENT vol 78 (2010) PARA 987.

4 Ibid s 2(2)(b) (substituted by the Transfer of Functions (Transport, Local Government and the Regions) Order 2002, SI 2002/2626, art 20, Sch 2 para 25(1), (2)). As to the Lord Chancellor see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 477 et seq.

5 Political Parties, Elections and Referendums Act 2000 s 2(2)(c). The member of the Committee mentioned in s 2(2)(c) must be appointed to membership of the Committee by the Prime Minister: s 2(3). As to the

departments of central government concerned with local government see LOCAL GOVERNMENT vol 69 (2009) PARA 95 et seq.

6 Ibid s 2(2)(d). The members of the Committee mentioned in s 2(2)(d) must be appointed to membership of the Committee by the Speaker of the House of Commons: s 2(4).

7 For these purposes, 'appointed member' means a member of the Speaker's Committee other than the Speaker of the House of Commons, the member who is the Chairman of the Home Affairs Committee of the House of Commons or the member who is the Lord Chancellor: ibid s 2(5), Sch 2 para 2(1) (amended by the Transfer of Functions (Transport, Local Government and the Regions) Order 2002, SI 2002/2626, Sch 2 para 25(1), (4)).

8 Political Parties, Elections and Referendums Act 2000 Sch 2 para 2(2)(a).

9 Ibid Sch 2 para 2(2)(b).

10 Ibid Sch 2 para 2(3).

11 Ie subject to ibid Sch 2 para 2(2), (3) (see the text and notes 7-10 supra).

12 Ibid Sch 2 para 2(4).

13 Ibid Sch 2 para 2(5).

14 Ibid Sch 2 para 3(2)(a).

15 Ibid Sch 2 para 3(2)(b).

16 Ibid Sch 2 para 3(2).

17 Ibid Sch 2 para 3(1).

18 Ibid Sch 2 para 3(2).

19 Ibid Sch 2 para 1(1). For the purposes of the law of defamation, the publication of any matter by the Speaker's Committee in making such a report is absolutely privileged: Sch 2 para 1(2). As to defamation generally see LIBEL AND SLANDER; and as to absolute privilege in the law of defamation see LIBEL AND SLANDER vol 28 (Reissue) PARA 94 et seq.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(i) The Commission and Bodies with Related Functions/B. ESTABLISHMENT AND CONSTITUTION OF RELATED BODIES/45. Parliamentary Parties Panel.

45. Parliamentary Parties Panel.

A panel known as the 'Parliamentary Parties Panel' consists of representatives of qualifying parties¹ and its function² is to submit representations or information to the Electoral Commission³ about such matters affecting political parties as the panel thinks fit⁴. Where the panel submits any such representations or information to the Commission, the Commission must consider the representations or information⁵ and decide whether, and (if so) to what extent, it should act on the representations or information⁶.

Each qualifying party is entitled to be represented on the panel by a person appointed to the panel by the treasurer of the party⁷. A person so appointed is a member of the panel for such period as the treasurer of the party may determine when making the appointment⁸ but a person so appointed ceases to be a member of the panel if at any time his appointment is terminated for any reason by the treasurer of the party⁹ or if the party ceases to be a qualifying party¹⁰. The validity of any proceedings of the panel is not affected by any failure by the treasurer of a qualifying party to make any appointment in accordance with these provisions¹¹.

The panel may determine its own procedure¹².

1 Political Parties, Elections and Referendums Act 2000 s 4(1). For these purposes, 'qualifying party' means a registered party: (1) to which two or more members of the House of Commons for the time being belong, who have made and subscribed to the oath required by the Parliamentary Oaths Act 1866 (or the corresponding affirmation) and are not disqualified from sitting or voting in the House; or (2) to which two or more such members belonged immediately after the most recent parliamentary general election: Political Parties, Elections and Referendums Act 2000 s 4(9). The representatives of qualifying parties are appointed to the panel in accordance with s 4: s 4(1). For the meaning of 'registered party' for these purposes see PARA 32 note 3 ante. As to the disqualification of members of the House of Commons see PARLIAMENT vol 78 (2010) PARA 897 et seq; and as to the oath or affirmation required by the Parliamentary Oaths Act 1866 see PARLIAMENT vol 78 (2010) PARA 1001.

2 As to the meaning of 'function' see PARA 31 note 2 ante.

3 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

4 Political Parties, Elections and Referendums Act 2000 ss 4(2), 160(1).

5 Ibid s 4(3)(a).

6 Ibid s 4(3)(b).

7 Ibid s 4(4). In the Political Parties, Elections and Referendums Act 2000, 'treasurer', in relation to a registered party, means registered treasurer: s 160(1). As to the requirement for treasurers of a registered party to be registered see PARA 260 post.

8 Ibid s 4(5).

9 Ibid s 4(6)(a).

10 Ibid s 4(6)(b).

11 Ibid s 4(8).

12 Ibid s 4(7).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(ii) The Commission's General Functions/46. Reports on elections and referendums.

(ii) The Commission's General Functions

46. Reports on elections and referendums.

The Electoral Commission¹ must, after each relevant election² and each relevant referendum³, prepare and publish, in such manner as the Commission may determine, a report on the administration of the election or referendum⁴.

After a poll held with regard to the exercise of functions by the National Assembly for Wales⁵, the Commission must, if requested to do so by the National Assembly for Wales, at the Assembly's expense prepare and publish, in such manner as the Commission may determine, a report on the administration of the poll⁶.

1 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 Political Parties, Elections and Referendums Act 2000 s 5(1)(a). Section 5 (as amended) applies to the following elections, namely: (1) a parliamentary general election (s 5(2)(a)); (2) a European parliamentary general election (s 5(2)(b)); (3) a Scottish parliamentary general election (s 5(2)(c)); (4) a National Assembly for Wales ordinary election (s 5(2)(d)); (5) a Northern Ireland Assembly general election (s 5(2)(e)). The Commission has discretion also to prepare and publish, in such manner as the Commission may determine, a report on the administration of the following elections, namely: (a) a parliamentary by-election (s 5(2A)(a) (s 5(2A) added by the Electoral Administration Act 2006 s 28)); (b) an election held under the Scotland Act 1998 s 9 (election for the Scottish Parliament in the case of a constituency vacancy) (Political Parties, Elections and Referendums Act 2000 s 5(2A)(b) (as so added)); or (c) an election held under the Government of Wales Act 1998 s 8 (election for the National Assembly for Wales in the case of a constituency vacancy) (Political Parties, Elections and Referendums Act 2000 s 5(2A)(c) (as so added)). As to parliamentary general elections see PARA 9 et seq ante; as to National Assembly for Wales ordinary elections see PARA 12 et seq ante; and as to European parliamentary general elections see PARA 13 et seq ante. As to parliamentary by-elections see PARA 198 post; and as to elections for the National Assembly for Wales in the case of a constituency vacancy see PARA 221 post.

Any amendment effected by the Electoral Administration Act 2006 s 28 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. Accordingly, the power to report on the administration of the elections which are set out in heads (a)-(c) supra may not be exercised before that date. The provisions of the Government of Wales Act 1998 are to be superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). After that date, head (c) supra must be taken to refer to the Government of Wales Act 2006 s 10: see PARA 221 post.

3 Political Parties, Elections and Referendums Act 2000 s 5(1)(b). Section 5 (as amended) applies to referendums to which Pt VII (ss 101-129) (as amended) applies (see PARA 519 et seq post): s 5(1)(b).

4 Ibid s 5(1).

5 Ie under the Government of Wales Act 1998 s 36 (see PARA 554 et seq post). Once the provisions of the Government of Wales Act 2006 take effect (see note 2 supra), the reference in the text is to be taken to refer to a poll held under the Government of Wales Act 2006 s 64 (with references to the Welsh Ministers replacing references to the National Assembly for Wales).

6 Political Parties, Elections and Referendums Act 2000 s 5(3).

UPDATE

46 Reports on elections and referendums

NOTE 2--2000 Act s 5(2)(d) substituted, s 5(2A)(c) amended: SI 2007/1388.

TEXT AND NOTES 5, 6--2000 Act s 5(3) amended: SI 2007/1388.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(ii) The Commission's General Functions/47. Reviews of electoral and political matters.

47. Reviews of electoral and political matters.

The Electoral Commission¹ must keep under review, and from time to time submit reports to the Secretary of State² on, the following matters, namely:

- 36 (1) such matters relating to elections³ as the Commission may determine from time to time⁴;
- 37 (2) such matters relating to referendums⁵ as the Commission may so determine⁶;
- 38 (3) the redistribution of seats at parliamentary elections⁷;
- 39 (4) if any functions of the Local Government Commission for England or of the Local Government Boundary Commission for Scotland or of the Local Government Boundary Commission for Wales are transferred⁸, the matters in relation to which those functions are exercisable⁹;
- 40 (5) the registration of political parties and the regulation of their income and expenditure¹⁰;
- 41 (6) political advertising in the broadcast and other electronic media¹¹;
- 42 (7) the law relating to the matters mentioned in each of heads (1) to (6) above¹².

At the request of the Secretary of State, and within such time as the Secretary of State may specify, the Commission must review, and submit a report to the Secretary of State on such matter or matters, whether or not falling within heads (1) to (7) above, as the Secretary of State may specify¹³.

Each report so made by the Commission must be published by it in such manner as it may determine¹⁴.

1 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 As to the Secretary of State see PARA 2 ante.

3 I.e. elections to which the Political Parties, Elections and Referendums Act 2000 s 6 applies, namely: (1) a parliamentary general election (ss 5(2)(a), 6(6)(a)(i)); (2) a European parliamentary general election (ss 5(2)(b), 6(6)(a)(i)); (3) a Scottish parliamentary general election (ss 5(2)(c), 6(6)(a)(i)); (4) a National Assembly for Wales ordinary election (ss 5(2)(d), 6(6)(a)(i)); (5) a Northern Ireland Assembly general election (ss 5(2)(e), 6(6)(a)(i)); (6) local government elections in England or Wales (s 6(6)(a)(ii)); and (7) local elections in Northern Ireland (s 6(6)(a)(iii)). Where any review carried out under s 6 relates to elections in Northern Ireland, the Commission must consult the Chief Electoral Officer for Northern Ireland with respect to such elections: s 6(4). For the meaning of 'local government election' see PARA 10 ante. As to parliamentary general elections see PARA 9 et seq ante; as to ordinary elections to the National Assembly for Wales see PARA 12 et seq ante; and as to European parliamentary general elections see PARA 13 et seq ante.

4 Ibid s 6(1)(a).

5 I.e. referendums to which ibid s 6 applies, namely referendums to which Pt VII (ss 101-129) (as amended) applies (see PARA 519 et seq post) and those under the Local Government Act 2000 Pt II (ss 10-48) (as amended) (see PARA 560 et seq post). The Commission must not, however, carry out any review or make any report under the Political Parties, Elections and Referendums Act 2000 s 6 with respect to: (1) the conduct of any poll under the Government of Wales Act 1998 s 36 (see PARA 554 et seq post) (Political Parties, Elections and Referendums Act 2000 s 6(3)(b)); or (2) the law relating to such matters as are mentioned in head (1) supra (s 6(3)(c)). The provisions of the Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see

CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). After that date, head (1) supra is to be taken to refer to the Government of Wales Act 2006 s 64: see PARA 554 et seq post.

6 Political Parties, Elections and Referendums Act 2000 s 6(1)(b).

7 Ibid s 6(1)(c). For the meaning of 'parliamentary election' see PARA 9 ante. As to the redistribution of seats at parliamentary elections see PARA 77 et seq post.

8 le by an order under ibid s 18(1) (transfer of functions of the Local Government Commission for England: see PARA 65 post), s 19(1) (transfer of functions of the Local Government Boundary Commission for Scotland) or s 20(1) (transfer of functions of the Local Government Boundary Commission for Wales: see PARA 66 post). As to the meaning of 'functions' see PARA 31 note 2 ante.

9 Ibid s 6(1)(d).

10 Ibid s 6(1)(e). The Commission must not, however, carry out any review or make any report under s 6 with respect to: (1) the funding of political parties under the Scotland Act 1998 s 97 or for the purpose of assisting members of the Northern Ireland Assembly connected with such parties to perform their Assembly duties (Political Parties, Elections and Referendums Act 2000 s 6(3)(a)); or (2) the law relating to the matters mentioned in head (1) supra (s 6(3)(c)). As to the registration of political parties and the regulation of their income and expenditure see PARA 260 post.

11 Ibid s 6(1)(f).

12 Ibid s 6(1)(g).

13 Ibid s 6(2).

14 Ibid s 6(5).

UPDATE

47 Reviews of electoral and political matters

NOTE 5--2000 Act s 6(3)(b) amended: SI 2007/1388.

NOTE 10--2000 Act s 6(3)(a) amended: SI 2007/1388.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(ii) The Commission's General Functions/48.

Commission representatives and accredited observers to attend electoral proceedings and observe working practices.

48. Commission representatives and accredited observers to attend electoral proceedings and observe working practices.

A representative of the Electoral Commission¹ may² attend: (1) proceedings relating to a specified election³ which are the responsibility of the returning officer for the election⁴; or (2) proceedings relating to a referendum under the Political Parties, Elections and Referendums Act 2000⁵ which are the responsibility of the relevant counting officer⁶. A representative of the Commission⁷ may observe the working practices of any of the following: (a) an electoral registration officer⁸; (b) a returning officer⁹; (c) a relevant counting officer¹⁰; or (d) any person acting under the direction of a person mentioned in heads (a) to (c) above¹¹.

A person who is aged 16 or over may apply to the Commission to be an accredited observer¹² at any of the following proceedings relating to a specified election¹³ or relating to a referendum under the Political Parties, Elections and Referendums Act 2000¹⁴, namely: (i) proceedings at the issue or receipt of postal ballot papers¹⁵; (ii) proceedings at the poll¹⁶; or (iii) proceedings at the counting of votes¹⁷. If the Commission grants the application, the accredited observer may¹⁸ attend the proceedings in question¹⁹. An organisation²⁰ may apply to the Commission to be accredited for the purpose of nominating observers²¹ at any of the proceedings listed in heads (i) to (iii) above relating to a specified election²² or to a referendum under the Political Parties, Elections and Referendums Act 2000²³. If the Commission grants such an application, the organisation may²⁴ nominate members who may attend the proceedings in question²⁵, although the Commission, in so granting an application, may specify a limit on the number of observers nominated by the organisation who may attend²⁶, at the same time, specified proceedings²⁷. A relevant officer²⁸ may also limit the number of accredited persons who may be present at any proceedings²⁹ at the same time³⁰. If a person who is entitled to attend any proceedings as an accredited observer³¹ misconducts himself while attending the proceedings, the relevant officer may cancel the person's entitlement³².

The Commission must prepare a code of practice on the attendance of representatives of the Commission³³, accredited observers³⁴, and nominated members of accredited organisations³⁵, at specified elections³⁶ or at referendums under the Political Parties, Elections and Referendums Act 2000³⁷. The code must in particular:

- 43 (A) specify the manner in which applications for accreditation³⁸ are to be made to the Commission³⁹;
- 44 (B) specify the criteria to be taken into account by the Commission in determining such applications⁴⁰;
- 45 (C) give guidance to relevant officers⁴¹ as to the exercise of the power conferred⁴² in relation to limiting the number of persons who may be present at any proceedings at the same time⁴³;
- 46 (D) give guidance to such officers as to the exercise of the power⁴⁴ to cancel the entitlement to attend proceedings of a person who misconducts himself⁴⁵;
- 47 (E) give guidance to such officers as to the exercise of any power under any enactment to control the number of persons present at any proceedings relating to an election or referendum as it relates to a person having such permission⁴⁶;

- 48 (F) give guidance to representatives of the Commission, accredited observers and nominated members of accredited organisations on the exercise of the rights conferred⁴⁷ on them⁴⁸.

The code may make different provision for different purposes⁴⁹. Before preparing the code, the Commission must consult the Secretary of State⁵⁰ and it must lay the code before each House of Parliament⁵¹. The Commission must publish the code, in such manner as the Commission may determine⁵², and the Commission may at any time revise the code⁵³. In exercising any function conferred in relation to the attendance of representatives of the Commission at elections⁵⁴, the observation of working practices by representatives of Commission⁵⁵, the accreditation of observers⁵⁶ or the attendance and conduct of observers⁵⁷, the Commission⁵⁸, representatives of the Commission⁵⁹, relevant officers⁶⁰, and relevant counting officers⁶¹ must each have regard to the code⁶².

1 For these purposes, 'representative of the Electoral Commission' means any of the following: (1) a member of the Commission (Political Parties, Elections and Referendums Act 2000 s 6A(3)(a) (ss 6A-6F added by the Electoral Administration Act 2006 s 29)); (2) a member of staff of the Commission (Political Parties, Elections and Referendums Act 2000 s 6A(3)(b) (as so added)); (3) a person appointed by the Commission for the purposes of s 6A (as added) (s 6A(3)(c) (as so added)). As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante; and as to the staff of the Commission see PARA 35 ante.

2 Ie subject to any enactment which regulates attendance at the proceedings in question: ibid s 6A(2) (as added: see note 1 supra). For these purposes, 'enactment' includes any provision of an Act (including the Political Parties, Elections and Referendums Act 2000) and any provision of subordinate legislation (within the meaning of the Interpretation Act 1978: see STATUTES vol 44(1) (Reissue) PARA 1232): Political Parties, Elections and Referendums Act 2000 s 160(1).

3 Ie an election specified in ibid s 6A(5) (as added), namely: (1) a parliamentary general election (ss 5(2)(a), 6A(1)(a), (5)(a) (as added: see note 1 supra)); (2) a European parliamentary general election (ss 5(2)(b), 6A(1)(a), (5)(a) (as so added)); (3) a Scottish parliamentary general election (ss 5(2)(c), 6A(1)(a), (5)(a) (as so added)); (4) a National Assembly for Wales ordinary election (ss 5(2)(d), 6A(1)(a), (5)(a) (as so added)); (5) a Northern Ireland Assembly general election (ss 5(2)(e), 6A(1)(a), (5)(a) (as so added)); (6) a parliamentary by-election (s 6A(1)(a), (5)(b) (as so added)); (7) an election held under the Scotland Act 1998 s 9 (election for the Scottish Parliament in the case of a constituency vacancy) (Political Parties, Elections and Referendums Act 2000 s 6A(1)(a), (5)(c) (as so added)); (8) an election held under the Government of Wales Act 1998 s 8 (election for the National Assembly for Wales in the case of a constituency vacancy) (Political Parties, Elections and Referendums Act 2000 s 6A(1)(a), (5)(d) (as so added)); (9) a local government election in England or Wales (s 6A(1)(a), (5)(e) (as so added)); or (10) a local election in Northern Ireland (s 6A(1)(a), (5)(f) (as so added)). For the meaning of 'local government election' see PARA 10 ante. As to parliamentary general elections see PARA 9 et seq ante; and as to parliamentary by-elections see PARA 198 post. As to ordinary elections to the National Assembly for Wales see PARA 12 et seq ante; and as to Welsh Assembly elections in the case of a constituency vacancy see PARA 221 post. As to European parliamentary general elections see PARA 13 et seq ante. The provisions of the Government of Wales Act 1998 are to be superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). After that date, head (8) supra is to be taken to refer to the Government of Wales Act 2006 s 10: see PARA 221 post.

4 Political Parties, Elections and Referendums Act 2000 s 6A(1)(a) (as added: see note 1 supra). As to returning officers for the various elections see PARA 355 et seq post.

5 Ie referendums to which ibid Pt VII (ss 101-129) (as amended) applies (see PARA 519 et seq post).

6 Ibid s 6A(1)(b) (as added: see note 1 supra). A reference to the relevant counting officer must be construed: (1) if the area to which the proceedings relates is in Great Britain, in accordance with s 128(3) (Chief Counting Officer to appoint a counting officer for each relevant area in Great Britain: see PARA 545 post); (2) if the area to which the proceedings relates is Northern Ireland, as a reference to the Chief Electoral Officer for Northern Ireland: s 6A(4) (as so added). For the meaning of 'Great Britain' see PARA 13 note 1 ante.

7 For these purposes, 'representative of the Commission' must be construed in accordance with ibid s 6A (as added) (see note 1 supra): s 6B(2)(b) (as added: see note 1 supra).

8 Ibid s 6B(1)(a) (as added: see note 1 supra). As to electoral registration officers see PARA 154 et seq post.

- 9 Ibid s 6B(1)(b) (as added: see note 1 supra).
- 10 Ibid s 6B(1)(c) (as added: see note 1 supra). For these purposes, 'relevant counting officer' must be construed in accordance with s 6A (as added) (see note 6 supra): s 6B(2)(a) (as added: see note 1 supra).
- 11 Ibid s 6B(1)(d) (as added: see note 1 supra).
- 12 An application under ibid s 6C(1) (as added) must be made in the manner specified in the code of practice issued under s 6F (as added) (see head (A) in the text): s 6C(3) (as added: see note 1 supra).
- 13 Ie an election specified in ibid s 6A(5) (as added) (see note 3 supra).
- 14 Ie referendums to which ibid Pt VII (as amended) applies (see PARA 519 et seq post).
- 15 Ibid s 6C(1)(a) (as added: see note 1 supra). As to proceedings at the issue or receipt of postal ballot papers see PARA 411 et seq post.
- 16 Ibid s 6C(1)(b) (as added: see note 1 supra). As to proceedings at the poll see PARA 368 et seq post.
- 17 Ibid s 6C(1)(c) (as added: see note 1 supra). As to proceedings at the counting of votes see PARA 431 et seq post.
- 18 Ie subject to any enactment which regulates attendance at the proceedings in question: ibid s 6C(6) (as added: see note 1 supra).
- 19 Ibid s 6C(2) (as added: see note 1 supra). The Commission may at any time revoke the grant of an application under s 6C(1) (as added): s 6C(4) (as so added). If the Commission either refuses such an application or revokes the grant of any such application, it must give its decision in writing and must at the same time give reasons in writing for the refusal or revocation: s 6C(5) (as so added).
- 20 For these purposes, 'organisation' includes any body corporate and any combination of persons or other unincorporated association: ibid s 160(1).
- 21 An application under ibid s 6D(1) (as added) must be made in the manner specified in the code of practice issued under s 6F (as added) (see the text and notes 33-62 infra): s 6D(4) (as added: see note 1 supra).
- 22 See note 13 supra.
- 23 Political Parties, Elections and Referendums Act 2000 s 6D(1) (as added: see note 1 supra). As to referendums under the Political Parties, Elections and Referendums Act 2000 see note 14 supra.
- 24 Ie subject to any enactment which regulates attendance at the proceedings in question: ibid s 6D(7) (as added: see note 1 supra).
- 25 Ibid s 6D(2) (as added: see note 1 supra). The Commission may at any time revoke the grant of an application under s 6D(1) (as added): s 6D(5) (as so added). If the Commission either refuses such an application or revokes the grant of any such application, it must give its decision in writing and must at the same time give reasons in writing for the refusal or revocation: s 6D(6) (as so added).
- 26 Ie by virtue of ibid s 6D (as added).
- 27 Ibid s 6D(3) (as added: see note 1 supra).
- 28 For these purposes, a relevant officer is: (1) in the case of proceedings at a polling station, the presiding officer (ibid s 6E(4)(a) (as added: see note 1 supra)); (2) in the case of any other proceedings at an election, the returning officer (s 6E(4)(b) (as so added)); (3) in the case of any other proceedings at a referendum, the relevant counting officer within the meaning of s 6A (as added) (see note 6 supra) (s 6E(4)(c) (as so added)); (4) such other person as a person mentioned in head (1), (2) or (3) supra authorises for the purposes of the proceedings mentioned in the relevant head (s 6E(4)(d) (as so added)). As to presiding officers at an election see PARA 398 post; and as to presiding officers at a referendum or poll see PARA 618 post.
- 29 Ie in pursuance of ibid s 6C (as added) (see the text and notes 12-19 supra) or s 6D (as added) (see the text and notes 20-27 supra).
- 30 Ibid s 6E(1) (as added: see note 1 supra).
- 31 Ie by virtue of ibid s 6C (as added) (see the text and notes 12-19 supra) or s 6D (as added) (see the text and notes 20-27 supra).

- 32 Ibid s 6E(2) (as added: see note 1 supra). This provision does not affect any power a relevant officer has by virtue of any enactment or rule of law to remove a person from any place: s 6E(3) (as so added).
- 33 Ibid s 6F(1)(a) (as added: see note 1 supra). For these purposes, 'representative of the Commission' has the same meaning as in s 6A (as added) (see note 1 supra): s 6F(10)(d) (as so added).
- 34 Ibid s 6F(1)(b) (as added: see note 1 supra). For these purposes, 'accredited observer' must be construed in accordance with s 6C (as added) (see the text and notes 12-19 supra): s 6F(10)(a) (as so added).
- 35 Ibid s 6F(1)(c) (as added: see note 1 supra). For these purposes, 'accredited organisation' must be construed in accordance with s 6D (as added) (see the text and notes 20-27 supra); and 'nominated member' must be construed accordingly: s 6F(10)(b) (as so added).
- 36 See note 13 supra.
- 37 Political Parties, Elections and Referendums Act 2000 s 6F(1) (as added: see note 1 supra). As to referendums under the Political Parties, Elections and Referendums Act 2000 see note 14 supra.
- 38 Ie applications under ibid s 6C(1) (as added) (see the text and notes 12-17 supra) or s 6D(1) (as added) (see the text and notes 20-23 supra).
- 39 Ibid s 6F(2)(a) (as added: see note 1 supra).
- 40 Ibid s 6F(2)(b) (as added: see note 1 supra).
- 41 Ie within the meaning of ibid s 6E (as added) (see the text and notes 28-32 supra).
- 42 Ie the power conferred by ibid s 6E(1) (as added) (see the text and notes 28-30 supra).
- 43 Ibid s 6F(2)(c) (as added: see note 1 supra).
- 44 Ie the power mentioned in ibid s 6E(2) (as added) (see the text and notes 31-32 supra) as it relates to a person having the permission mentioned in s 6E(1) (as added) (see the text and notes 28-30 supra).
- 45 Ibid s 6F(2)(d) (as added: see note 1 supra).
- 46 Ibid s 6F(2)(e) (as added: see note 1 supra).
- 47 Ie the rights conferred by ibid s 6A (as added) (see the text and notes 1-6 supra), s 6B (as added) (see the text and notes 7-11 supra), s 6C (as added) (see the text and notes 12-19 supra) and s 6D (as added) (see the text and notes 20-27 supra).
- 48 Ibid s 6F(2)(f) (as added: see note 1 supra).
- 49 Ibid s 6F(3) (as added: see note 1 supra).
- 50 Ibid s 6F(4) (as added: see note 1 supra). As to the Secretary of State see PARA 2 ante.
- 51 Ibid s 6F(5) (as added: see note 1 supra).
- 52 Ibid s 6F(6) (as added: see note 1 supra).
- 53 Ibid s 6F(8) (as added: see note 1 supra). The provisions of s 6F(4)-(7) (as added) (see the text and notes 50-52 supra, 54-62 infra) apply in relation to a revision of the code as they apply in relation to the code: s 6F(9) (as so added).
- 54 Ie the function conferred by ibid s 6A (as added) (see the text and notes 1-6 supra).
- 55 Ie the function conferred by ibid s 6B (as added) (see the text and notes 7-11 supra).
- 56 Ie the function conferred by ibid s 6C (as added) (see the text and notes 12-19 supra) or s 6D (as added) (see the text and notes 20-27 supra).
- 57 Ie the function conferred by ibid s 6E (as added) (see the text and notes 28-32 supra).
- 58 Ibid s 6F(7)(a) (as added: see note 1 supra).

59 Ibid s 6F(7)(b) (as added: see note 1 supra).

60 Ibid s 6F(7)(c) (as added: see note 1 supra). The text refers to relevant officers within the meaning of s 6E (as added) (see note 28 supra).

61 Ibid s 6F(7)(d) (as added: see note 1 supra). For these purposes, 'relevant counting officer' must be construed in accordance with s 6A (as added) (see note 6 supra): s 6F(10)(c) (as so added).

62 Ibid s 6F(7) (as added: see note 1 supra).

UPDATE

48 Commission representatives and accredited observers to attend electoral proceedings and observe working practices

NOTE 3--2000 Act s 6A(5)(d) amended: SI 2007/1388.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(ii) The Commission's General Functions/49. Commission to be consulted on certain instruments relating to electoral law.

49. Commission to be consulted on certain instruments relating to electoral law.

Before making any of the following instruments¹, namely any containing:

- 49 (1) regulations under the European Parliamentary Elections Act 2002²;
- 50 (2) an order³ designating regional returning officers⁴;
- 51 (3) an order⁵ designating returning officers and acting returning officers⁶;
- 52 (4) rules⁷ making provision for local government elections in England and Wales⁸;
- 53 (5) regulations under the Representation of the People Act 1983 or under the Representation of the People Act 1985 which may not be made unless a draft of them has been laid before and approved by a resolution of each House of Parliament⁹;
- 54 (6) an order making provision for the conduct of elections to the National Assembly for Wales¹⁰ and for the conduct of polls held by the Assembly¹¹;
- 55 (7) an order making provision for the free delivery of election addresses at elections to the Greater London Authority¹²,

the authority making the instrument must consult the Electoral Commission¹³.

1 Political Parties, Elections and Referendums Act 2000 s 7(1).

2 Ibid s 7(2)(a) (amended by the European Parliamentary Elections Act 2002 s 15, Sch 3 para 8(1), (2)(a)). As to the making of regulations under the European Parliamentary Elections Act 2002 see PARA 13 note 12 ante.

3 Ie an order under ibid s 6(2)(b) (designation of returning officers for regions in England and Wales including the combined region: see PARA 365 post).

4 Political Parties, Elections and Referendums Act 2000 s 7(2)(b) (amended by the European Parliamentary Elections Act 2002 Sch 3 para 8(1), (2)(b)).

5 Ie an order under the Representation of the People Act 1983 s 24(1)(c) (as amended), s 24(1)(cc) (as added), s 24(1)(e) (as amended) (see PARA 355 post), s 28(1)(b) (as amended) (see PARA 356 post) or s 35(2B) (as added) (see PARA 359 post).

6 Political Parties, Elections and Referendums Act 2000 s 7(2)(c).

7 Ie rules made under the Representation of the People Act 1983 s 36 (as amended) (see PARA 388 post).

8 Political Parties, Elections and Referendums Act 2000 s 7(2)(d). For the meaning of 'local government election' see PARA 10 ante.

9 Ibid s 7(2)(e). The text refers to regulations in relation to which the Representation of the People Act 1983 s 201(2) (as substituted and amended) (see PARA 24 note 16 ante) has effect.

10 See PARA 12 ante.

11 Political Parties, Elections and Referendums Act 2000 s 7(2)(f). The text refers to provision made under the Government of Wales Act 1998 s 36(4), (5) (see PARA 554 et seq post) for the conduct of polls held by the Assembly and for the combination of such polls. The provisions of the Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes after that date see the Government of Wales Act 2006 s 64; and PARA 554 et seq post.

12 Political Parties, Elections and Referendums Act 2000 s 7(2)(i). The text refers to provision made under the Greater London Authority Act 1999 s 17A (as added and amended) (see PARA 335 post).

13 Political Parties, Elections and Referendums Act 2000 ss 7(1), 160(1). As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

UPDATE

49 Commission to be consulted on certain instruments relating to electoral law

TEXT AND NOTES 10, 11--2000 Act s 7(2)(f) substituted: SI 2007/1388.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(ii) The Commission's General Functions/50. Involvement of Commission in changes in electoral procedures.

50. Involvement of Commission in changes in electoral procedures.

The Electoral Commission¹ may participate with any relevant local authority² in the joint submission of proposals relating to pilot schemes for local elections in England and Wales³ and has such other functions⁴ in relation to orders and schemes relating to such proposals⁵, and orders relating to the revision of procedures in the light of such schemes⁶, as are conferred on the Commission⁷. Where any pilot scheme for local elections in England and Wales⁸ falls to be implemented following the approval by the Secretary of State⁹ of proposals jointly submitted by the Commission and a relevant local authority¹⁰, the Commission may, in connection with the implementation of the scheme, provide that authority with such assistance (except financial assistance) as the Commission thinks fit¹¹.

1 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 For these purposes, 'relevant local authority' has the same meaning as in the Representation of the People Act 2000 s 10 (as amended) (see PARA 513 note 1 post): Political Parties, Elections and Referendums Act 2000 s 9(3).

3 Ibid s 9(1)(a). The text refers to the joint submission of proposals falling within the Representation of the People Act 2000 s 10(1) (see PARA 513 post).

4 As to the meaning of 'functions' see PARA 31 note 2 ante.

5 Political Parties, Elections and Referendums Act 2000 s 9(1)(b)(i). The text refers to orders and schemes under the Representation of the People Act 2000 s 10 (as amended) (see PARA 513 post).

6 Political Parties, Elections and Referendums Act 2000 s 9(1)(b)(ii). The text refers to orders under the Representation of the People Act 2000 s 11 (as amended) (see PARA 515 post).

7 Political Parties, Elections and Referendums Act 2000 s 9(1). The text refers to such other functions as are conferred on the Commission by the Representation of the People Act 2000 ss 10-11 (as amended) (see PARAS 513-515 post).

8 Ie under ibid s 10 (as amended) (see PARA 513 post).

9 As to the Secretary of State see PARA 2 ante.

10 Ie a relevant local authority as mentioned in the Political Parties, Elections and Referendums Act 2000 s 9(1)(a) (see note 2 supra). As to the approval of proposals by the Secretary of State as mentioned in the text see PARA 513 post.

11 Ibid s 9(2).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(ii) The Commission's General Functions/51. Powers with respect to elections exercisable only on Commission recommendation.

51. Powers with respect to elections exercisable only on Commission recommendation.

The function of giving directions as to the discharge of registration duties¹ is exercisable only on, and in accordance with, a recommendation of the Electoral Commission².

Unless the Secretary of State³ considers that the exercise of any of the following functions⁴, namely:

- 56 (1) the making of orders limiting expenses in connection with elections to the Greater London Authority⁵;
- 57 (2) the making of orders limiting expenses in connection with elections to the National Assembly for Wales⁶; and
- 58 (3) the making of regulations limiting expenses in connection with elections to the European Parliament⁷,

is expedient in consequence of changes in the value of money, it is exercisable only on, and in accordance with, a recommendation of the Commission⁸.

1 Ie under the Representation of the People Act 1983 s 52(1) (as amended) (see PARA 156 post).

2 Political Parties, Elections and Referendums Act 2000 ss 8(1), 160(1). As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

3 As to the Secretary of State see PARA 2 ante.

4 Political Parties, Elections and Referendums Act 2000 s 8(2). As to the meaning of 'functions' see PARA 31 note 2 ante.

5 Ibid s 8(3)(a). The text refers to an order made under the Representation of the People Act 1983 s 76(2A) (as added) (see PARA 278 post).

6 Political Parties, Elections and Referendums Act 2000 s 8(3)(b). As to the orders referred to in head (2) in the text see PARA 12 note 17 ante.

7 Ibid s 8(3)(c) (amended by the European Parliamentary Elections Act 2002 s 15, Sch 3 para 8(1), (3)). As to the regulations under the European Parliamentary Elections Act 2002 s 7(2)(a) referred to in the text see PARA 13 note 13 ante.

8 Political Parties, Elections and Referendums Act 2000 s 8(2).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(ii) The Commission's General Functions/52. Setting of performance standards for electoral officers.

52. Setting of performance standards for electoral officers.

The Electoral Commission¹ may from time to time determine standards of performance for relevant officers², and publish, in such form and in such manner as it considers appropriate, the standards so determined³. Before so determining standards, the Commission must consult the Secretary of State⁴, and any other person it thinks appropriate⁵. When the Commission publishes standards in this way, it must send a copy of the published standards to the Secretary of State who must lay a copy of the published standards before each House of Parliament⁶.

The Commission may from time to time issue directions to relevant officers to provide the Commission with such reports regarding their level of performance against the standards so determined⁷ as may be specified in the direction⁸. Such a direction: (1) must specify the relevant officer or officers to whom it is issued (and may specify a description or descriptions of relevant officers)⁹; (2) may require the report or reports to relate to such elections or referendums (or both) as may be specified in the direction¹⁰; and (3) may require the report or reports to be provided in a form specified in the direction¹¹. A report so provided to the Commission¹² may be published by the relevant officer to whom it relates¹³. The Commission must from time to time prepare and publish, in such manner as the Commission may determine, assessments of the level of performance by relevant officers against the determined¹⁴ standards¹⁵. Such an assessment: (a) must specify the relevant officer or officers to whom it relates¹⁶; (b) must specify the period to which it relates¹⁷; and (c) may specify the elections or referendums (or both) to which it relates¹⁸. However, the Commission must not prepare such an assessment unless it has received reports¹⁹ from the relevant officer or officers for the matters to which the assessment relates²⁰. Before publishing such an assessment, the Commission must provide to each relevant officer a copy of those parts of the assessment which relate to him²¹, and have regard to any comments made by him regarding the factual accuracy of the assessment²².

The Commission may by notice in writing also direct a relevant officer to provide the Commission with such expenditure information²³ as may be specified in the direction²⁴. Such a direction: (i) may require the information to relate to such elections or (as the case may be) referendums as may be specified in the direction²⁵; (ii) may require the information to be provided in a form specified in the direction²⁶; (iii) may specify the time within which the information must be provided²⁷.

1 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 Political Parties, Elections and Referendums Act 2000 s 9A(1)(a) (ss 9A-9C added by the Electoral Administration Act 2006 s 67). For these purposes, the relevant officers are: (1) electoral registration officers (Political Parties, Elections and Referendums Act 2000 s 9A(8)(a) (as so added)); (2) in relation to elections within s 9A(6) (as added), returning officers (s 9A(8)(b) (as so added)); (3) in relation to referendums within s 9A(7) (as added), counting officers (s 9A(8)(c) (as so added)). The standards of performance are such standards as the Commission thinks ought to be achieved by: (a) electoral registration officers in the performance of their functions (s 9A(2)(a) (as so added)); (b) returning officers in the administration of the elections specified in s 9A(6) (as added) (s 9A(2)(b) (as so added)); (c) counting officers in the administration of the referendums specified in s 9A(7) (as added) (s 9A(2)(c) (as so added)). The Commission may determine different standards for different descriptions of relevant officers: s 9A(4) (as so added). As to the meaning of 'functions' see PARA 31 note 2 ante. As to electoral registration officers see PARA 154 et seq post; as to returning officers see PARA 355 et seq post; and as to counting officers see PARA 545 et seq post.

The elections specified in s 9A(6) (as added) are: (i) a parliamentary general election (ss 5(2)(a), 9A(6)(a) (as so added)); (ii) a European parliamentary general election (ss 5(2)(b), 9A(6)(a) (as so added)); (iii) a Scottish parliamentary general election (ss 5(2)(c), 9A(6)(a) (as so added)); (iv) a National Assembly for Wales ordinary election (ss 5(2)(d), 9A(6)(a) (as so added)); (v) a Northern Ireland Assembly general election (ss 5(2)(e), 9A(6)(a) (as so added)); (vi) a parliamentary by-election (s 9A(6)(b) (as so added)); (vii) an election held under the Scotland Act 1998 s 9 (election for the Scottish Parliament in the case of a constituency vacancy) (Political Parties, Elections and Referendums Act 2000 s 9A(6)(c) (as so added)); (viii) an election held under the Government of Wales Act 1998 s 8 (election for the National Assembly for Wales in the case of a constituency vacancy) (Political Parties, Elections and Referendums Act 2000 s 9A(6)(d) (as so added)); (ix) a local government election in England or Wales (s 9A(6)(e) (as so added)). For the meaning of 'local government election' see PARA 10 ante. As to parliamentary general elections see PARA 9 et seq ante; and as to parliamentary by-elections see PARA 198 post. As to ordinary elections to the National Assembly for Wales see PARA 12 et seq ante; and as to Welsh Assembly elections in the case of a constituency vacancy see PARA 221 post. As to European parliamentary general elections see PARA 13 et seq ante. The provisions of the Government of Wales Act 1998 are to be superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). After that date, head (viii) supra is to be taken to refer to the Government of Wales Act 2006 s 10: see PARA 221 post.

The referendums specified in the Political Parties, Elections and Referendums Act 2000 s 9A(7) (as added) are a referendum to which Pt VII (ss 101-129) (as amended) applies (see PARA 519 et seq post) (s 9A(7)(a) (as so added)) and a referendum under the Local Government Act 2000 Pt II (ss 10-48) (as amended) (see PARA 560 et seq post) (Political Parties, Elections and Referendums Act 2000 s 9A(7)(b) (as so added)).

3 Ibid s 9A(1)(b) (as added: see note 2 supra).

4 Ibid s 9A(3)(a) (as added: see note 2 supra). As to the Secretary of State see PARA 2 ante.

5 Ibid s 9A(3)(b) (as added: see note 2 supra).

6 Ibid s 9A(5) (as added: see note 2 supra).

7 Ie determined under ibid s 9A(1) (as added) (see the text and notes 1-3 supra).

8 Ibid s 9B(1) (as added: see note 2 supra).

9 Ibid s 9B(2)(a) (as added: see note 2 supra).

10 Ibid s 9B(2)(b) (as added: see note 2 supra).

11 Ibid s 9B(2)(c) (as added: see note 2 supra).

12 Ie in pursuance of ibid s 9B(1) (as added) (see the text and notes 7-8 supra).

13 Ibid s 9B(3) (as added: see note 2 supra).

14 Ie determined under ibid s 9A(1) (as added) (see the text and notes 1-3 supra).

15 Ibid s 9B(4) (as added: see note 2 supra).

16 Ibid s 9B(5)(a) (as added: see note 2 supra).

17 Ibid s 9B(5)(b) (as added: see note 2 supra).

18 Ibid s 9B(5)(c) (as added: see note 2 supra).

19 Ie in pursuance of ibid s 9B(1) (as added) (see the text and notes 7-8 supra).

20 Ibid s 9B(6) (as added: see note 2 supra).

21 Ibid s 9B(7)(a) (as added: see note 2 supra).

22 Ibid s 9B(7)(b) (as added: see note 2 supra).

23 For these purposes, expenditure information is information relating to: (1) in the case of an electoral registration officer, expenditure in connection with the performance of his functions (ibid s 9C(2)(a) (as added: see note 2 supra)); (2) in the case of a returning officer, expenditure in connection with the election or elections specified in s 9A(6) (as added) (see note 2 supra) for which he is appointed or otherwise holds office (s 9C(2)(b) (as so added)); (3) in the case of a counting officer, expenditure in connection with the referendum or

referendums specified in s 9A(7) (as added) (see note 2 supra) for which he is appointed (s 9C(2)(c) (as so added)).

24 Ibid s 9C(1) (as added: see note 2 supra). Section 9C (as added) does not affect any other power of the Commission to request information: s 9C(4) (as so added).

25 Ibid s 9C(3)(a) (as added: see note 2 supra).

26 Ibid s 9C(3)(b) (as added: see note 2 supra).

27 Ibid s 9C(3)(c) (as added: see note 2 supra).

UPDATE

52 Setting of performance standards for electoral officers

NOTE 2--2000 Act s 9A(6)(d) amended: SI 2007/1388.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(ii) The Commission's General Functions/53. Giving of advice and assistance.

53. Giving of advice and assistance.

The Electoral Commission¹ may, at the request of any relevant body², provide the body with advice and assistance³ as respects any matter in which the Commission has skill and experience⁴. The Commission may also: (1) provide advice and assistance to registration officers⁵, returning officers at relevant elections⁶, registered parties⁷, recognised third parties⁸ and permitted participants⁹; and (2) provide advice and assistance to other persons which is incidental to, or otherwise connected with, the discharge by the Commission of its functions¹⁰.

The Commission may make charges for advice or assistance provided by it at the request of any relevant body¹¹ but may not make charges for the advice and assistance provided under heads (1) and (2) above¹².

1 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 For these purposes, 'relevant body' means: (1) the Scottish Parliament (Political Parties, Elections and Referendums Act 2000 s 10(6)(a)); (2) the Scottish Executive (s 10(6)(b)); (3) the National Assembly for Wales (s 10(6)(c)); (4) the Northern Ireland Assembly (s 10(6)(d)); (5) the Executive Committee of the Northern Ireland Assembly (s 10(6)(e)); (6) any of the following local authorities: (a) in England, the council of a county, district or London borough (s 10(6)(f)(i)); (b) in Wales, the council of a county or county borough (s 10(6)(f)(ii)); and (c) in Scotland, a council constituted under the Local Government etc (Scotland) Act 1994 s 2 (Political Parties, Elections and Referendums Act 2000 s 10(6)(f)(iii)); (7) a national or regional parliament or government in a country other than the United Kingdom (s 10(6)(g)); (8) a body in any such other country having functions corresponding to any of the functions of the Commission (s 10(6)(h)); (9) an organisation of which two or more countries (or their governments) are members or a subordinate body of such an organisation (s 10(6)(i)). For these purposes, 'body', without more, means a body corporate or any combination of persons or other unincorporated association: s 160(1). As to the meaning of 'functions' see PARA 31 note 2 ante. For the meanings of 'United Kingdom', 'England' and 'Wales' see PARA 13 note 1 ante. As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS. As to the council of a county, district or London borough in England and the council of a county or county borough in Wales see LOCAL GOVERNMENT vol 69 (2009) PARA 23.

3 The assistance which may be so provided includes (in particular) the secondment of members of the Commission's staff: *ibid* s 10(2). However, nothing in s 10 authorises the Commission to provide any form of financial assistance: s 10(5). As to the staff of the Electoral Commission see PARA 35 ante.

4 *Ibid* s 10(1).

5 *Ibid* s 10(3)(a)(i). As to electoral registration officers see PARA 154 et seq post.

6 *Ibid* s 10(3)(a)(ii). For these purposes, 'relevant election' means any election falling within s 22(5) (see PARA 260 post): s 10(7). As to returning officers see PARA 355 et seq post.

7 *Ibid* s 10(3)(a)(iii). For the meaning of 'registered party' for these purposes see PARA 32 note 3 ante.

8 *Ibid* s 10(3)(a)(iv). The text refers to recognised third parties within the meaning of Pt VI (ss 85-100) (as amended) (controls relating to third party national election campaigns: see PARA 318 et seq post).

9 *Ibid* s 10(3)(a)(v). The text refers to permitted participants within the meaning of Pt VII (ss 101-129) (as amended) (referendums: see PARA 519 et seq post).

10 *Ibid* s 10(3)(b).

11 *Ibid* s 10(4)(a). The text refers to the advice or assistance provided by the Commission under s 10(1) (see the text and notes 1-4 *supra*).

12 Ibid s 10(4)(b).

UPDATE

53 Giving of advice and assistance

NOTE 2--Also, head (10) the Welsh Ministers: 2000 Act s 10(6)(caa) (added by SI 2007/1388).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(ii) The Commission's General Functions/54. Views expressed by Commission on political, election and referendum campaign broadcasts.

54. Views expressed by Commission on political, election and referendum campaign broadcasts.

The following bodies must have regard to any views expressed by the Electoral Commission¹ in the following circumstances relating to political, election and referendum campaign broadcasting²:

- 59 (1) the British Broadcasting Corporation ('the BBC')³, in determining its policy with respect to party political broadcasts⁴;
- 60 (2) the Office of Communications ('OFCOM')⁵, before making any rules with respect to party political broadcasts and referendum campaign broadcasts⁶; and
- 61 (3) a broadcasting authority⁷, before drawing up a code of practice with respect to the participation of candidates at a parliamentary or local government election in items about the constituency or electoral area in question⁸.

1 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 As to party political and campaign broadcasting generally see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 221 et seq; TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARAS 291, 506 et seq. A broadcaster may not include in its broadcasting services any party political broadcast made on behalf of a party which is not a registered party: see the Political Parties, Elections and Referendums Act 2000 s 37 (as amended); and CONSTITUTIONAL LAW AND HUMAN RIGHTS. As to the registration of parties see PARA 260 post. Similar restrictions apply in relation to referendum campaign broadcasts which may be made only on behalf of a designated person or body: see s 127; and PARA 544 post.

3 As to the BBC see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 306 et seq.

4 Political Parties, Elections and Referendums Act 2000 s 11(3) (amended by the Communications Act 2003 s 406(1), Sch 17 para 167(1), (2)). See also CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 222-223; TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARAS 506, 509.

5 As to OFCOM see TELECOMMUNICATIONS vol 97 (2010) PARA 2 et seq.

6 See the Communications Act 2003 s 333; and TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 291.

7 For the meaning of 'broadcasting authority' see PARA 337 note 1 post.

8 See the Representation of the People Act 1983 s 93 (as substituted and amended); and PARA 337 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(ii) The Commission's General Functions/55. Policy development grants.

55. Policy development grants.

The Electoral Commission¹ must submit recommendations to the Secretary of State² for the terms of a scheme for the making by the Commission of policy development grants³. Where the Secretary of State receives such recommendations, he must make an order⁴ setting out such a scheme in terms which, with any modifications⁵ he considers appropriate, give effect to the recommendations⁶. The scheme must, in particular, specify or provide for the determination of: (1) the parties eligible for policy development grants⁷; and (2) how any money provided to the Commission for the making of policy development grants is to be allocated between the parties eligible for such grants⁸. The Commission must keep under review the terms of any such scheme and must make recommendations to the Secretary of State for any variations to the scheme which it considers appropriate⁹. Where the Secretary of State receives such recommendations for variation, he must make an order giving effect, with any modifications he considers appropriate, to the recommendations¹⁰. However, where any modifications that are made following recommendations of the Commission in respect of either the terms of a scheme¹¹ or any variations to the scheme¹² would result in an order giving effect with modifications to any recommendations of the Commission in respect of either of the matters mentioned in heads (1) and (2) above, the order must not be made without the agreement of the Commission to the modifications so far as relating to those matters¹³.

The Commission must make such grants as are provided for under any scheme made under these provisions, and any such grants may be made subject to such conditions¹⁴ as (consistently with the terms of the scheme) the Commission considers appropriate¹⁵.

1 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 As to the Secretary of State see PARA 2 ante.

3 Political Parties, Elections and Referendums Act 2000 s 12(2). For these purposes, a 'policy development grant' is a grant to a represented registered party to assist the party with the development of policies for inclusion in any manifesto on the basis of which candidates authorised to stand by the party will seek to be elected at an election which is a relevant election for the purposes of Pt II (ss 22-40) (as amended) (see PARA 260 post), or the party itself will seek to be so elected (in the case of such an election for which the party itself may be nominated) (s 12(1)(a)); and a registered party is 'represented' if there are at least two members of the House of Commons belonging to the party who have made and subscribed the oath required by the Parliamentary Oaths Act 1866 (or the corresponding affirmation), and are not disqualified from sitting or voting in that House (Political Parties, Elections and Referendums Act 2000 s 12(1)(b)). For these purposes, a person stands for election in the name of a registered party if his nomination paper includes a description authorised by a certificate issued by or on behalf of the registered nominating officer of the party: see s 22(6); and PARA 260 post. For the meaning of 'registered party' for these purposes see PARA 32 note 3 ante. As to the disqualification of members of the House of Commons see PARLIAMENT vol 78 (2010) PARA 897 et seq; and as to the oath or affirmation required by the Parliamentary Oaths Act 1866 see PARLIAMENT vol 78 (2010) PARA 1001. As to payments made to registered political parties see also CONSTITUTIONAL LAW AND HUMAN RIGHTS.

4 As to the making of orders under the Political Parties, Elections and Referendums Act 2000 generally see PARA 31 note 2 ante.

5 As to the meaning of 'modifications' see PARA 39 note 9 ante.

6 Political Parties, Elections and Referendums Act 2000 s 12(3). As to the scheme so made which has effect in relation to the year ending on 31 March 2007 and subsequent years see the Elections (Policy Development Grants Scheme) Order 2006, SI 2006/602.

7 Political Parties, Elections and Referendums Act 2000 s 12(4)(a).

8 Ibid s 12(4)(b).

9 Ibid s 12(5).

10 Ibid s 12(6). The scheme contained in the Elections (Policy Development Grants Scheme) Order 2006, SI 2006/602 (see note 6 supra) incorporates variations which give effect to the recommendations of the Electoral Commission.

11 Ie under the Political Parties, Elections and Referendums Act 2000 s 12(3) (see the text and notes 4-6 supra).

12 Ie under ibid s 12(5) (see the text and note 9 supra).

13 Ibid s 12(7).

14 References in the Political Parties, Elections and Referendums Act 2000 to conditions, in the context of grants being made subject to conditions, include conditions requiring repayment of the grants in specified circumstances: s 160(5).

15 Ibid s 12(8). However, nothing in a scheme under s 12 has effect to authorise the Commission to make in any financial year more than £2 million in policy development grants: s 12(8). For the meaning of 'financial year' for these purposes see PARA 39 note 4 ante. The sum for the time being specified in s 12(8) may be varied by the Secretary of State by order made with the consent of the Treasury: s 12(9). At the date at which this volume states the law, no order had been made under s 12(9) and, accordingly, the amount available for allocation by the Commission in each year for which the Scheme under the Elections (Policy Development Grants Scheme) Order 2006, SI 2006/602 has effect is £2 million: see art 2, Schedule para 4. As to the making of orders under the Political Parties, Elections and Referendums Act 2000 generally see PARA 31 note 2 ante. As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 512-517.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(ii) The Commission's General Functions/56. Education about electoral and democratic systems.

56. Education about electoral and democratic systems.

The Electoral Commission¹ must promote public awareness of: (1) current electoral systems in the United Kingdom² and any pending³ such systems, together with such matters connected with any such existing or pending systems as the Commission may determine⁴; (2) current systems of local government and national government in the United Kingdom and any such systems as are pending⁵; and (3) the institutions of the European Union⁶. The Commission must perform these functions⁷ in such manner as it thinks fit but may, in particular, do so by: (a) carrying out programmes of education or information to promote public awareness of any of the matters mentioned in heads (1) to (3) above⁸; or (b) making grants to other persons or bodies for the purpose of enabling them to carry out such programmes⁹.

The total expenditure incurred in any financial year¹⁰ by the Commission in performing its functions in promoting public awareness¹¹ (whether by making grants or otherwise) must not exceed such sum as is for the time being specified for these purposes by an order made by the Secretary of State¹² with the consent of the Treasury¹³.

1 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

3 For these purposes, any system such as is mentioned in the Political Parties, Elections and Referendums Act 2000 s 13(1)(a) or s 13(1)(b) (see the text and note 5 infra) is pending at a time when arrangements for giving effect to it have been made by any enactment but the arrangements are not yet in force: s 13(2). As to the meaning of 'enactment' see PARA 48 note 2 ante.

4 Ibid s 13(1)(a). The provisions of s 13(1)(a) and s 13(1)(c) (see the text and note 6 infra) apply with modifications to the promotion of public awareness in Gibraltar of current electoral systems for elections to the European Parliament in the United Kingdom and Gibraltar: see s 13(1A) (added by the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, art 4(2), Schedule paras 1, 2). As to the meaning of 'modifications' see PARA 39 note 9 ante. As to the role of the Electoral Commission in encouraging voting etc at referendums to be held in pursuance of an order under the Regional Assemblies (Preparations) Act 2003 see PARA 552 post.

5 Political Parties, Elections and Referendums Act 2000 s 13(1)(b). See note 3 supra. Although s 13(1) does not apply in relation to local government elections or to local government in Scotland, the reference to national government in s 13(1)(b) includes (in addition to the government of the United Kingdom) the government of parts of the United Kingdom for which there are devolved legislatures: s 13(3). For the meaning of 'local government election' see PARA 10 ante.

6 Ibid s 13(1)(c). See note 4 supra.

7 As to the meaning of 'functions' see PARA 31 note 2 ante.

8 Political Parties, Elections and Referendums Act 2000 s 13(4)(a).

9 Ibid s 13(4)(b). Any grant under s 13(4)(b) may be made subject to such conditions as the Commission considers appropriate: s 13(5). As to the meaning of references in the Political Parties, Elections and Referendums Act 2000 to 'conditions', in the context of grants being made subject to conditions, see PARA 55 note 14 ante.

10 For the meaning of 'financial year' for these purposes see PARA 39 note 4 ante.

11 le under the Political Parties, Elections and Referendums Act 2000 s 13(1) (see the text and notes 1-6 *supra*).

12 As to the Secretary of State see *PARA 2 ante*. As to the making of orders under the Political Parties, Elections and Referendums Act 2000 generally see *PARA 31 note 2 ante*.

13 *Ibid* s 13(6). As to the order made under s 13(6) see the Electoral Commission (Limit on Public Awareness Expenditure) Order 2002, SI 2002/505. As to the Treasury see *CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 512-517*.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(ii) The Commission's General Functions/57. Monitoring compliance with controls.

57. Monitoring compliance with controls.

The Electoral Commission¹ has the general function of monitoring compliance with: (1) the restrictions and other requirements imposed by or by virtue of the provisions relating to the accounting requirements for registered parties², the control of donations to registered parties, individuals and members associations³, the control of campaign expenditure⁴ and the controls relating to third party national election campaigns⁵ and referendums⁶; and (2) the restrictions and other requirements imposed by other enactments⁷ in relation to election expenses incurred by or on behalf of candidates at elections⁸, or donations to such candidates or their election agents⁹.

1 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 Ie the Political Parties, Elections and Referendums Act 2000 Pt III (ss 41-49) (as amended) (see PARA 260 post). For the meaning of 'registered party' for these purposes see PARA 32 note 3 ante.

3 Ie ibid Pt IV (ss 50-71) (as amended) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS).

4 Ie ibid Pt V (ss 72-84) (as amended) (see PARA 304 et seq post).

5 Ie ibid Pt VI (ss 85-100) (as amended) (see PARA 318 et seq post).

6 Ibid s 145(1)(a). The text refers to the provisions relating to referendums contained in Pt VII (ss 101-129) (as amended) (see PARA 519 et seq post).

7 As to the meaning of 'enactment' see PARA 48 note 2 ante.

8 Political Parties, Elections and Referendums Act 2000 s 145(1)(b)(i). For these purposes, 'election' means a relevant election for the purposes of Pt II (ss 22-40) (as amended) (see PARA 260 post): s 145(7). As to election expenses incurred by or on behalf of candidates at elections see PARA 274 et seq post. Section 145(1)(b) does not apply in relation to local government elections in Scotland unless and to the extent that the Scottish Ministers by order so provide: see s 145(2)-(6).

9 Ibid s 145(1)(b)(ii). See note 8 supra. For these purposes, 'election agent' includes a sub-agent: s 145(7). As to the nomination of sub-agents at certain parliamentary and local government elections see PARA 240 post. As to the control of donations to individual candidates or their election agents during election periods see PARA 291 et seq post.

UPDATE

57 Monitoring compliance with controls

TEXT AND NOTES--The Electoral Commission may prepare and publish guidance setting out, in relation to any requirement referred to in the Political Parties, Elections and Referendums Act 2000 s 145(1), their opinion on any of the following matters: (1) what it is necessary, or is sufficient, to do, or avoid doing, in order to comply with the requirement; (2) what it is desirable to do, or avoid doing, in view of the purpose of the requirement: s 145(6A) (added by the Political Parties and Elections Act 2009 s 1(3)).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(ii) The Commission's General Functions/58. Supervisory powers of the Commission.

58. Supervisory powers of the Commission.

The Electoral Commission¹ may by notice require the relevant person² in the case of any supervised organisation or individual or former supervised organisation or individual³:

- 62 (1) to produce, for inspection by the Commission or a person authorised by the Commission, any such books, documents⁴ or other records⁵ relating to the income and expenditure of the organisation or individual as the Commission may reasonably require for the purposes of the carrying out by it of its functions⁶; or
- 63 (2) to furnish the Commission, or a person authorised by the Commission, with such information or explanation relating to the income and expenditure of the organisation or individual as the Commission may reasonably so require⁷,

and to do so within such reasonable time as is specified in the notice⁸. The Commission, or a person authorised by the Commission, may make copies of, or records of any information contained in, any books, documents or other records produced under head (1) above⁹ and make copies or records of any information or explanation furnished under head (2) above¹⁰.

A person authorised in writing by the Commission may, for the purposes of the carrying out by the Commission of its functions, enter at any reasonable time premises occupied by a supervised organisation or individual; and, having entered any such premises, he may¹¹: (a) inspect any books, documents or other records relating to the income and expenditure of the organisation or individual¹²; and (b) make copies of, or records of any information contained in, any such books, documents or other records¹³.

Where any such records as are mentioned in head (1) above or in head (a) or (b) above are kept in electronic form, then:

- 64 (i) the power of the Commission¹⁴ to require any such records to be produced for inspection includes power to require a copy of the records to be made available for inspection in legible form¹⁵; and
- 65 (ii) the power of any person ('the inspector') to inspect any such records¹⁶ includes power to require any person on the premises in question to give the inspector such assistance as he may reasonably require to enable him¹⁷ to inspect and make copies of the records in legible form or to make records of information contained in them¹⁸, or to inspect and check the operation of any computer, and any associated apparatus or material, that is or has been in use in connection with the keeping of the records¹⁹.

A person commits an offence if he fails, without reasonable excuse, to comply with any requirement imposed under these provisions²⁰. A person also commits an offence if he intentionally obstructs an authorised²¹ person in the carrying out of that person's functions²².

1 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 For these purposes, 'relevant person', in relation to a supervised organisation or individual, means, in the case of an organisation, any person who is or has been the treasurer or another officer of the organisation and,

in the case of an individual, that individual; and 'supervised organisation or individual' means a registered party or (in the case of such a party with accounting units) the central organisation of the party or any of its accounting units, a recognised third party within the meaning of the Political Parties, Elections and Referendums Act 2000 Pt VI (ss 85-100) (as amended) (see PARA 318 et seq post) or a permitted participant within the meaning of Pt VII (ss 101-129) (as amended) (see PARA 519 et seq post): s 146(9). For the meaning of 'registered party' for these purposes see PARA 32 note 3 ante; for the meaning of 'treasurer' see PARA 45 note 7 ante; and for the meanings of 'accounting unit' and 'central organisation', in relation to a registered party, see PARA 260 note 15 post.

Section 146(1) applies also in relation to:

- 12 (1) a regulated donee or former regulated donee (s 146(7)(a));
- 13 (2) a regulated participant (or former regulated participant) (s 146(7)(aa) (added by the Electoral Administration Act 2006 s 74(1), Sch 1 Pt 7 paras 138, 150(1), (2))); or
- 14 (3) a person who is, or has been, a candidate at an election (other than a local government election in Scotland) or the election agent for such a candidate (Political Parties, Elections and Referendums Act 2000 s 146(7)(b)),

as it applies to a supervised organisation or individual or former supervised organisation or individual (s 146(7)); and the provisions of s 146(2), (4), (5) (see the text and notes 9-10, 14-20 infra) apply accordingly (s 146(7)). However, the powers conferred by virtue of s 146(7) may only be exercised by the Commission or, as the case may be, by a person authorised by it for or in connection with obtaining:

- 15 (a) such information or explanations relating to the income and expenditure of regulated donees in connection with their political activities as the Commission reasonably requires for the purpose of monitoring compliance on the part of regulated donees with the requirements imposed by or by virtue of s 71, Sch 7 (as amended) (control of donations to individuals and members associations: see CONSTITUTIONAL LAW AND HUMAN RIGHTS) (s 146(8)(a));
- 16 (b) such information or explanations relating to the income and expenditure of regulated participants in connection with the political activities as the Commission reasonably requires for the purpose of monitoring compliance on the part of regulated participants with the requirements imposed on them by or by virtue of Sch 7A (as added) (control of loans and certain other transactions to individuals and members associations: see CONSTITUTIONAL LAW AND HUMAN RIGHTS) (s 146(8)(aa) (added by the Electoral Administration Act 2006 Sch 1 Pt 7 paras 138, 150(1), (3))); or
- 17 (c) such information or explanations relating to the income and expenditure of candidates within head (3) supra and their election agents as the Commission reasonably requires for the purpose of monitoring compliance on the part of such candidates and their agents with restrictions and other requirements falling within the Political Parties, Elections and Referendums Act 2000 s 145(1)(b) (see PARA 57 ante) (s 146(8)(b)),

as the case may be (s 146(8)). For these purposes, 'regulated donee' and 'political activities', in relation to a regulated donee, each have the same meaning as in Sch 7 (as amended) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS) (s 146(9)); and 'regulated participant' and 'political activities', in relation to a regulated participant, must be construed in accordance with Sch 7A (as added) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS) (s 146(9) (definitions added by the Electoral Administration Act 2006 Sch 1 Pt 7 paras 138, 150(1), (4))).

3 Political Parties, Elections and Referendums Act 2000 s 146(1). See note 2 supra.

4 For the meaning of 'document' see PARA 43 note 1 ante.

5 For the meaning of 'record' see PARA 40 note 2 ante.

6 Political Parties, Elections and Referendums Act 2000 s 146(1)(a). See note 2 supra. As to the meaning of 'functions' see PARA 31 note 2 ante.

7 Ibid s 146(1)(b). See note 2 supra.

8 Ibid s 146(1). See note 2 supra.

9 Ibid s 146(2)(a). See note 2 supra.

10 Ibid s 146(2)(b). See note 2 supra.

11 Ibid s 146(3).

12 Ibid s 146(3)(a).

13 Ibid s 146(3)(b).

14 Ie under ibid s 146(1) (see the text and notes 1-8 supra).

15 Ibid s 146(4)(a). Section 146(2)(a) (see the text and note 9 supra) accordingly applies in relation to any copy so made available: s 146(4)(a). See note 2 supra.

16 Ie under ibid s 146(3) (see the text and notes 11-13 supra).

17 Ibid s 146(4)(b). See note 2 supra.

18 Ibid s 146(4)(b)(i). See note 2 supra.

19 Ibid s 146(4)(b)(ii). See note 2 supra.

20 See ibid s 146(5); and PARA 756 post. The text refers to any requirement imposed under s 146.

21 Ie as mentioned in ibid s 146(3) (see the text and notes 11-13 supra).

22 See ibid s 146(6); and PARA 756 post. The text refers to the carrying out of that person's functions under s 146(3) (see the text and notes 11-13 supra). An offence is also created under s 148(1) (general offences) where a person interferes with any document or other record which is or is liable to be required under s 146(1) (see the text and notes 1-8 supra), and does so with the intention of falsifying the document or record or of enabling an organisation or individual to evade any of the provisions of the Political Parties, Elections and Referendums Act 2000: see PARA 756 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(ii) The Commission's General Functions/59. Designation of Electoral Commission as keeper of co-ordinated on-line record of electors ('CORE').

59. Designation of Electoral Commission as keeper of co-ordinated on-line record of electors ('CORE').

For the purposes of a scheme in connection with the keeping and use of specified electoral registration information by a person designated by such a scheme (a 'CORE scheme')¹, the Electoral Commission² may be designated as a CORE keeper³.

1 For the meaning of 'CORE scheme' see PARA 185 note 3 post. Such schemes are established under the Electoral Administration Act 2006 s 1 (see PARA 185 post).

2 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

3 Political Parties, Elections and Referendums Act 2000 s 20A (added by the Electoral Administration Act 2006 s 4(1)). As to the effect of this provision regarding the treatment of CORE scheme grants paid to the Commission see s 4(2); and PARA 39 note 2 ante. For the meaning of 'CORE keeper' see PARA 185 note 4 post; and as to the designation of CORE keepers see PARA 185 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(iii) The Commission's Functions relating to the Review of Electoral Boundaries/A. ESTABLISHMENT AND CONSTITUTION OF THE BOUNDARY COMMITTEES/60. The Boundary Committees.

(iii) The Commission's Functions relating to the Review of Electoral Boundaries

A. ESTABLISHMENT AND CONSTITUTION OF THE BOUNDARY COMMITTEES

60. The Boundary Committees.

The Electoral Commission¹ must establish four Boundary Committees, one for each of England, Scotland, Wales and Northern Ireland². Each Boundary Committee consists of a chairman³ and not less than the appropriate number⁴ of other members⁵, appointed by the Commission⁶. Only an Electoral Commissioner⁷ or a Deputy Electoral Commissioner⁸ may be appointed a member of a Boundary Committee⁹; and only an Electoral Commissioner may be appointed chairman of a Boundary Committee¹⁰. Assessors to each Boundary Committee are also appointed¹¹.

1 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 Political Parties, Elections and Referendums Act 2000 s 14(1). For the meanings of 'England' and 'Wales' see PARA 13 note 1 ante.

Section 14 comes into force as from a day to be appointed under s 163(2). In relation to England the appointed day is 30 October 2001 (see the Political Parties, Elections and Referendums Act 2000 (Commencement No 2) Order 2001, SI 2001/3526, art 2(b)) but, at the date at which this volume states the law, no such day had been appointed in relation to Scotland, Wales or Northern Ireland.

As to the transfer and prospective transfer of functions and property from the Boundary Commissions established under the Parliamentary Constituencies Act 1986 see PARA 64 et seq post.

3 Political Parties, Elections and Referendums Act 2000 s 14(2)(a). See note 2 supra.

4 For these purposes, the 'appropriate number', in relation to a Boundary Committee, is: (1) two, if no functions fall to be exercised by the Committee by virtue of s 18(1) (transfer of functions of the Local Government Commission for England: see PARA 65 post), s 19(1) (transfer of functions of the Local Government Boundary Commission for Scotland) or s 20(1) (transfer of functions of the Local Government Boundary Commission for Wales: see PARA 66 post), as the case may be (s 14(3)(a)); and (2) four, if any functions fall to be so exercised (s 14(3)(b)). See note 2 supra. As to the meaning of 'functions' see PARA 31 note 2 ante.

5 Ibid s 14(2)(b). See note 2 supra.

6 Ibid s 14(2). The Commission must, where any functions fall to be exercised by a Boundary Committee as mentioned in note 4 head (1) supra, so exercise its powers of appointment under s 14 and s 15 (see PARA 61 post) as to secure: (1) that at least one of the members of the Committee is a person with experience of local government matters in England, Scotland or Wales, as the case may be (s 14(5)(a)); and (2) that, in the case of the Boundary Committee for Wales, at least one of the members of the Committee is a person able to speak the Welsh language (s 14(5)(b)). See note 2 supra.

7 As to the appointment of Electoral Commissioners see PARA 32 ante.

8 As to the appointment of Deputy Electoral Commissioners see PARA 61 post.

9 Political Parties, Elections and Referendums Act 2000 s 14(4). See note 2 supra.

10 Ibid s 14(4). See note 2 supra.

11 Ibid s 14(6). In the case of the Boundary Committee for England and the Boundary Committee for Wales, the Registrar General for England and Wales and the Director General of Ordnance Survey are appointed assessors: see s 14(6)(a). As to the appointments made in the case of the Boundary Committee for Scotland and the Boundary Committee for Northern Ireland see s 14(6)(b), (c). See note 2 supra. As to the Ordnance Survey see NATIONAL CULTURAL HERITAGE vol 77 (2010) PARA 1110 et seq; and as to the Registrar General for England and Wales see REGISTRATION CONCERNING THE INDIVIDUAL vol 39(2) (Reissue) PARA 504.

UPDATE

60-66 The Commission's Functions relating to the Review of Electoral Boundaries

TEXT AND NOTES--Replaced. Political Parties, Elections and Referendums Act 2000 ss 14-20 repealed: Local Democracy, Economic Development and Construction Act 2009 s 61(2), (3), s 66(b), Sch 7 Pt 3.

The old Local Government Boundary Commission for England was established under the Local Government Act 1972 s 46, and was the body responsible for reviewing the boundaries of the local government areas in England and their electoral arrangements. It was replaced by the Local Government Commission for England, which was established under the Local Government Act 1992 s 12. On 1 April 2002, the functions of the Local Government Commission for England were transferred to the Electoral Commission by virtue of the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962. On the same day, the Boundary Committee for England was established under the Political Parties, Elections and Referendums Act 2000 s 14, which was a statutory committee of the Electoral Commission. The new Local Government Boundary Commission for England is established by the Local Democracy, Economic Development and Construction Act 2009 s 55 and provides for the transfer to it of all the boundary-related functions of the Electoral Commission and the Boundary Commission for England.

The duty of the Electoral Commission to establish Boundary Committees is abolished so far as relating to England: Local Democracy, Economic Development and Construction Act 2009 s 61(1). The functions of the Electoral Commission's Boundary Committee relating to boundary change are transferred to the Local Government Boundary Commission for England: Local Democracy, Economic Development and Construction Act 2009 s 60(1).

The Local Government Boundary Commission for England is established as a body corporate (Local Democracy, Economic Development and Construction Act 2009 s 55(1)), is not to be regarded as a servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown (s 55(2)), and its property is not to be regarded as the property of the Crown or as property held on behalf of the Crown (s 55(3)). The Local Government Boundary Commission for England may do anything, except borrow money, which is calculated to facilitate, or is incidental or conducive to, the exercise of its functions (s 55(4)). Further provision about the constitution and administration of the Local Government Boundary Commission for England is made: Local Democracy, Economic Development and Construction Act 2009 Sch 1. The Local Government Boundary Commission for England must from time to time, and may at any time, conduct a review of the area of each principal council, and recommend whether a change should be made to the electoral arrangements for that area: Local Democracy, Economic Development and Construction Act 2009 s 56(1), (2). 'Principal council' means a county council in England, a district council, the Council of the Isles of Scilly and a London borough council: s 56(3). As to the meaning of 'electoral arrangements' in relation to the area of a principal council, see s 56(4). Where the Local Government Boundary Commission for England recommends that a change

should be made to the electoral arrangements for the area of a principal council, the Commission must also recommend whether, in consequence, a change should be made to the electoral arrangements for the area of any parish council, where that area is within the area of the principal council: s 56(5). As to the meaning of 'electoral arrangements' in relation to the area of a parish council, see s 56(6). A principal council or parish council must, if requested by the Local Government Boundary Commission for England to do so, provide, by such date as it may specify, with any information that it may reasonably require in connection with its functions under s 56: s 56(9). Further provision relating to recommendations under s 56 is made: Local Democracy, Economic Development and Construction Act 2009 Sch 2.

A principal council which falls within the Local Democracy, Economic Development and Construction Act 2009 s 57(3) may request the Local Government Boundary Commission for England to conduct a review of the council's area under s 56(2)(a) and make recommendations as to single-member electoral areas under s 56(2)(b): Local Democracy, Economic Development and Construction Act 2009 s 57(1).

'Recommendations as to single-member electoral areas' means recommendations, for each electoral area in the area of a principal council, as to whether the electoral area should return one member of the council: s 57(2). A principal council falls within s 57(3) if it is not the case that each of the electoral areas in the council's area returns one member of the council and the council is subject to a scheme for whole-council elections: s 57(3), (4). Further provision is made: see s 57(5)-(8).

As soon as reasonably practicable after deciding to conduct a review under s 56, the Local Government Boundary Commission for England must take such steps as it considers sufficient to secure that persons who may be interested in the review are informed of the fact that the review is to take place and any particular matters to which the review is to relate: Local Democracy, Economic Development and Construction Act 2009 s 58(1). In conducting such a review, the Local Government Boundary Commission for England must (1) prepare and publish draft recommendations; (2) take such steps as it considers sufficient to secure that persons who may be interested in the recommendations are informed to them and of the period within which representations with respect to them may be made; and (3) take into consideration any representations made to the Local Government Boundary Commission for England within that period: s 58(2). The Local Government Boundary Commission for England may at any time before publishing draft recommendations under s 58(2)(a) consult such persons as it considers appropriate: s 58(3). As soon as practicable after conducting a review, the Local Government Boundary Commission for England must publish a report stating its recommendations, and take such steps as it considered sufficient to secure that persons who may be interest in the recommendations are informed of them: s 58(4). Where a report under s 58(4) contains recommendations for electoral changes, the Local Government Boundary Commission for England may by order give effect to all or any of the recommendations: Local Democracy, Economic Development and Construction Act 2009 s 59(1). Further provision as to the implementation of review recommendations is made: see s 59(2)-(9).

For the purpose of the exercise of functions conferred on the Local Government Boundary Commission for England by or under the Local Democracy, Economic Development and Construction Act 2009 Pt 3 (ss 55-68), the Electoral Commission must make one or more schemes for the transfer of property, rights and liabilities from the Electoral Commission to the Local Government Boundary Commission for England: Local Democracy, Economic Development and Construction Act 2009 s 62(1). The Electoral Commission may not make a scheme under s 62 (1) without consulting the Secretary of State; (2) without the consent of the Electoral Commission's Boundary Committee: s 62(2). If the Electoral Commission and the Electoral Commission's

Boundary Committee fail to agree on the provision to be included in a scheme under s 62, the Secretary of State may by order specify the provision to be included in the scheme: s 62(3). A scheme under s 62 must be made on or before (a) 31 December 2009, or (b) such later date as the Secretary of State may by order specify: s 62(4). A transfer under a scheme under s 62 has effect in accordance with the terms of the scheme: s 62(5). A transfer under a scheme under s 62 may have effect (i) whether or not the property, rights and liabilities would otherwise be capable of being transferred; (ii) without any instrument or other formality being required: s 62(6). The rights and liabilities which may be transferred by a scheme under s 62 include rights and liabilities in relation to a contract of employment: s 62(7). The Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) apply to the transfer under a scheme under the Local Democracy, Economic Development and Construction Act 2009 s 62 (whether or not the transfer is a relevant transfer for the purposes of those regulations): s 62(8). A scheme under s 62 may define the property, rights and liabilities to be transferred by specifying or describing them: s 62(9). Further provision with respect to transfer schemes is made: see s 62(10)-(13).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(iii) The Commission's Functions relating to the Review of Electoral Boundaries/A. ESTABLISHMENT AND CONSTITUTION OF THE BOUNDARY COMMITTEES/61. Appointment of Deputy Electoral Commissioners and Assistant Electoral Commissioners.

61. Appointment of Deputy Electoral Commissioners and Assistant Electoral Commissioners.

The Electoral Commission¹ may appoint Deputy Electoral Commissioners². The number of Deputy Electoral Commissioners must not exceed such number as the Commission, with the agreement of the Speaker's Committee³, may determine⁴. However, a person is not to be appointed as a Deputy Electoral Commissioner if he is a person who⁵ may not be appointed as an Electoral Commissioner⁶. The functions⁷ of a Deputy Electoral Commissioner are limited to serving as a member of any Boundary Committee to which he is appointed⁸.

The Electoral Commission may appoint one or more Assistant Electoral Commissioners to inquire into, and report to the Commission or a Boundary Committee on, such matters as the Commission or a Boundary Committee thinks fit⁹. However, a person is not to be appointed as an Assistant Electoral Commissioner if he is a person who¹⁰ may not be appointed as an Electoral Commissioner¹¹.

1 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 Political Parties, Elections and Referendums Act 2000 s 15(1). Deputy Electoral Commissioners are disqualified for membership of the House of Commons: House of Commons Disqualification Act 1975 s 1(1), Sch 1 Pt III (amended by the Political Parties, Elections and Referendums Act 2000 s 158(1), Sch 21 para 3(b)). See further PARLIAMENT vol 78 (2010) PARAS 905, 908.

3 As to the Speaker's Committee see PARA 44 ante.

4 Political Parties, Elections and Referendums Act 2000 s 15(2).

5 Ie by virtue of ibid s 3(4) (see PARA 32 ante).

6 Ibid s 15(3).

7 As to the meaning of 'functions' see PARA 31 note 2 ante.

8 Political Parties, Elections and Referendums Act 2000 s 15(4). Further provision about Deputy Electoral Commissioners is made by s 1(6), Sch 1 para 6 (see PARAS 62-63 post): s 15(5). As to the Boundary Committees see PARA 60 ante.

9 Ibid Sch 1 para 7(1).

10 Ie by virtue of ibid s 3(4) (see PARA 32 ante).

11 Ibid Sch 1 para 7(2).

UPDATE

60-66 The Commission's Functions relating to the Review of Electoral Boundaries

TEXT AND NOTES--Replaced. Political Parties, Elections and Referendums Act 2000 ss 14-20 repealed: Local Democracy, Economic Development and Construction Act 2009 s 61(2), (3), s 66(b), Sch 7 Pt 3.

The old Local Government Boundary Commission for England was established under the Local Government Act 1972 s 46, and was the body responsible for reviewing the boundaries of the local government areas in England and their electoral arrangements. It was replaced by the Local Government Commission for England, which was established under the Local Government Act 1992 s 12. On 1 April 2002, the functions of the Local Government Commission for England were transferred to the Electoral Commission by virtue of the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962. On the same day, the Boundary Committee for England was established under the Political Parties, Elections and Referendums Act 2000 s 14, which was a statutory committee of the Electoral Commission. The new Local Government Boundary Commission for England is established by the Local Democracy, Economic Development and Construction Act 2009 s 55 and provides for the transfer to it of all the boundary-related functions of the Electoral Commission and the Boundary Commission for England.

The duty of the Electoral Commission to establish Boundary Committees is abolished so far as relating to England: Local Democracy, Economic Development and Construction Act 2009 s 61(1). The functions of the Electoral Commission's Boundary Committee relating to boundary change are transferred to the Local Government Boundary Commission for England: Local Democracy, Economic Development and Construction Act 2009 s 60(1).

The Local Government Boundary Commission for England is established as a body corporate (Local Democracy, Economic Development and Construction Act 2009 s 55(1)), is not to be regarded as a servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown (s 55(2)), and its property is not to be regarded as the property of the Crown or as property held on behalf of the Crown (s 55(3)). The Local Government Boundary Commission for England may do anything, except borrow money, which is calculated to facilitate, or is incidental or conducive to, the exercise of its functions (s 55(4)). Further provision about the constitution and administration of the Local Government Boundary Commission for England is made: Local Democracy, Economic Development and Construction Act 2009 Sch 1. The Local Government Boundary Commission for England must from time to time, and may at any time, conduct a review of the area of each principal council, and recommend whether a change should be made to the electoral arrangements for that area: Local Democracy, Economic Development and Construction Act 2009 s 56(1), (2). 'Principal council' means a county council in England, a district council, the Council of the Isles of Scilly and a London borough council: s 56(3). As to the meaning of 'electoral arrangements' in relation to the area of a principal council, see s 56(4). Where the Local Government Boundary Commission for England recommends that a change should be made to the electoral arrangements for the area of a principal council, the Commission must also recommend whether, in consequence, a change should be made to the electoral arrangements for the area of any parish council, where that area is within the area of the principal council: s 56(5). As to the meaning of 'electoral arrangements' in relation to the area of a parish council, see s 56(6). A principal council or parish council must, if requested by the Local Government Boundary Commission for England to do so, provide, by such date as it may specify, with any information that it may reasonably require in connection with its functions under s 56: s 56(9). Further provision relating to recommendations under s 56 is made: Local Democracy, Economic Development and Construction Act 2009 Sch 2.

A principal council which falls within the Local Democracy, Economic Development and Construction Act 2009 s 57(3) may request the Local Government Boundary Commission for England to conduct a review of the council's area under s 56(2)(a) and make recommendations as to single-member electoral areas under s 56(2)(b): Local Democracy, Economic Development and Construction Act 2009 s 57(1).

'Recommendations as to single-member electoral areas' means recommendations, for each electoral area in the area of a principal council, as to whether the electoral area should return one member of the council: s 57(2). A principal council falls within s 57(3) if it is not the case that each of the electoral areas in the council's area returns one member of the council and the council is subject to a scheme for whole-council elections: s 57(3), (4). Further provision is made: see s 57(5)-(8).

As soon as reasonably practicable after deciding to conduct a review under s 56, the Local Government Boundary Commission for England must take such steps as it considers sufficient to secure that persons who may be interested in the review are informed of the fact that the review is to take place and any particular matters to which the review is to relate: Local Democracy, Economic Development and Construction Act 2009 s 58(1). In conducting such a review, the Local Government Boundary Commission for England must (1) prepare and publish draft recommendations; (2) take such steps as it considers sufficient to secure that persons who may be interested in the recommendations are informed to them and of the period within which representations with respect to them may be made; and (3) take into consideration any representations made to the Local Government Boundary Commission for England within that period: s 58(2). The Local Government Boundary Commission for England may at any time before publishing draft recommendations under s 58(2)(a) consult such persons as it considers appropriate: s 58(3). As soon as practicable after conducting a review, the Local Government Boundary Commission for England must publish a report stating its recommendations, and take such steps as it considers sufficient to secure that persons who may be interest in the recommendations are informed of them: s 58(4). Where a report under s 58(4) contains recommendations for electoral changes, the Local Government Boundary Commission for England may by order give effect to all or any of the recommendations: Local Democracy, Economic Development and Construction Act 2009 s 59(1). Further provision as to the implementation of review recommendations is made: see s 59(2)-(9).

For the purpose of the exercise of functions conferred on the Local Government Boundary Commission for England by or under the Local Democracy, Economic Development and Construction Act 2009 Pt 3 (ss 55-68), the Electoral Commission must make one or more schemes for the transfer of property, rights and liabilities from the Electoral Commission to the Local Government Boundary Commission for England: Local Democracy, Economic Development and Construction Act 2009 s 62(1). The Electoral Commission may not make a scheme under s 62 (1) without consulting the Secretary of State; (2) without the consent of the Electoral Commission's Boundary Committee: s 62(2). If the Electoral Commission and the Electoral Commission's Boundary Committee fail to agree on the provision to be included in a scheme under s 62, the Secretary of State may by order specify the provision to be included in the scheme: s 62(3). A scheme under s 62 must be made on or before (a) 31 December 2009, or (b) such later date as the Secretary of State may by order specify: s 62(4). A transfer under a scheme under s 62 has effect in accordance with the terms of the scheme: s 62(5). A transfer under a scheme under s 62 may have effect (i) whether or not the property, rights and liabilities would otherwise be capable of being transferred; (ii) without any instrument or other formality being required: s 62(6). The rights and liabilities which may be transferred by a scheme under s 62 include rights and liabilities in relation to a contract of employment: s 62(7). The Transfer of Undertakings

(Protection of Employment) Regulations 2006 (SI 2006/246) apply to the transfer under a scheme under the Local Democracy, Economic Development and Construction Act 2009 s 62 (whether or not the transfer is a relevant transfer for the purposes of those regulations): s 62(8). A scheme under s 62 may define the property, rights and liabilities to be transferred by specifying or describing them: s 62(9). Further provision with respect to transfer schemes is made: see s 62(10)-(13).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(iii) The Commission's Functions relating to the Review of Electoral Boundaries/A. ESTABLISHMENT AND CONSTITUTION OF THE BOUNDARY COMMITTEES/62. Tenure of Deputy Electoral Commissioners and Assistant Electoral Commissioners.

62. Tenure of Deputy Electoral Commissioners and Assistant Electoral Commissioners.

A Deputy Electoral Commissioner¹ holds and vacates his office in accordance with the terms of his appointment² but ceases to hold office on the occurrence of such an event as terminates the tenure of an Electoral Commissioner³. A Deputy Electoral Commissioner may be removed from office by the Electoral Commission⁴, but only if it is satisfied that one or more of the following grounds is made out in his case⁵:

- 66 (1) he has failed to discharge the functions⁶ of his office for a continuous period of at least three months⁷;
- 67 (2) he has failed to comply with the terms of his appointment⁸;
- 68 (3) he has been convicted of a criminal offence⁹;
- 69 (4) he is an undischarged bankrupt or his estate has been sequestrated in Scotland and he has not been discharged¹⁰;
- 70 (5) he has made an arrangement or composition contract with, or has granted a trust deed for, his creditors¹¹;
- 71 (6) he is otherwise unfit to hold his office or unable to carry out its functions¹².

An Assistant Electoral Commissioner¹³ is appointed either for a fixed term or for the purposes of a particular inquiry¹⁴. He holds and vacates office in accordance with the terms of his appointment¹⁵ but ceases to hold office on the occurrence of such an event as terminates the tenure of an Electoral Commissioner¹⁶.

1 As to the appointment of Deputy Electoral Commissioners see PARA 61 ante.

2 Political Parties, Elections and Referendums Act 2000 s 1(6), Sch 1 para 6(1).

3 Ibid Sch 1 para 6(2). The text refers to the occurrence of such an event as is mentioned in any of Sch 1 para 3(3)(a)-(d): see PARA 33 ante.

4 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

5 Political Parties, Elections and Referendums Act 2000 Sch 1 para 6(3).

6 As to the meaning of 'functions' see PARA 31 note 2 ante.

7 Political Parties, Elections and Referendums Act 2000 Sch 1 para 6(3)(a).

8 Ibid Sch 1 para 6(3)(b).

9 Ibid Sch 1 para 6(3)(c).

10 Ibid Sch 1 para 6(3)(d). As to discharge from bankruptcy see BANKRUPTCY AND INDIVIDUAL INSOLVENCY vol 3(2) (2002 Reissue) PARA 629 et seq.

11 Ibid Sch 1 para 6(3)(e). As to compositions and arrangements with creditors see BANKRUPTCY AND INDIVIDUAL INSOLVENCY vol 3(2) (2002 Reissue) PARA 859 et seq.

12 Ibid Sch 1 para 6(3)(f).

13 As to the appointment of Assistant Electoral Commissioners see PARA 61 ante.

14 Political Parties, Elections and Referendums Act 2000 Sch 1 para 7(3)(a).

15 Ibid Sch 1 para 7(3)(b).

16 Ibid Sch 1 para 7(4). The text refers to the occurrence of such an event as is mentioned in any of Sch 1 para 3(3)(a)-(d): see PARA 33 ante.

UPDATE

60-66 The Commission's Functions relating to the Review of Electoral Boundaries

TEXT AND NOTES--Replaced. Political Parties, Elections and Referendums Act 2000 ss 14-20 repealed: Local Democracy, Economic Development and Construction Act 2009 s 61(2), (3), s 66(b), Sch 7 Pt 3.

The old Local Government Boundary Commission for England was established under the Local Government Act 1972 s 46, and was the body responsible for reviewing the boundaries of the local government areas in England and their electoral arrangements. It was replaced by the Local Government Commission for England, which was established under the Local Government Act 1992 s 12. On 1 April 2002, the functions of the Local Government Commission for England were transferred to the Electoral Commission by virtue of the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962. On the same day, the Boundary Committee for England was established under the Political Parties, Elections and Referendums Act 2000 s 14, which was a statutory committee of the Electoral Commission. The new Local Government Boundary Commission for England is established by the Local Democracy, Economic Development and Construction Act 2009 s 55 and provides for the transfer to it of all the boundary-related functions of the Electoral Commission and the Boundary Commission for England.

The duty of the Electoral Commission to establish Boundary Committees is abolished so far as relating to England: Local Democracy, Economic Development and Construction Act 2009 s 61(1). The functions of the Electoral Commission's Boundary Committee relating to boundary change are transferred to the Local Government Boundary Commission for England: Local Democracy, Economic Development and Construction Act 2009 s 60(1).

The Local Government Boundary Commission for England is established as a body corporate (Local Democracy, Economic Development and Construction Act 2009 s 55(1)), is not to be regarded as a servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown (s 55(2)), and its property is not to be regarded as the property of the Crown or as property held on behalf of the Crown (s 55(3)). The Local Government Boundary Commission for England may do anything, except borrow money, which is calculated to facilitate, or is incidental or conducive to, the exercise of its functions (s 55(4)). Further provision about the constitution and administration of the Local Government Boundary Commission for England is made: Local Democracy, Economic Development and Construction Act 2009 Sch 1. The Local Government Boundary Commission for England must from time to time, and may at any time, conduct a review of the area of each principal council, and recommend whether a change should be made to the electoral arrangements for that area: Local Democracy, Economic Development and Construction Act 2009 s 56(1), (2). 'Principal council' means a county council in England, a district council, the Council of the Isles of Scilly and a London borough council: s 56(3). As to the meaning of 'electoral

arrangements' in relation to the area of a principal council, see s 56(4). Where the Local Government Boundary Commission for England recommends that a change should be made to the electoral arrangements for the area of a principal council, the Commission must also recommend whether, in consequence, a change should be made to the electoral arrangements for the area of any parish council, where that area is within the area of the principal council: s 56(5). As to the meaning of 'electoral arrangements' in relation to the area of a parish council, see s 56(6). A principal council or parish council must, if requested by the Local Government Boundary Commission for England to do so, provide, by such date as it may specify, with any information that it may reasonably require in connection with its functions under s 56: s 56(9). Further provision relating to recommendations under s 56 is made: Local Democracy, Economic Development and Construction Act 2009 Sch 2.

A principal council which falls within the Local Democracy, Economic Development and Construction Act 2009 s 57(3) may request the Local Government Boundary Commission for England to conduct a review of the council's area under s 56(2)(a) and make recommendations as to single-member electoral areas under s 56(2)(b): Local Democracy, Economic Development and Construction Act 2009 s 57(1).

'Recommendations as to single-member electoral areas' means recommendations, for each electoral area in the area of a principal council, as to whether the electoral area should return one member of the council: s 57(2). A principal council falls within s 57(3) if it is not the case that each of the electoral areas in the council's area returns one member of the council and the council is subject to a scheme for whole-council elections: s 57(3), (4). Further provision is made: see s 57(5)-(8).

As soon as reasonably practicable after deciding to conduct a review under s 56, the Local Government Boundary Commission for England must take such steps as it considers sufficient to secure that persons who may be interested in the review are informed of the fact that the review is to take place and any particular matters to which the review is to relate: Local Democracy, Economic Development and Construction Act 2009 s 58(1). In conducting such a review, the Local Government Boundary Commission for England must (1) prepare and publish draft recommendations; (2) take such steps as it considers sufficient to secure that persons who may be interested in the recommendations are informed of them and of the period within which representations with respect to them may be made; and (3) take into consideration any representations made to the Local Government Boundary Commission for England within that period: s 58(2). The Local Government Boundary Commission for England may at any time before publishing draft recommendations under s 58(2)(a) consult such persons as it considers appropriate: s 58(3). As soon as practicable after conducting a review, the Local Government Boundary Commission for England must publish a report stating its recommendations, and take such steps as it considers sufficient to secure that persons who may be interested in the recommendations are informed of them: s 58(4). Where a report under s 58(4) contains recommendations for electoral changes, the Local Government Boundary Commission for England may by order give effect to all or any of the recommendations: Local Democracy, Economic Development and Construction Act 2009 s 59(1). Further provision as to the implementation of review recommendations is made: see s 59(2)-(9).

For the purpose of the exercise of functions conferred on the Local Government Boundary Commission for England by or under the Local Democracy, Economic Development and Construction Act 2009 Pt 3 (ss 55-68), the Electoral Commission must make one or more schemes for the transfer of property, rights and liabilities from the Electoral Commission to the Local Government Boundary Commission for England: Local Democracy, Economic Development and Construction Act 2009 s 62(1). The Electoral Commission may not make a scheme under s 62 (1) without consulting the

Secretary of State; (2) without the consent of the Electoral Commission's Boundary Committee: s 62(2). If the Electoral Commission and the Electoral Commission's Boundary Committee fail to agree on the provision to be included in a scheme under s 62, the Secretary of State may by order specify the provision to be included in the scheme: s 62(3). A scheme under s 62 must be made on or before (a) 31 December 2009, or (b) such later date as the Secretary of State may by order specify: s 62(4). A transfer under a scheme under s 62 has effect in accordance with the terms of the scheme: s 62(5). A transfer under a scheme under s 62 may have effect (i) whether or not the property, rights and liabilities would otherwise be capable of being transferred; (ii) without any instrument or other formality being required: s 62(6). The rights and liabilities which may be transferred by a scheme under s 62 include rights and liabilities in relation to a contract of employment: s 62(7). The Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) apply to the transfer under a scheme under the Local Democracy, Economic Development and Construction Act 2009 s 62 (whether or not the transfer is a relevant transfer for the purposes of those regulations): s 62(8). A scheme under s 62 may define the property, rights and liabilities to be transferred by specifying or describing them: s 62(9). Further provision with respect to transfer schemes is made: see s 62(10)-(13).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(iii) The Commission's Functions relating to the Review of Electoral Boundaries/A. ESTABLISHMENT AND CONSTITUTION OF THE BOUNDARY COMMITTEES/63. Salaries, pensions etc of Deputy Electoral Commissioners and Assistant Electoral Commissioners.

63. Salaries, pensions etc of Deputy Electoral Commissioners and Assistant Electoral Commissioners.

The Electoral Commission¹ must pay to a Deputy Electoral Commissioner² such remuneration, and any such allowances or expenses, as may be provided for by or under the terms of his appointment³. If the terms of his appointment as Deputy Electoral Commissioner so provide, the Commission must also: (1) pay towards the provision of superannuation benefits for or in respect of a Deputy Electoral Commissioner or former Deputy Electoral Commissioner such amounts as may be provided for by or under those terms⁴; (2) pay such pension⁵ to or in respect of a former Deputy Electoral Commissioner as may be so provided⁶.

The Commission must pay an Assistant Electoral Commissioner⁷ such remuneration, and any such allowances or expenses, as may be provided for by or under the terms of his appointment⁸.

1 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 As to the appointment of Deputy Electoral Commissioners see PARA 61 ante.

3 Political Parties, Elections and Referendums Act 2000 s 1(6), Sch 1 para 6(4).

4 Ibid Sch 1 para 6(5)(a).

5 For these purposes, 'pension' includes allowance and gratuity: ibid Sch 1 para 6(6).

6 Ibid Sch 1 para 6(5)(b).

7 As to the appointment of Assistant Electoral Commissioners see PARA 61 ante.

8 Political Parties, Elections and Referendums Act 2000 Sch 1 para 7(5).

UPDATE

60-66 The Commission's Functions relating to the Review of Electoral Boundaries

TEXT AND NOTES--Replaced. Political Parties, Elections and Referendums Act 2000 ss 14-20 repealed: Local Democracy, Economic Development and Construction Act 2009 s 61(2), (3), s 66(b), Sch 7 Pt 3.

The old Local Government Boundary Commission for England was established under the Local Government Act 1972 s 46, and was the body responsible for reviewing the boundaries of the local government areas in England and their electoral arrangements. It was replaced by the Local Government Commission for England, which was established under the Local Government Act 1992 s 12. On 1 April 2002, the functions of the Local Government Commission for England were transferred to the Electoral Commission by virtue of the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962. On the same day, the Boundary Committee for

England was established under the Political Parties, Elections and Referendums Act 2000 s 14, which was a statutory committee of the Electoral Commission. The new Local Government Boundary Commission for England is established by the Local Democracy, Economic Development and Construction Act 2009 s 55 and provides for the transfer to it of all the boundary-related functions of the Electoral Commission and the Boundary Commission for England.

The duty of the Electoral Commission to establish Boundary Committees is abolished so far as relating to England: Local Democracy, Economic Development and Construction Act 2009 s 61(1). The functions of the Electoral Commission's Boundary Committee relating to boundary change are transferred to the Local Government Boundary Commission for England: Local Democracy, Economic Development and Construction Act 2009 s 60(1).

The Local Government Boundary Commission for England is established as a body corporate (Local Democracy, Economic Development and Construction Act 2009 s 55(1)), is not to be regarded as a servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown (s 55(2)), and its property is not to be regarded as the property of the Crown or as property held on behalf of the Crown (s 55(3)). The Local Government Boundary Commission for England may do anything, except borrow money, which is calculated to facilitate, or is incidental or conducive to, the exercise of its functions (s 55(4)). Further provision about the constitution and administration of the Local Government Boundary Commission for England is made: Local Democracy, Economic Development and Construction Act 2009 Sch 1. The Local Government Boundary Commission for England must from time to time, and may at any time, conduct a review of the area of each principal council, and recommend whether a change should be made to the electoral arrangements for that area: Local Democracy, Economic Development and Construction Act 2009 s 56(1), (2). 'Principal council' means a county council in England, a district council, the Council of the Isles of Scilly and a London borough council: s 56(3). As to the meaning of 'electoral arrangements' in relation to the area of a principal council, see s 56(4). Where the Local Government Boundary Commission for England recommends that a change should be made to the electoral arrangements for the area of a principal council, the Commission must also recommend whether, in consequence, a change should be made to the electoral arrangements for the area of any parish council, where that area is within the area of the principal council: s 56(5). As to the meaning of 'electoral arrangements' in relation to the area of a parish council, see s 56(6). A principal council or parish council must, if requested by the Local Government Boundary Commission for England to do so, provide, by such date as it may specify, with any information that it may reasonably require in connection with its functions under s 56: s 56(9). Further provision relating to recommendations under s 56 is made: Local Democracy, Economic Development and Construction Act 2009 Sch 2.

A principal council which falls within the Local Democracy, Economic Development and Construction Act 2009 s 57(3) may request the Local Government Boundary Commission for England to conduct a review of the council's area under s 56(2)(a) and make recommendations as to single-member electoral areas under s 56(2)(b): Local Democracy, Economic Development and Construction Act 2009 s 57(1). 'Recommendations as to single-member electoral areas' means recommendations, for each electoral area in the area of a principal council, as to whether the electoral area should return one member of the council: s 57(2). A principal council falls within s 57(3) if it is not the case that each of the electoral areas in the council's area returns one member of the council and the council is subject to a scheme for whole-council elections: s 57(3), (4). Further provision is made: see s 57(5)-(8).

As soon as reasonably practicable after deciding to conduct a review under s 56, the Local Government Boundary Commission for England must take such steps as it considers sufficient to secure that persons who may be interested in the review are informed of the fact that the review is to take place and any particular matters to which the review is to relate: Local Democracy, Economic Development and Construction Act 2009 s 58(1). In conducting such a review, the Local Government Boundary Commission for England must (1) prepare and publish draft recommendations; (2) take such steps as it considers sufficient to secure that persons who may be interested in the recommendations are informed to them and of the period within which representations with respect to them may be made; and (3) take into consideration any representations made to the Local Government Boundary Commission for England within that period: s 58(2). The Local Government Boundary Commission for England may at any time before publishing draft recommendations under s 58(2)(a) consult such persons as it considers appropriate: s 58(3). As soon as practicable after conducting a review, the Local Government Boundary Commission for England must publish a report stating its recommendations, and take such steps as it considered sufficient to secure that persons who may be interest in the recommendations are informed of them: s 58(4). Where a report under s 58(4) contains recommendations for electoral changes, the Local Government Boundary Commission for England may by order give effect to all or any of the recommendations: Local Democracy, Economic Development and Construction Act 2009 s 59(1). Further provision as to the implementation of review recommendations is made: see s 59(2)-(9).

For the purpose of the exercise of functions conferred on the Local Government Boundary Commission for England by or under the Local Democracy, Economic Development and Construction Act 2009 Pt 3 (ss 55-68), the Electoral Commission must make one or more schemes for the transfer of property, rights and liabilities from the Electoral Commission to the Local Government Boundary Commission for England: Local Democracy, Economic Development and Construction Act 2009 s 62(1). The Electoral Commission may not make a scheme under s 62 (1) without consulting the Secretary of State; (2) without the consent of the Electoral Commission's Boundary Committee: s 62(2). If the Electoral Commission and the Electoral Commission's Boundary Committee fail to agree on the provision to be included in a scheme under s 62, the Secretary of State may by order specify the provision to be included in the scheme: s 62(3). A scheme under s 62 must be made on or before (a) 31 December 2009, or (b) such later date as the Secretary of State may by order specify: s 62(4). A transfer under a scheme under s 62 has effect in accordance with the terms of the scheme: s 62(5). A transfer under a scheme under s 62 may have effect (i) whether or not the property, rights and liabilities would otherwise be capable of being transferred; (ii) without any instrument or other formality being required: s 62(6). The rights and liabilities which may be transferred by a scheme under s 62 include rights and liabilities in relation to a contract of employment: s 62(7). The Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) apply to the transfer under a scheme under the Local Democracy, Economic Development and Construction Act 2009 s 62 (whether or not the transfer is a relevant transfer for the purposes of those regulations): s 62(8). A scheme under s 62 may define the property, rights and liabilities to be transferred by specifying or describing them: s 62(9). Further provision with respect to transfer schemes is made: see s 62(10)-(13).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(iii) The Commission's Functions relating to the Review of Electoral Boundaries/B. TRANSFER OF FUNCTIONS AND PROPERTY FROM THE BOUNDARY COMMISSIONS/64. Power to transfer functions and property from the parliamentary Boundary Commissions.

B. TRANSFER OF FUNCTIONS AND PROPERTY FROM THE BOUNDARY COMMISSIONS

64. Power to transfer functions and property from the parliamentary Boundary Commissions.

As from a day to be appointed, the following provisions have effect¹.

The functions² of each of the Boundary Commissions³ with respect to keeping under review, and reporting on, representation in the House of Commons of the part of the United Kingdom with which it is concerned⁴ are transferred to the Electoral Commission⁵. The functions of each of the Boundary Commissions with respect to the carrying out of reviews under the Parliamentary Constituencies Act 1986 with respect to a particular part of the United Kingdom⁶, and the submission to the Electoral Commission of proposed recommendations following any such review⁷, are conferred on the Boundary Committee established⁸ for that part of the United Kingdom⁹. A Boundary Commission ceases to exist at such time as the Secretary of State¹⁰, being satisfied that it has no further functions to perform, by order directs¹¹.

All property, rights and liabilities to which a Boundary Commission is entitled or subject when its functions are transferred to the Electoral Commission¹² are transferred to and vest in the Electoral Commission¹³. A certificate issued by the Secretary of State that any property has been so transferred is conclusive evidence of the transfer¹⁴.

1 As from a day to be appointed under the Political Parties, Elections and Referendums Act 2000 s 163(2), the transfer of functions set out in s 16 (see the text and notes 2-11 *infra*) is effected through amendments to the Parliamentary Constituencies Act 1986 and other Acts: see the Political Parties, Elections and Referendums Act 2000 s 16(1), (2), Sch 3 Pts I, II. In so far as conferring power to make an order under s 16(3) (see the text and notes 10-11 *infra*), the appointed day is 30 November 2000 (see s 163(3)(d)) but, at the date at which this volume states the law, no day had been appointed under s 163(2) for remaining purposes.

Section 17 (see the text and notes 12-14 *infra*) comes into force as from a day to be appointed under s 163(2). At the date at which this volume states the law, no such day had been appointed.

2 As to the meaning of 'functions' see PARA 31 note 2 *ante*.

3 For these purposes, 'Boundary Commission' means one of the Boundary Commissions constituted under the Parliamentary Constituencies Act 1986: Political Parties, Elections and Referendums Act 2000 s 16(4). See note 1 *supra*. As to the Boundary Commissions so constituted see PARA 67 *et seq post*.

4 I.e the functions of the Boundary Commissions under the Parliamentary Constituencies Act 1986 s 3(1), (3) (prospectively amended) (see PARA 77 *et seq post*). For the meaning of 'United Kingdom' see PARA 13 note 1 *ante*.

5 Political Parties, Elections and Referendums Act 2000 s 16(1)(a). See note 1 *supra*. As to the establishment and constitution of the Electoral Commission see PARA 31 *et seq ante*. As to the transfer of functions from the Boundary Commissions which deal with changes in local government boundaries see PARAS 65-66 *post*.

6 *Ibid* s 16(1)(b)(i). See note 1 *supra*.

7 *Ibid* s 16(1)(b)(ii). See note 1 *supra*.

8 le established under *ibid* s 14 (see PARA 60 ante).

9 *Ibid* s 16(1)(b). See note 1 supra.

10 As to the Secretary of State see PARA 2 ante.

11 Political Parties, Elections and Referendums Act 2000 s 16(3). See note 1 supra. As to the making of orders under the Political Parties, Elections and Referendums Act 2000 generally see PARA 31 note 2 ante. At the date at which this volume states the law, no order had been made under s 16(3).

12 le by virtue of *ibid* s 16(1) (see the text and notes 2-11 supra). See note 1 supra.

13 *Ibid* ss 17(1), 160(1)). The property, rights and liabilities mentioned in the text are transferred to and vest in the Electoral Commission by virtue of s 17(1). Section 17(1) has effect in relation to property, rights or liabilities to which it applies despite any provision (of whatever nature) which would otherwise prevent or restrict the transfer of the property, rights or liabilities: see s 17(3). See note 1 supra. As to the meaning of 'property' see PARA 31 note 8 ante.

14 *Ibid* s 17(2). See note 1 supra.

UPDATE

60-66 The Commission's Functions relating to the Review of Electoral Boundaries

TEXT AND NOTES--Replaced. Political Parties, Elections and Referendums Act 2000 ss 14-20 repealed: Local Democracy, Economic Development and Construction Act 2009 s 61(2), (3), s 66(b), Sch 7 Pt 3.

The old Local Government Boundary Commission for England was established under the Local Government Act 1972 s 46, and was the body responsible for reviewing the boundaries of the local government areas in England and their electoral arrangements. It was replaced by the Local Government Commission for England, which was established under the Local Government Act 1992 s 12. On 1 April 2002, the functions of the Local Government Commission for England were transferred to the Electoral Commission by virtue of the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962. On the same day, the Boundary Committee for England was established under the Political Parties, Elections and Referendums Act 2000 s 14, which was a statutory committee of the Electoral Commission. The new Local Government Boundary Commission for England is established by the Local Democracy, Economic Development and Construction Act 2009 s 55 and provides for the transfer to it of all the boundary-related functions of the Electoral Commission and the Boundary Commission for England.

The duty of the Electoral Commission to establish Boundary Committees is abolished so far as relating to England: Local Democracy, Economic Development and Construction Act 2009 s 61(1). The functions of the Electoral Commission's Boundary Committee relating to boundary change are transferred to the Local Government Boundary Commission for England: Local Democracy, Economic Development and Construction Act 2009 s 60(1).

The Local Government Boundary Commission for England is established as a body corporate (Local Democracy, Economic Development and Construction Act 2009 s 55(1)), is not to be regarded as a servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown (s 55(2)), and its property is not to be regarded as the property of the Crown or as property held on behalf of the Crown (s 55(3)). The Local Government Boundary Commission for England may do anything, except borrow money, which is calculated to facilitate, or is incidental or conducive to, the exercise of its functions (s 55(4)). Further provision about the constitution and

administration of the Local Government Boundary Commission for England is made: Local Democracy, Economic Development and Construction Act 2009 Sch 1. The Local Government Boundary Commission for England must from time to time, and may at any time, conduct a review of the area of each principal council, and recommend whether a change should be made to the electoral arrangements for that area: Local Democracy, Economic Development and Construction Act 2009 s 56(1), (2). 'Principal council' means a county council in England, a district council, the Council of the Isles of Scilly and a London borough council: s 56(3). As to the meaning of 'electoral arrangements' in relation to the area of a principal council, see s 56(4). Where the Local Government Boundary Commission for England recommends that a change should be made to the electoral arrangements for the area of a principal council, the Commission must also recommend whether, in consequence, a change should be made to the electoral arrangements for the area of any parish council, where that area is within the area of the principal council: s 56(5). As to the meaning of 'electoral arrangements' in relation to the area of a parish council, see s 56(6). A principal council or parish council must, if requested by the Local Government Boundary Commission for England to do so, provide, by such date as it may specify, with any information that it may reasonably require in connection with its functions under s 56: s 56(9). Further provision relating to recommendations under s 56 is made: Local Democracy, Economic Development and Construction Act 2009 Sch 2.

A principal council which falls within the Local Democracy, Economic Development and Construction Act 2009 s 57(3) may request the Local Government Boundary Commission for England to conduct a review of the council's area under s 56(2)(a) and make recommendations as to single-member electoral areas under s 56(2)(b): Local Democracy, Economic Development and Construction Act 2009 s 57(1).

'Recommendations as to single-member electoral areas' means recommendations, for each electoral area in the area of a principal council, as to whether the electoral area should return one member of the council: s 57(2). A principal council falls within s 57(3) if it is not the case that each of the electoral areas in the council's area returns one member of the council and the council is subject to a scheme for whole-council elections: s 57(3), (4). Further provision is made: see s 57(5)-(8).

As soon as reasonably practicable after deciding to conduct a review under s 56, the Local Government Boundary Commission for England must take such steps as it considers sufficient to secure that persons who may be interested in the review are informed of the fact that the review is to take place and any particular matters to which the review is to relate: Local Democracy, Economic Development and Construction Act 2009 s 58(1). In conducting such a review, the Local Government Boundary Commission for England must (1) prepare and publish draft recommendations; (2) take such steps as it considers sufficient to secure that persons who may be interested in the recommendations are informed of them and of the period within which representations with respect to them may be made; and (3) take into consideration any representations made to the Local Government Boundary Commission for England within that period: s 58(2). The Local Government Boundary Commission for England may at any time before publishing draft recommendations under s 58(2)(a) consult such persons as it considers appropriate: s 58(3). As soon as practicable after conducting a review, the Local Government Boundary Commission for England must publish a report stating its recommendations, and take such steps as it considers sufficient to secure that persons who may be interested in the recommendations are informed of them: s 58(4). Where a report under s 58(4) contains recommendations for electoral changes, the Local Government Boundary Commission for England may by order give effect to all or any of the recommendations: Local Democracy, Economic Development and Construction Act

2009 s 59(1). Further provision as to the implementation of review recommendations is made: see s 59(2)-(9).

For the purpose of the exercise of functions conferred on the Local Government Boundary Commission for England by or under the Local Democracy, Economic Development and Construction Act 2009 Pt 3 (ss 55-68), the Electoral Commission must make one or more schemes for the transfer of property, rights and liabilities from the Electoral Commission to the Local Government Boundary Commission for England: Local Democracy, Economic Development and Construction Act 2009 s 62(1). The Electoral Commission may not make a scheme under s 62 (1) without consulting the Secretary of State; (2) without the consent of the Electoral Commission's Boundary Committee: s 62(2). If the Electoral Commission and the Electoral Commission's Boundary Committee fail to agree on the provision to be included in a scheme under s 62, the Secretary of State may by order specify the provision to be included in the scheme: s 62(3). A scheme under s 62 must be made on or before (a) 31 December 2009, or (b) such later date as the Secretary of State may by order specify: s 62(4). A transfer under a scheme under s 62 has effect in accordance with the terms of the scheme: s 62(5). A transfer under a scheme under s 62 may have effect (i) whether or not the property, rights and liabilities would otherwise be capable of being transferred; (ii) without any instrument or other formality being required: s 62(6). The rights and liabilities which may be transferred by a scheme under s 62 include rights and liabilities in relation to a contract of employment: s 62(7). The Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) apply to the transfer under a scheme under the Local Democracy, Economic Development and Construction Act 2009 s 62 (whether or not the transfer is a relevant transfer for the purposes of those regulations): s 62(8). A scheme under s 62 may define the property, rights and liabilities to be transferred by specifying or describing them: s 62(9). Further provision with respect to transfer schemes is made: see s 62(10)-(13).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(iii) The Commission's Functions relating to the Review of Electoral Boundaries/B. TRANSFER OF FUNCTIONS AND PROPERTY FROM THE BOUNDARY COMMISSIONS/65. Transfer of functions from the Local Government Commission for England.

65. Transfer of functions from the Local Government Commission for England.

The Secretary of State¹ has power to make provision by order² for and in connection with transferring to any extent to the Electoral Commission³, or to the Boundary Committee for England⁴, any of the functions⁵ of the Local Government Commission for England (the 'English Commission')⁶. This includes power to make provision for:

- 72 (1) transferring (to any extent) any relevant function⁷ of the Secretary of State to the Electoral Commission⁸;
- 73 (2) terminating (to any extent) any relevant function of the Secretary of State or the English Commission without transferring it to the Electoral Commission or the Boundary Committee for England⁹;
- 74 (3) modifying¹⁰ (to any extent) any relevant function of the Secretary of State¹¹;
- 75 (4) preventing the Secretary of State from exercising any relevant function (including one so modified) unless he has sought and obtained such advice of the Electoral Commission as may be prescribed by the order, or authorising him to seek such advice in connection with the exercise of any such function¹²;
- 76 (5) modifying any relevant or other function transferred by an order¹³ so far as it is to be exercisable by the Electoral Commission or the Boundary Committee for England¹⁴;
- 77 (6) conferring on the Electoral Commission functions with respect to electoral areas or other electoral arrangements relating to the Isles of Scilly¹⁵.

Under the above power provision has been made for the transfer to the Electoral Commission of all the functions of the English Commission and of the functions of the Secretary of State in relation to local government and London Assembly electoral changes¹⁶.

The Political Parties, Elections and Referendums Act 2000 provides that the English Commission is to cease to exist at such time as the Secretary of State, being satisfied that it has no further functions to perform, by order directs¹⁷. Such an order has been made, providing for the cessation of the English Commission at the start of the day on 1 August 2002¹⁸.

The Secretary of State has power to pay to the Electoral Commission such amount as he may determine to be appropriate by way of reimbursement for any expenditure incurred by it which is attributable to the provision by it of advice to the Secretary of State in pursuance of an order made in relation to the transfer of functions from the English Commission¹⁹.

1 As to the Secretary of State see PARA 2 ante.

2 As to the making of orders under the Political Parties, Elections and Referendums Act 2000 generally see PARA 31 note 2 ante.

3 Ibid ss 18(1)(a), 160(1). As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

4 Ibid s 18(1)(b). As to the establishment and constitution of the Boundary Committees see PARA 60 et seq ante.

5 As to the meaning of 'functions' see PARA 31 note 2 ante.

6 Political Parties, Elections and Referendums Act 2000 s 18(1). The provision made by order under s 18(1) as respects the distribution of functions between the Electoral Commission and the Boundary Committee for England must broadly correspond to that made by Sch 3 Pt I (amendments of the Parliamentary Constituencies Act 1986: see PARA 77 et seq post) as respects the distribution of functions between those bodies: Political Parties, Elections and Referendums Act 2000 ss 18(5), 160(1). See also note 17 infra. As to the order that has been made see the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962; and the text and note 16 infra.

As to the prospective transfer of functions from the Local Government Boundary Commission for Wales see PARA 66 post. As to the prospective transfer of functions from the Local Boundary Commission for Scotland see the Political Parties, Elections and Referendums Act 2000 s 19.

7 For these purposes, 'relevant function' means a function under:

- 18 (1) any of the Local Government Act 1992 ss 13-15, 17 (s 13 as substituted; ss 14-15, 17 as amended) (local government changes in England: see PARA 92 post) (Political Parties, Elections and Referendums Act 2000 s 18(3)(a));
- 19 (2) any of the Local Government and Rating Act 1997 ss 13-14, 17(4) (as amended) (parishes and parish councils: see PARA 93 post) so far as having effect in relation to electoral arrangements within the meaning of Pt II (ss 9-25) (as amended) (see PARA 93 post) (Political Parties, Elections and Referendums Act 2000 s 18(3)(b)); or
- 20 (3) the Greater London Authority Act 1999 s 2(4) (as amended) or s 2(5), Sch 1 (as amended) (London Assembly constituencies: see PARA 95 et seq post) (Political Parties, Elections and Referendums Act 2000 s 18(3)(c)).

Nothing in s 18(2) (see the text and notes 8-15 infra) authorises the transfer to the Electoral Commission of any power of the Secretary of State under any of the provisions mentioned in s 18(3)(a) (see head (1) supra) to make orders other than those effecting electoral changes within the meaning of the Local Government Act 1992 Pt II (ss 12-27) (as amended) (see PARA 92 post); but, subject to that, the functions which may be transferred by virtue of the Political Parties, Elections and Referendums Act 2000 s 18(2) include functions with respect to the making of orders by statutory instrument: ss 18(4), 160(1).

8 Ibid ss 18(2)(a), 160(1).

9 Ibid ss 18(2)(b), 160(1).

10 As to the meaning of 'modify' see PARA 39 note 9 ante.

11 Political Parties, Elections and Referendums Act 2000 s 18(2)(c).

12 Ibid ss 18(2)(d), 160(1).

13 Ie an order under ibid s 18(1) (see the text and notes 1-6 supra).

14 Ibid ss 18(2)(e), 160(1).

15 Ibid ss 18(2)(f), 160(1). As to electoral areas or other electoral arrangements relating to the Isles of Scilly see PARA 10 ante.

16 See the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962, arts 2-3.

17 Political Parties, Elections and Referendums Act 2000 s 18(6). As to the order that has been made see the Local Government Commission for England (Winding-up) Order 2002, SI 2002/1723; and the text and note 18 infra.

An order under the Political Parties, Elections and Referendums Act 2000 s 18(1) (see the text and notes 1-6 supra) or s 18(6) may include provision for the transfer to the Electoral Commission: (1) of the staff of the English Commission (ss 18(7)(a), 160(1)); and (2) of any property, rights and liabilities to which the English Commission is entitled or subject (ss 18(7)(b), 160(1)). An order which contains provision such as is mentioned in s 18(7)(b) may in particular provide for the order to have effect despite any provision (of whatever nature) which would otherwise prevent or restrict the transfer of the property, rights or liabilities: see s 18(7). As to the meaning of 'property' see PARA 31 note 8 ante. An order under s 18(6) may include provision for the abolition of any duty in compliance with which the English Commission was established or constituted: s 18(8). See further the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962, art 4 (which

makes provision in relation to the Local Government Commission for England's final accounts), art 5 (which provides for the transfer of the Local Government Commission for England's staff to the Electoral Commission), art 6 (which provides for continuity in the exercise of functions) and art 7 (which deals with the future handling of complaints of maladministration made against the Local Government Commission for England).

18 See the Local Government Commission for England (Winding-up) Order 2002, SI 2002/1723.

19 Political Parties, Elections and Referendums Act 2000 ss 18(9), 160(1). The text refers to an order made under s 18(1) (see the text and notes 1-6 supra).

UPDATE

60-66 The Commission's Functions relating to the Review of Electoral Boundaries

TEXT AND NOTES--Replaced. Political Parties, Elections and Referendums Act 2000 ss 14-20 repealed: Local Democracy, Economic Development and Construction Act 2009 s 61(2), (3), s 66(b), Sch 7 Pt 3.

The old Local Government Boundary Commission for England was established under the Local Government Act 1972 s 46, and was the body responsible for reviewing the boundaries of the local government areas in England and their electoral arrangements. It was replaced by the Local Government Commission for England, which was established under the Local Government Act 1992 s 12. On 1 April 2002, the functions of the Local Government Commission for England were transferred to the Electoral Commission by virtue of the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962. On the same day, the Boundary Committee for England was established under the Political Parties, Elections and Referendums Act 2000 s 14, which was a statutory committee of the Electoral Commission. The new Local Government Boundary Commission for England is established by the Local Democracy, Economic Development and Construction Act 2009 s 55 and provides for the transfer to it of all the boundary-related functions of the Electoral Commission and the Boundary Commission for England.

The duty of the Electoral Commission to establish Boundary Committees is abolished so far as relating to England: Local Democracy, Economic Development and Construction Act 2009 s 61(1). The functions of the Electoral Commission's Boundary Committee relating to boundary change are transferred to the Local Government Boundary Commission for England: Local Democracy, Economic Development and Construction Act 2009 s 60(1).

The Local Government Boundary Commission for England is established as a body corporate (Local Democracy, Economic Development and Construction Act 2009 s 55(1)), is not to be regarded as a servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown (s 55(2)), and its property is not to be regarded as the property of the Crown or as property held on behalf of the Crown (s 55(3)). The Local Government Boundary Commission for England may do anything, except borrow money, which is calculated to facilitate, or is incidental or conducive to, the exercise of its functions (s 55(4)). Further provision about the constitution and administration of the Local Government Boundary Commission for England is made: Local Democracy, Economic Development and Construction Act 2009 Sch 1. The Local Government Boundary Commission for England must from time to time, and may at any time, conduct a review of the area of each principal council, and recommend whether a change should be made to the electoral arrangements for that area: Local Democracy, Economic Development and Construction Act 2009 s 56(1), (2). 'Principal council' means a county council in England, a district council, the Council of the Isles of Scilly and a London borough council: s 56(3). As to the meaning of 'electoral

arrangements' in relation to the area of a principal council, see s 56(4). Where the Local Government Boundary Commission for England recommends that a change should be made to the electoral arrangements for the area of a principal council, the Commission must also recommend whether, in consequence, a change should be made to the electoral arrangements for the area of any parish council, where that area is within the area of the principal council: s 56(5). As to the meaning of 'electoral arrangements' in relation to the area of a parish council, see s 56(6). A principal council or parish council must, if requested by the Local Government Boundary Commission for England to do so, provide, by such date as it may specify, with any information that it may reasonably require in connection with its functions under s 56: s 56(9). Further provision relating to recommendations under s 56 is made: Local Democracy, Economic Development and Construction Act 2009 Sch 2.

A principal council which falls within the Local Democracy, Economic Development and Construction Act 2009 s 57(3) may request the Local Government Boundary Commission for England to conduct a review of the council's area under s 56(2)(a) and make recommendations as to single-member electoral areas under s 56(2)(b): Local Democracy, Economic Development and Construction Act 2009 s 57(1).

'Recommendations as to single-member electoral areas' means recommendations, for each electoral area in the area of a principal council, as to whether the electoral area should return one member of the council: s 57(2). A principal council falls within s 57(3) if it is not the case that each of the electoral areas in the council's area returns one member of the council and the council is subject to a scheme for whole-council elections: s 57(3), (4). Further provision is made: see s 57(5)-(8).

As soon as reasonably practicable after deciding to conduct a review under s 56, the Local Government Boundary Commission for England must take such steps as it considers sufficient to secure that persons who may be interested in the review are informed of the fact that the review is to take place and any particular matters to which the review is to relate: Local Democracy, Economic Development and Construction Act 2009 s 58(1). In conducting such a review, the Local Government Boundary Commission for England must (1) prepare and publish draft recommendations; (2) take such steps as it considers sufficient to secure that persons who may be interested in the recommendations are informed of them and of the period within which representations with respect to them may be made; and (3) take into consideration any representations made to the Local Government Boundary Commission for England within that period: s 58(2). The Local Government Boundary Commission for England may at any time before publishing draft recommendations under s 58(2)(a) consult such persons as it considers appropriate: s 58(3). As soon as practicable after conducting a review, the Local Government Boundary Commission for England must publish a report stating its recommendations, and take such steps as it considers sufficient to secure that persons who may be interested in the recommendations are informed of them: s 58(4). Where a report under s 58(4) contains recommendations for electoral changes, the Local Government Boundary Commission for England may by order give effect to all or any of the recommendations: Local Democracy, Economic Development and Construction Act 2009 s 59(1). Further provision as to the implementation of review recommendations is made: see s 59(2)-(9).

For the purpose of the exercise of functions conferred on the Local Government Boundary Commission for England by or under the Local Democracy, Economic Development and Construction Act 2009 Pt 3 (ss 55-68), the Electoral Commission must make one or more schemes for the transfer of property, rights and liabilities from the Electoral Commission to the Local Government Boundary Commission for England: Local Democracy, Economic Development and Construction Act 2009 s 62(1). The Electoral Commission may not make a scheme under s 62 (1) without consulting the

Secretary of State; (2) without the consent of the Electoral Commission's Boundary Committee: s 62(2). If the Electoral Commission and the Electoral Commission's Boundary Committee fail to agree on the provision to be included in a scheme under s 62, the Secretary of State may by order specify the provision to be included in the scheme: s 62(3). A scheme under s 62 must be made on or before (a) 31 December 2009, or (b) such later date as the Secretary of State may by order specify: s 62(4). A transfer under a scheme under s 62 has effect in accordance with the terms of the scheme: s 62(5). A transfer under a scheme under s 62 may have effect (i) whether or not the property, rights and liabilities would otherwise be capable of being transferred; (ii) without any instrument or other formality being required: s 62(6). The rights and liabilities which may be transferred by a scheme under s 62 include rights and liabilities in relation to a contract of employment: s 62(7). The Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) apply to the transfer under a scheme under the Local Democracy, Economic Development and Construction Act 2009 s 62 (whether or not the transfer is a relevant transfer for the purposes of those regulations): s 62(8). A scheme under s 62 may define the property, rights and liabilities to be transferred by specifying or describing them: s 62(9). Further provision with respect to transfer schemes is made: see s 62(10)-(13).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/(1) THE ELECTORAL COMMISSION/(iii) The Commission's Functions relating to the Review of Electoral Boundaries/B. TRANSFER OF FUNCTIONS AND PROPERTY FROM THE BOUNDARY COMMISSIONS/66. Power to transfer functions from the Local Government Boundary Commission for Wales.

66. Power to transfer functions from the Local Government Boundary Commission for Wales.

As from a day to be appointed, the following provisions have effect¹.

The National Assembly for Wales² may by order³ make provision for and in connection with transferring to any extent to the Electoral Commission⁴ or the Boundary Committee for Wales⁵, any of the functions⁶ of the Local Government Boundary Commission for Wales (the 'Welsh Commission')⁷. Such an order may make provision for:

- 78 (1) transferring (to any extent) any relevant function⁸ of the National Assembly for Wales to the Electoral Commission⁹;
- 79 (2) terminating (to any extent) any relevant function of the Assembly or the Welsh Commission without transferring it to the Electoral Commission or the Boundary Committee for Wales¹⁰;
- 80 (3) modifying¹¹ (to any extent) any relevant function of the Assembly¹²;
- 81 (4) preventing the Assembly from exercising any relevant function (including one so modified) unless it has sought and obtained such advice of the Electoral Commission as may be prescribed by the order, or authorising the Assembly to seek such advice in connection with the exercise of any such function¹³;
- 82 (5) modifying any relevant or other function transferred by an order¹⁴ so far as it is to be exercisable by the Electoral Commission or the Boundary Committee for Wales¹⁵.

The Welsh Commission ceases to exist at such time as the National Assembly for Wales, being satisfied that it has no further functions to perform, by order directs¹⁶.

The expenditure of the Electoral Commission, so far as attributable to the exercise of any functions in consequence of an order made in relation to the transfer of functions from the Local Government Boundary Commission for Wales, must be met by the National Assembly for Wales¹⁷.

1 The Political Parties, Elections and Referendums Act 2000 s 20 comes into force as from a day to be appointed under s 163(2). In so far as conferring power to make an order, the appointed day is 30 November 2000 (see s 163(3)(d)) but, at the date at which this volume states the law, no day had been appointed under s 163(2) for remaining purposes.

2 As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

3 As to the making of orders under the Political Parties, Elections and Referendums Act 2000 generally see PARA 31 note 2 ante. An order under s 20 may contain any appropriate consequential, incidental, supplementary or transitional provisions or savings, including provisions amending, repealing or revoking enactments (s 20(9)); and nothing in s 20 is to be read as affecting the generality of s 20(9) (s 20(10)). Any power of the National Assembly for Wales to make an order under s 20 is exercisable by statutory instrument: s 20(11). See note 1 supra. As to the meaning of 'enactment' see PARA 48 note 2 ante.

4 Ibid ss 20(1)(a), 160(1). See note 1 supra. As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

5 Ibid s 20(1)(b). See note 1 supra. As to the establishment and constitution of the Boundary Committees see PARA 60 et seq ante.

6 As to the meaning of 'functions' see PARA 31 note 2 ante.

7 Political Parties, Elections and Referendums Act 2000 s 20(1). The provision made by order under s 20(1) as respects the distribution of functions between the Electoral Commission and the Boundary Committee for Wales must broadly correspond to that made by Sch 3 Pt I (amendments of the Parliamentary Constituencies Act 1986: see PARA 77 et seq post) as respects the distribution of functions between those bodies: Political Parties, Elections and Referendums Act 2000 ss 20(5), 160(1). See note 1 supra. See also note 16 infra. As to the establishment and constitution of the Local Government Boundary Commission for Wales see PARA 71 post.

8 For these purposes, 'relevant function' means a function under:

- 21 (1) the Local Government Act 1972 ss 30(3), (4), 31(3) (s 30(3), (4) as amended) (restriction on community applications during and after reviews: see LOCAL GOVERNMENT vol 69 (2009) PARA 44) (Political Parties, Elections and Referendums Act 2000 s 20(3)(a)); or
- 22 (2) any of the Local Government Act 1972 ss 54-60, 69, 71, 78(2), Sch 11 para 1A (ss 54-60, 69, 71, 78(2) as amended; Sch 11 para 1A as added) (changes in local government areas in Wales: see LOCAL GOVERNMENT vol 69 (2009) PARA 77 et seq) (Political Parties, Elections and Referendums Act 2000 s 20(3)(b)).

Nothing in s 20(2) (see the text and notes 9-15 infra) authorises the transfer to the Electoral Commission of any power of the Assembly under any of the provisions mentioned in s 20(3)(b) (see head (2) supra) to make orders other than those effecting alterations in electoral arrangements within the meaning of the Local Government Act 1972 Pt IV (ss 53-78) (as amended) (changes in local government areas: see PARA 97 et seq post); but, subject to that, the functions which may be transferred by virtue of the Political Parties, Elections and Referendums Act 2000 s 20(2) include functions with respect to the making of orders by statutory instrument: ss 20(4), 160(1). See note 1 supra.

9 Ibid ss 20(2)(a), 160(1). See note 1 supra.

10 Ibid ss 20(2)(b), 160(1). See note 1 supra.

11 As to the meaning of 'modify' see PARA 39 note 9 ante.

12 Political Parties, Elections and Referendums Act 2000 s 20(2)(c). See note 1 supra.

13 Ibid ss 20(2)(d), 160(1). See note 1 supra.

14 Ie an order under ibid s 20(1) (see the text and notes 2-7 supra). See note 1 supra.

15 Ibid ss 20(2)(e), 160(1). See note 1 supra.

16 Ibid s 20(6). An order under s 20(1) (see the text and notes 2-7 supra) or s 20(6) may include provision for the transfer to the Electoral Commission: (1) of the staff of the Welsh Commission (ss 20(7)(a), 160(1)); and (2) of any property, rights and liabilities to which the Welsh Commission is entitled or subject (ss 20(7)(b), 160(1)). An order which contains provision such as is mentioned in s 20(7)(b) may in particular provide for the order to have effect despite any provision (of whatever nature) which would prevent or restrict the transfer of the property, rights or liabilities otherwise than by the order: s 20(7). As to the meaning of 'property' see PARA 31 note 8 ante. An order under s 20(6) may include provision for the abolition of any duty in compliance with which the Welsh Commission was established or constituted: s 20(8). See note 1 supra.

17 Ibid ss 20(12), 160(1). The text refers to an order made under s 20(1) (see the text and notes 2-7 supra). See note 1 supra.

UPDATE

60-66 The Commission's Functions relating to the Review of Electoral Boundaries

TEXT AND NOTES--Replaced. Political Parties, Elections and Referendums Act 2000 ss 14-20 repealed: Local Democracy, Economic Development and Construction Act 2009 s 61(2), (3), s 66(b), Sch 7 Pt 3.

The old Local Government Boundary Commission for England was established under the Local Government Act 1972 s 46, and was the body responsible for reviewing the boundaries of the local government areas in England and their electoral arrangements. It was replaced by the Local Government Commission for England, which was established under the Local Government Act 1992 s 12. On 1 April 2002, the functions of the Local Government Commission for England were transferred to the Electoral Commission by virtue of the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962. On the same day, the Boundary Committee for England was established under the Political Parties, Elections and Referendums Act 2000 s 14, which was a statutory committee of the Electoral Commission. The new Local Government Boundary Commission for England is established by the Local Democracy, Economic Development and Construction Act 2009 s 55 and provides for the transfer to it of all the boundary-related functions of the Electoral Commission and the Boundary Committee for England.

The duty of the Electoral Commission to establish Boundary Committees is abolished so far as relating to England: Local Democracy, Economic Development and Construction Act 2009 s 61(1). The functions of the Electoral Commission's Boundary Committee relating to boundary change are transferred to the Local Government Boundary Commission for England: Local Democracy, Economic Development and Construction Act 2009 s 60(1).

The Local Government Boundary Commission for England is established as a body corporate (Local Democracy, Economic Development and Construction Act 2009 s 55(1)), is not to be regarded as a servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown (s 55(2)), and its property is not to be regarded as the property of the Crown or as property held on behalf of the Crown (s 55(3)). The Local Government Boundary Commission for England may do anything, except borrow money, which is calculated to facilitate, or is incidental or conducive to, the exercise of its functions (s 55(4)). Further provision about the constitution and administration of the Local Government Boundary Commission for England is made: Local Democracy, Economic Development and Construction Act 2009 Sch 1. The Local Government Boundary Commission for England must from time to time, and may at any time, conduct a review of the area of each principal council, and recommend whether a change should be made to the electoral arrangements for that area: Local Democracy, Economic Development and Construction Act 2009 s 56(1), (2). 'Principal council' means a county council in England, a district council, the Council of the Isles of Scilly and a London borough council: s 56(3). As to the meaning of 'electoral arrangements' in relation to the area of a principal council, see s 56(4). Where the Local Government Boundary Commission for England recommends that a change should be made to the electoral arrangements for the area of a principal council, the Commission must also recommend whether, in consequence, a change should be made to the electoral arrangements for the area of any parish council, where that area is within the area of the principal council: s 56(5). As to the meaning of 'electoral arrangements' in relation to the area of a parish council, see s 56(6). A principal council or parish council must, if requested by the Local Government Boundary Commission for England to do so, provide, by such date as it may specify, with any information that it may reasonably require in connection with its functions under s 56: s 56(9). Further provision relating to recommendations under s 56 is made: Local Democracy, Economic Development and Construction Act 2009 Sch 2.

A principal council which falls within the Local Democracy, Economic Development and Construction Act 2009 s 57(3) may request the Local Government Boundary Commission for England to conduct a review of the council's area under s 56(2)(a) and make recommendations as to single-member electoral areas under s 56(2)(b): Local Democracy, Economic Development and Construction Act 2009 s 57(1).

'Recommendations as to single-member electoral areas' means recommendations, for each electoral area in the area of a principal council, as to whether the electoral area should return one member of the council: s 57(2). A principal council falls within s 57(3) if it is not the case that each of the electoral areas in the council's area returns one member of the council and the council is subject to a scheme for whole-council elections: s 57(3), (4). Further provision is made: see s 57(5)-(8).

As soon as reasonably practicable after deciding to conduct a review under s 56, the Local Government Boundary Commission for England must take such steps as it considers sufficient to secure that persons who may be interested in the review are informed of the fact that the review is to take place and any particular matters to which the review is to relate: Local Democracy, Economic Development and Construction Act 2009 s 58(1). In conducting such a review, the Local Government Boundary Commission for England must (1) prepare and publish draft recommendations; (2) take such steps as it considers sufficient to secure that persons who may be interested in the recommendations are informed of them and of the period within which representations with respect to them may be made; and (3) take into consideration any representations made to the Local Government Boundary Commission for England within that period: s 58(2). The Local Government Boundary Commission for England may at any time before publishing draft recommendations under s 58(2)(a) consult such persons as it considers appropriate: s 58(3). As soon as practicable after conducting a review, the Local Government Boundary Commission for England must publish a report stating its recommendations, and take such steps as it considers sufficient to secure that persons who may be interested in the recommendations are informed of them: s 58(4). Where a report under s 58(4) contains recommendations for electoral changes, the Local Government Boundary Commission for England may by order give effect to all or any of the recommendations: Local Democracy, Economic Development and Construction Act 2009 s 59(1). Further provision as to the implementation of review recommendations is made: see s 59(2)-(9).

For the purpose of the exercise of functions conferred on the Local Government Boundary Commission for England by or under the Local Democracy, Economic Development and Construction Act 2009 Pt 3 (ss 55-68), the Electoral Commission must make one or more schemes for the transfer of property, rights and liabilities from the Electoral Commission to the Local Government Boundary Commission for England: Local Democracy, Economic Development and Construction Act 2009 s 62(1). The Electoral Commission may not make a scheme under s 62 (1) without consulting the Secretary of State; (2) without the consent of the Electoral Commission's Boundary Committee: s 62(2). If the Electoral Commission and the Electoral Commission's Boundary Committee fail to agree on the provision to be included in a scheme under s 62, the Secretary of State may by order specify the provision to be included in the scheme: s 62(3). A scheme under s 62 must be made on or before (a) 31 December 2009, or (b) such later date as the Secretary of State may by order specify: s 62(4). A transfer under a scheme under s 62 has effect in accordance with the terms of the scheme: s 62(5). A transfer under a scheme under s 62 may have effect (i) whether or not the property, rights and liabilities would otherwise be capable of being transferred; (ii) without any instrument or other formality being required: s 62(6). The rights and liabilities which may be transferred by a scheme under s 62 include rights and liabilities in relation to a contract of employment: s 62(7). The Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) apply to the transfer under a scheme under the Local Democracy, Economic Development and Construction Act 2009 s 62 (whether or not the transfer is a relevant transfer for the purposes of those regulations): s 62(8). A scheme under s 62 may define the property, rights and

liabilities to be transferred by specifying or describing them: s 62(9). Further provision with respect to transfer schemes is made: see s 62(10)-(13).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/ (2) THE BOUNDARY COMMISSIONS/(i) Parliamentary Boundaries/67. The permanent parliamentary Boundary Commissions.

(2) THE BOUNDARY COMMISSIONS

(i) Parliamentary Boundaries

67. The permanent parliamentary Boundary Commissions.

Until a day to be appointed, the following provisions have effect¹.

For the purpose of the continuous review of the distribution of seats at parliamentary elections², there are four permanent Boundary Commissions³, namely a Boundary Commission for England⁴, a Boundary Commission for Scotland, a Boundary Commission for Wales⁵ and a Boundary Commission for Northern Ireland⁶.

1 As from a day to be appointed under the Political Parties, Elections and Referendums Act 2000 s 163(2): (1) the Parliamentary Constituencies Act 1986 s 2 is repealed by the Political Parties, Elections and Referendums Act 2000 s 158(2), Sch 22; (2) the functions of each of the Boundary Commissions with respect to keeping under review, and reporting on, representation in the House of Commons of the part of the United Kingdom with which it is concerned will be transferred to the Electoral Commission under s 16 (see PARA 64 ante). At the date at which this volume states the law, no such day had been appointed in relation to either head (1) or head (2) supra. As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 For the meaning of 'parliamentary election' see PARA 9 ante.

3 The Parliamentary Constituencies Act 1986 s 2(2), Sch 1 (as amended; prospectively repealed) has effect with respect to the constitution of, and other matters relating to, the Boundary Commissions: see s 2(2); and PARAS 68-69 post. See note 1 supra.

4 For the meaning of 'England' see PARA 13 note 1 ante.

5 For the meaning of 'Wales' see PARA 13 note 1 ante.

6 Parliamentary Constituencies Act 1986 s 2(1). See note 1 supra. See also PARLIAMENT vol 78 (2010) PARA 896.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/ (2) THE BOUNDARY COMMISSIONS/(i) Parliamentary Boundaries/68. Constitution of the Boundary Commissions.

68. Constitution of the Boundary Commissions.

Until a day to be appointed, the following provisions have effect¹.

Each Boundary Commission² consists of: (1) the chairman (who, for each of the four Commissions, is the Speaker of the House of Commons)³; (2) a deputy chairman (who must be a judge)⁴; and (3) two other members appointed by the Secretary of State⁵. The deputy chairmen and the two remaining members hold their appointments on terms and conditions determined by the person appointing them in each case⁶. Assistant commissioners may be appointed by the Secretary of State at the request of any Commission to inquire into, and report to the Commission upon, such matters as the Commission think fit⁷. Provision is made as to their appointment, duties and remuneration⁸. The officers of each Commission include a secretary⁹ and assessors¹⁰. The expenses of each Commission, including the remuneration and travelling and other expenses of the members, assistant commissioners, secretary and other officers, are defrayed out of money provided by Parliament¹¹.

1 As from a day to be appointed under the Political Parties, Elections and Referendums Act 2000 s 163(2): (1) the Parliamentary Constituencies Act 1986 s 2(2), Sch 1 is repealed by the Political Parties, Elections and Referendums Act 2000 s 158(2), Sch 22; (2) the functions of each of the Boundary Commissions with respect to keeping under review, and reporting on, representation in the House of Commons of the part of the United Kingdom with which it is concerned will be transferred to the Electoral Commission under s 16 (not yet fully in force) (see PARA 64 ante). At the date at which this volume states the law, no such day had been appointed in relation to either head (1) or head (2) supra. As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 As to the provision made for the permanent parliamentary Boundary Commissions see PARA 64 ante. See also PARLIAMENT vol 78 (2010) PARA 896.

3 Parliamentary Constituencies Act 1986 s 2(2), Sch 1 paras 1, 2. See note 1 supra. As to the Speaker of the House of Commons see PARLIAMENT vol 78 (2010) PARA 931 et seq.

4 Ibid Sch 1 paras 2, 3. The deputy chairmen of the commissions for England and for Wales are judges of the High Court appointed by the Lord Chancellor; the deputy chairman of the commission for Scotland is a judge of the Court of Session appointed by the Lord President of the Court of Session; and the deputy chairman of the commission for Northern Ireland is a judge of the High Court in Northern Ireland appointed by the Lord Chief Justice of Northern Ireland: Sch 1 para 3(a)-(d). See note 1 supra. For the meanings of 'England' and 'Wales' see PARA 13 note 1 ante. As to the Lord Chancellor see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 477 et seq.

5 Ibid Sch 1 para 2. See note 1 supra.

Until a day to be appointed, members of a Boundary Commission appointed under Sch 1 (as amended) are disqualified for membership of the House of Commons: House of Commons Disqualification Act 1975 s 1(1), Sch 1 Pt III (entry repealed by the Political Parties, Elections and Referendums Act 2000 s 158(2), Sch 22). See further PARLIAMENT vol 78 (2010) PARAS 905, 908. At the date at which this volume states the law, no such day had been appointed.

6 Parliamentary Constituencies Act 1986 Sch 1 para 4. In the case of members other than the chairman or deputy chairman, the conditions referred to in Sch 1 para 4 may include such provisions with respect to remuneration as the Secretary of State may determine with the approval of the Treasury: Sch 1 para 4A (added by the Boundary Commissions Act 1992 s 1(1), (2)). See note 1 supra. As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 512-517.

7 Parliamentary Constituencies Act 1986 Sch 1 para 6(1). See note 1 supra.

Until a day to be appointed, assistant commissioners appointed under Sch 1 (as amended) are disqualified for membership of the House of Commons: House of Commons Disqualification Act 1975 s 1(1), Sch 1 Pt III (entry repealed by the Political Parties, Elections and Referendums Act 2000 Sch 22). See further PARLIAMENT vol 78 (2010) PARAS 905, 908. At the date at which this volume states the law, no such day had been appointed.

8 Any such assistant commissioner is appointed either for a certain term or for the purposes of a particular inquiry, and on such conditions as to remuneration and otherwise as may be determined before his appointment by the Secretary of State with the approval of the Treasury: Parliamentary Constituencies Act 1986 Sch 1 para 6(2). See note 1 *supra*.

9 See *ibid* Sch 1 para 7. The Secretary of State must appoint a secretary to each of the Commissions and may appoint such other officers of any Commission as he may determine with the approval of the Treasury: Sch 1 para 7. The terms and conditions of any such appointment are to be such as may be so determined: Sch 1 para 7. See note 1 *supra*.

10 See *ibid* Sch 1 para 5. In the case of the Boundary Commission for England and the Boundary Commission for Wales, the Registrar General for England and Wales and the Director General of Ordnance Survey are the appointed assessors: Sch 1 para 5(a), (c). As to the appointments made in the case of the Boundary Commission for Scotland and the Boundary Commission for Northern Ireland see Sch 1 para 5(b), (d). See note 1 *supra*. As to the Ordnance Survey see NATIONAL CULTURAL HERITAGE vol 77 (2010) PARA 1110 *et seq*; and as to the Registrar General for England and Wales see REGISTRATION CONCERNING THE INDIVIDUAL vol 39(2) (Reissue) PARA 504.

11 *Ibid* Sch 1 para 8 (amended by the Boundary Commissions Act 1992 s 1(1), (4)). See note 1 *supra*.

UPDATE

68 Constitution of the Boundary Commissions

NOTE 10--Reference to the Registrar General for England and Wales is now to the Statistics Board (see REGISTRATION CONCERNING THE INDIVIDUAL vol 39(2) (Reissue) PARA 605); 1986 Act Sch 1 para 5(a), (c) (amended by Statistics and Registration Service Act 2007 Sch 1 para 10).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/ (2) THE BOUNDARY COMMISSIONS/(i) Parliamentary Boundaries/69. Procedure of the Boundary Commissions.

69. Procedure of the Boundary Commissions.

Until a day to be appointed, the following provisions have effect¹.

A Boundary Commission² has power to act notwithstanding any vacancy in its members³. Provision is made as to quorum⁴, joint meetings of the Commissions⁵ and the reception in evidence of documents purporting to be issued by Commissions⁶. Subject to the other provisions of the Parliamentary Constituencies Act 1986, each of the Commissions has power to regulate its own procedure⁷.

1 As from a day to be appointed under the Political Parties, Elections and Referendums Act 2000 s 163(2): (1) the Parliamentary Constituencies Act 1986 s 2(2), Sch 1 (as amended) is repealed by the Political Parties, Elections and Referendums Act 2000 s 158(2), Sch 22; (2) the functions of each of the Boundary Commissions with respect to keeping under review, and reporting on, representation in the House of Commons of the part of the United Kingdom with which it is concerned will be transferred to the Electoral Commission under s 16 (not yet fully in force) (see PARA 64 ante). At the date at which this volume states the law, no such day had been appointed in relation to either head (1) or head (2) supra. As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 As to the provision made for the permanent parliamentary Boundary Commissions see PARA 64 ante. See also PARLIAMENT vol 78 (2010) PARA 896.

3 Parliamentary Constituencies Act 1986 s 2(2), Sch 1 para 9. See note 1 supra.

4 At any meeting of a Commission two, or such greater number as the Commission determines, is to be the quorum: *ibid* Sch 1 para 9. See note 1 supra.

5 All or any of the Commissions may hold joint meetings for the purpose of considering any matter of common concern: *ibid* Sch 1 para 10. See note 1 supra.

6 Every document purporting to be an instrument made or issued by a Commission and to be signed by the secretary or any person authorised to act in that behalf may be received in evidence and is, until the contrary is proved, deemed to be an instrument made or issued by the Commission: *ibid* Sch 1 para 12. See note 1 supra.

7 *Ibid* Sch 1 para 11. See note 1 supra.

UPDATE

69 Procedure of the Boundary Commissions

NOTE 7--Political Parties, Elections and Referendums Act 2000 Sch 1 para 11 amended: Political Parties and Elections Act 2009 Sch 6 para 27(4).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/ (2) THE BOUNDARY COMMISSIONS/(ii) Local Government Boundaries/70. Transfer of functions from the Local Government Commission for England to the Electoral Commission.

(ii) Local Government Boundaries

70. Transfer of functions from the Local Government Commission for England to the Electoral Commission.

On 1 April 2002, all functions, property, rights and liabilities of the Local Government Commission for England¹ were transferred to the Electoral Commission². The Local Government Commission for England ceased to exist at the start of the day on 1 August 2002³.

¹ The Local Government Commission for England was established under the Local Government Act 1992 s 12, Sch 2.

² See the Political Parties, Elections and Referendums Act 2000 s 18; the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962; and PARA 65 ante. As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

³ See the Local Government Commission for England (Winding-up) Order 2002, SI 2002/1723; and PARA 65 ante.

UPDATE

70 Transfer of functions from the Local Government Commission for England to the Electoral Commission

NOTE 1--Local Government Act 1992 s 12, Sch 2 repealed: Local Democracy, Economic Development and Construction Act 2009 s 66, Sch 7 Pt 3.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/2. THE ELECTORAL COMMISSION ETC/ (2) THE BOUNDARY COMMISSIONS/(ii) Local Government Boundaries/71. The Local Government Boundary Commission for Wales.

71. The Local Government Boundary Commission for Wales.

The Local Government Boundary Commission for Wales (the 'Welsh Commission') was established under the Local Government Act 1972¹ with the functions of carrying out reviews² and of making proposals for changes in local government areas³ in Wales⁴.

The Welsh Commission is a body corporate consisting of a chairman, a deputy chairman and not more than three other members⁵. At least one of the members of the Welsh Commission must be a person able to speak the Welsh language⁶. The members of the Welsh Commission are to be appointed by the National Assembly for Wales⁷, and they hold and vacate office in accordance with the terms of their respective appointments⁸. Provision is made for the payment of salary or fees and allowances to each member of the Welsh Commission⁹. The National Assembly for Wales may appoint, to assist and advise the Welsh Commission in the exercise of its functions, such persons as it thinks fit, being persons having expert knowledge likely to be of value to the Welsh Commission¹⁰. Provision is made for the payment of fees and allowances to such persons¹¹. The National Assembly for Wales may also appoint a secretary to the Welsh Commission¹², and other officers and servants¹³. Provision is made for the terms and conditions of their appointment¹⁴. The expenses of the Welsh Commission including the salaries, fees and allowances of its members, the remuneration and any expenses paid to an assistant commissioner, the remuneration and any expenses paid to the secretary and other officers and servants, together with the fees and allowances paid to persons appointed to assist and advise the Welsh Commission¹⁵, must be defrayed out of moneys provided by the National Assembly for Wales¹⁶.

At any meeting of the Welsh Commission the quorum is two¹⁷. All acts done at a meeting of the Welsh Commission, notwithstanding that it is afterwards discovered that there was a defect in the appointment of a person purporting to be a member of the Welsh Commission, are as valid as if the defect had not existed¹⁸. The procedure of the Welsh Commission at and in connection with its meetings is to be such as it may from time to time determine¹⁹. Every document purporting to be an instrument made or issued by the Welsh Commission and to be duly sealed with the seal of the Welsh Commission or to be signed by the secretary or any person authorised to act in that behalf is to be received in evidence and, unless the contrary is proved, is deemed to be an instrument made or issued by the Welsh Commission²⁰.

The Welsh Commission may appoint one or more of its members²¹: (1) to hold any local inquiry²² or to carry out any consultation or investigation which the Welsh Commission is required or authorised to hold or carry out under the Local Government Act 1972²³; and (2) to report to the Welsh Commission accordingly²⁴. At the request of the Welsh Commission, the National Assembly for Wales may appoint one or more persons as assistant commissioners for all or any of the purposes specified in head (1) or head (2) above²⁵.

1 See the Local Government Act 1972 s 53(1); and LOCAL GOVERNMENT vol 69 (2009) PARA 77.

2 See LOCAL GOVERNMENT vol 69 (2009) PARA 79 et seq.

3 For the meaning of 'local government area' in relation to Wales see LOCAL GOVERNMENT vol 69 (2009) PARA 22. For the meaning of 'Wales' see PARA 13 note 1 ante.

4 See LOCAL GOVERNMENT vol 69 (2009) PARA 78. The Welsh Commission has the function of making proposals arising out of a review by a district council in addition to making proposals on its own review: see LOCAL GOVERNMENT vol 69 (2009) PARA 80.

5 Local Government Act 1972 s 53(2), Sch 8 para 1(1). The common seal of the Welsh Commission is authenticated by the signature of a member or of some other person authorised in that behalf by the Welsh Commission: Sch 8 para 1(4).

6 Ibid Sch 8 para 1(2).

7 The Local Government Act 1972 refers to the Secretary of State, but certain functions of the Secretary of State, so far as exercisable in relation to Wales, have been transferred to the National Assembly for Wales: see LOCAL GOVERNMENT vol 69 (2009) PARA 97.

8 Ibid Sch 8 para 1(3).

9 There is to be paid to each member of the Welsh Commission such salary or fees and allowances as may from time to time be determined by the National Assembly for Wales with the consent of the Treasury: *ibid* Sch 8 para 2. The Local Government Act 1972 refers to the Minister for the Civil Service, but functions under s 65 (as amended) (see the text and notes 21-25 *infra*) and Sch 8 (as amended) were transferred to the Treasury by the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981, SI 1981/1670. As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 512-517.

10 Local Government Act 1972 Sch 8 para 3(1).

11 There is to be paid to persons appointed under *ibid* Sch 8 para 3 such fees and allowances as may from time to time be determined by the National Assembly for Wales with the consent of the Treasury: Sch 8 para 3(2).

12 Ibid Sch 8 para 7(1). Before appointing a person to be a secretary to the Welsh Commission, the National Assembly for Wales must consult with the Welsh Commission: Sch 8 para 7(2).

13 The National Assembly for Wales may appoint such other officers and servants as it may, with the approval of the Treasury determine: see *ibid* Sch 8 para 7(1).

14 The terms and conditions of appointment of any person appointed under *ibid* Sch 8 para 7 are to be determined by the National Assembly for Wales with the approval of the Treasury: Sch 8 para 7(3).

15 *Ie* persons appointed under *ibid* Sch 8 para 3: see the text and notes 10-11 *supra*.

16 Ibid Sch 8 para 8 (amended by the Local Government (Wales) Act 1994 s 66(5), (8), Sch 15 paras 1, 59, Sch 18; and the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, art 2, Sch 1). See also the Local Government Boundary Commission for Wales (Accounts, Audit and Reports) Order 2003, SI 2003/749, which provides for the preparation and audit of the accounts of the Welsh Commission for the accounting year ending with 31 March 2004 and for each accounting year thereafter.

17 Local Government Act 1972 Sch 8 para 4.

18 Ibid Sch 8 para 5.

19 Ibid Sch 8 para 6. This is subject to Sch 8 paras 1-5 (see the text and notes 5-11, 17-18 *supra*) and to the provisions of, and of any regulations made or directions given under, Pt IV (ss 53-78) (as amended) (changes in local government areas: see PARA 97 *et seq post*).

20 Ibid Sch 8 para 9(1). *Prima facie* evidence of any such instrument may in any legal proceedings be given by the production of a document purporting to be certified by or on behalf of the secretary of the Welsh Commission to be a true copy of the instrument: Sch 8 para 9(2).

21 Ibid s 65(1) (s 65(1), (2) amended by the Local Government Act 1992 s 27(1), Sch 3 para 15).

22 As to local inquiries see PARA 78 *post*.

23 Local Government Act 1972 s 65(1)(a).

24 Ibid s 65(1)(b).

²⁵ Ibid s 65(2) (as amended: see note 21 supra). Such an appointment is for such period or purposes as may be specified in the terms of his appointment (see s 65(3)(a)), and is on such terms and conditions as to remuneration and otherwise as may be determined by the National Assembly for Wales with the approval of the Treasury (see s 65(3)(b)). See also note 9 supra.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(1) THE ESTABLISHMENT OF ELECTORAL BOUNDARIES/72. Establishment of constituencies for the purpose of parliamentary elections.

3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES

(1) THE ESTABLISHMENT OF ELECTORAL BOUNDARIES

72. Establishment of constituencies for the purpose of parliamentary elections.

There are for the purpose of parliamentary elections¹ county and borough constituencies² which are described in Orders in Council under the Parliamentary Constituencies Act 1986³, each returning a single member⁴.

Provision exists for the continuous review of the distribution of seats by four Boundary Commissions⁵ and for machinery to give effect to the recommendations of these Commissions with or without modifications⁶.

1 For the meaning of 'parliamentary election' see PARA 9 ante.

2 For the meaning of 'constituency' for these purposes see PARA 9 ante. Constituencies are designated as either county or borough constituencies in the Orders in Council by which they are constituted (see note 4 infra). See further PARLIAMENT vol 78 (2010) PARAS 892-893.

3 Such an order gives effect, whether with or without modifications, to the recommendations contained in the report of a Boundary Commission: see PARA 77 et seq post.

Under the Representation of the People Act 1948 Sch 1 (as originally enacted; now repealed), England was allotted 215 county constituencies and 291 borough constituencies, Wales 26 county constituencies and 10 borough constituencies, Scotland 39 county constituencies and 32 burgh constituencies and Northern Ireland 8 county constituencies and 4 borough constituencies. As to the rules for apportioning constituencies in subsequent redistributions see PARA 80 post.

4 Parliamentary Constituencies Act 1986 s 1(1).

The Order in Council currently in force in relation to England is the Parliamentary Constituencies (England) Order 1995, SI 1995/1626 (amended by SI 1996/1922; SI 1998/3152). The Order in Council currently in force in relation to Wales is the Parliamentary Constituencies and Assembly Electoral Regions (Wales) Order 2006, SI 2006/1041. As to the making of Orders in Council under the Parliamentary Constituencies Act 1986 see PARA 77 note 12 post.

5 As to the redistribution of seats by the Boundary Commissions see PARA 77 et seq post. As to the permanent Boundary Commissions see PARA 67 et seq ante; and as to the prospective transfer of functions to the Electoral Commission see PARA 67 note 1 ante.

6 As to the procedure of the Boundary Commissions for these purposes see PARA 78 et seq post.

UPDATE

72 Establishment of constituencies for the purpose of parliamentary elections

NOTE 4--SI 1995/1626 replaced: Parliamentary Constituencies (England) Order 2007, SI 2007/1681 (amended by SI 2009/698). SI 2006/1041 amended: SI 2008/1791.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(1) THE ESTABLISHMENT OF ELECTORAL BOUNDARIES/73. Establishment of electoral areas for the purpose of local government elections.

73. Establishment of electoral areas for the purpose of local government elections.

Councillors for a principal area¹ are elected by the local government electors² for that area in accordance with the Local Government Act 1972 and Part I of the Representation of the People Act 1983³. In England⁴: (1) every non-metropolitan county⁵ is divided into electoral divisions, each returning one councillor⁶; (2) every metropolitan district⁷ is divided into wards, each returning a number of councillors divisible by three⁸; and (3) every non-metropolitan district⁹ is divided into wards, each returning a specified number of councillors¹⁰. In Wales¹¹, every principal area is divided into electoral divisions, each returning such number of councillors as may be provided by order¹². There must be a separate election for each electoral division (in Wales) or each electoral division or ward (in England)¹³. For the purposes of the election of London borough councillors¹⁴, every London borough is divided into wards¹⁵; each ward returns a specified number of councillors¹⁶, and there must be a separate election for each ward¹⁷.

Parish or community councillors are elected by the local government electors for the parish¹⁸ or community¹⁹ in accordance with the Local Government Act 1972 and Part I of the Representation of the People Act 1983²⁰. In England, where a parish is not divided into parish wards there must be one election of parish councillors for the whole parish²¹, but where a parish is divided into parish wards there must be a separate election of parish councillors for each ward²². In Wales, where a community is not divided into community wards there must be one election of community councillors for the whole community²³, but where a community is divided into community wards there must be a separate election of community councillors for each ward²⁴.

Provision is made for the continuous review of local government electoral areas in England and Wales²⁵.

1 For the meaning of 'principal area' see LOCAL GOVERNMENT vol 69 (2009) PARA 23.

2 'Local government elector' means a person registered as a local government elector in the register of electors in accordance with the provisions of the Representation of the People Acts: Local Government Act 1972 s 270(1). For the meaning of 'the Representation of the People Acts' see PARA 3 note 1 ante. As to the registration of parliamentary or local government electors see PARA 128 et seq post.

3 Ibid ss 6(1), 25(1) (both amended by the Representation of the People Act 1983 s 206, Sch 8 para 12). See also LOCAL GOVERNMENT vol 69 (2009) PARA 126 et seq.

4 For the meaning of 'England' see PARA 13 note 1 ante.

5 For the meaning of 'non-metropolitan county' see LOCAL GOVERNMENT vol 69 (2009) PARA 24.

6 Local Government Act 1972 s 6(2)(a) (amended by the Local Government Act 1985 s 102, Sch 16 para 2; and the Local Government Act 2000 s 89(4)). This is subject to the Local Government Act 1972 s 18, Sch 3 para 3 (see LOCAL GOVERNMENT vol 69 (2009) PARA 126) and the Local Government Act 1992 ss 14(8), 17(7) (both as added and amended): see the Local Government Act 1972 s 6(2)(a) (as so amended).

7 For the meaning of 'district' see LOCAL GOVERNMENT vol 69 (2009) PARA 24.

8 Local Government Act 1972 s 6(2)(b).

9 For the meaning of 'non-metropolitan district' see LOCAL GOVERNMENT vol 69 (2009) PARA 24.

10 Local Government Act 1972 s 6(2)(c) (amended by the Local Government and Rating Act 1997 s 33(1), Sch 3 para 5(a)). The number of councillors may be provided: (1) by an order under the Local Government Act 1972 s 18, Sch 3 para 3 (see LOCAL GOVERNMENT vol 69 (2009) PARA 126); (2) under or by virtue of the provisions of s 7 (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 130); (3) by an order under the Local Government Act 1992 Pt II (ss 12-27) (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 56); or (4) by an order under the Local Government and Rating Act 1997 s 14 (as amended): Local Government Act 1972 s 6(3) (added by the Local Government and Rating Act 1997 Sch 3 para 5(b)).

11 For the meaning of 'Wales' see PARA 13 note 1 ante.

12 Local Government Act 1972 s 25(2) (substituted by the Local Government (Wales) Act 1994 s 4(1)). The reference in the text to orders is to orders made under the Local Government Act 1972 Sch 5 para 2 (as substituted) (see LOCAL GOVERNMENT vol 69 (2009) PARAS 7, 18) or under or by virtue of the provisions of Pt IV (ss 53-78) (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 77 et seq).

13 Ibid ss 6(2), 25(3) (s 25(3) added by the Local Government (Wales) Act 1994 s 4(1)).

14 As to the election of London borough councillors see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 38.

15 Local Government Act 1972 s 8(1), Sch 2 para 7(1) (amended by the Local Government Act 1985 Sch 17; and the Local Government Act 1992 s 27, Sch 3 para 19). As to London boroughs see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 30.

16 The such number of councillors as is specified in any order under the Local Government Act 1992 Pt II (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 56): Local Government Act 1972 Sch 2 para 7(1) (as amended: see note 15 supra). Until provision is made by such an order, the number of councillors for each ward in a London borough is that specified in the charter for the borough or in an order under the London Government Act 1963 s 1(4), Sch 1 Pt III (repealed) amending the charter, which was in force on the date of the coming into operation of the Local Government Act 1972 Pt IV (ss 53-78) (largely repealed): Sch 2 para 7(2) (amended by the Local Government Act 1992 Sch 3 para 19).

17 Local Government Act 1972 Sch 2 para 7(1) (as amended: see note 15 supra). As to the rules to be observed in relation to the electoral arrangements of a London borough see PARA 94 post. As to the City of London see PARA 30 ante; and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 31 et seq; and as to the rules to be observed in relation to the electoral arrangements of London Assembly constituencies see PARA 96 post.

18 As to parishes see LOCAL GOVERNMENT vol 69 (2009) PARA 27 et seq.

19 As to communities see LOCAL GOVERNMENT vol 69 (2009) PARA 41 et seq.

20 Local Government Act 1972 ss 16(2), 35(1) (amended by the Representation of the People Act 1983 Sch 8 para 12).

21 Local Government Act 1972 s 16(4).

22 Ibid s 16(5).

23 Ibid s 35(3).

24 Ibid s 35(4).

25 See PARA 92 et seq post.

UPDATE

73 Establishment of electoral areas for the purpose of local government elections

NOTES--Certain functions under provisions mentioned in this paragraph are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3, see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

TEXT AND NOTES 6, 10--Local Government Act 1972 s 6(2)(a) further amended, s 6(3) substituted and amended: Local Government and Public Involvement in Health Act

2007 s 58, Sch 1 para 11(2); Local Democracy, Economic Development and Construction Act 2009 Sch 4 para 2.

TEXT AND NOTE 8--Local Government Act 1972 s 6(2)(b) substituted: Local Government and Public Involvement in Health Act 2007 s 58.

TEXT AND NOTES 15-17--Local Government Act 1972 Sch 2 para 7(1), (2) further amended: Local Government and Public Involvement in Health Act 2007 Sch 1 para 11(4); Local Democracy, Economic Development and Construction Act 2009 Sch 4 para 4.

TEXT AND NOTES 20-22--See further Local Government Act 1972 s 16(6)-(9) (added by 2007 Act s 75(7)).

TEXT AND NOTE 20--Local Government Act 1972 s 16(2) further amended, s 16(2A), (2B) added: 2007 Act Sch 5 para 6(3), (4).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(1) THE ESTABLISHMENT OF ELECTORAL BOUNDARIES/74. Establishment of London Assembly constituencies.

74. Establishment of London Assembly constituencies.

For the purpose of elections to the London Assembly¹, there are specified Assembly constituencies, each of which has one constituency member². The Assembly constituencies are the areas, and are to be known by the names, specified in an order made by statutory instrument by the Electoral Commission³.

Provision is made for the continuous review of London Assembly constituencies⁴.

1 As to London Assembly elections see PARA 206 et seq; and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 88 et seq.

2 Greater London Authority Act 1999 s 2(3). There are 11 additional members of the London Assembly who are elected for the whole of Greater London (rather than for individual constituencies) and are known as 'London members of the London Assembly': see PARA 10 ante. As to the rules to be observed in relation to the electoral arrangements of London Assembly constituencies see PARA 96 post.

3 Ibid s 2(4) (amended by the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962, art 9, Sch 2 para 13). As to the establishment and constitution of the Electoral Commission see PARA 31 set seq ante.

See, by virtue of the Interpretation Act 1978 s 17(2)(b), the Greater London Authority (Assembly Constituencies and Returning Officers) Order 1999, SI 1999/3380, which specifies Assembly constituencies and their names (see art 2(a), Table; and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 93).

4 See PARA 95 post.

UPDATE

74 Establishment of London Assembly constituencies

TEXT AND NOTE 3--Reference to the Electoral Commission is now to the Local Government Boundary Commission for England: Greater London Authority Act 1999 s 2(4) (further amended by Local Democracy, Economic Development and Construction Act 2009 Sch 4 para 9); and see ELECTIONS AND REFERENDUMS (2007 Reissue) PARAS 60-66.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(1) THE ESTABLISHMENT OF ELECTORAL BOUNDARIES/75. Establishment of constituencies and electoral regions for the purpose of elections to the National Assembly for Wales.

75. Establishment of constituencies and electoral regions for the purpose of elections to the National Assembly for Wales.

As from the appointed day, the following provisions have effect¹.

The National Assembly for Wales² consists of one member for each Assembly constituency³, and members for each Assembly electoral region⁴. The Assembly constituencies are the parliamentary constituencies in Wales⁵. There are five Assembly electoral regions⁶ and there are four Assembly seats for each Assembly electoral region⁷.

Provision is made for the continuous review of Assembly electoral regions and parliamentary constituencies in Wales⁸.

1 The provisions of the Government of Wales Act 2006 come into force immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5).

2 As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

3 Government of Wales Act 2006 s 1(2)(a). As to the date at which this provision takes effect see note 1 supra. As to the provision that applies for these purposes until that date see the Government of Wales Act 1998 s 2(1)(a).

4 Government of Wales Act 2006 s 1(2)(b). As to the date at which this provision takes effect see note 1 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 2(1)(b).

5 Government of Wales Act 2006 s 2(1). The parliamentary constituencies in Wales are as specified in the Parliamentary Constituencies and Assembly Electoral Regions (Wales) Order 2006, SI 2006/1041 (see PARA 72 ante): Government of Wales Act 2006 s 2(1). The provisions of s 2(1) and s 2(3), (4) (see the text and notes 6-7 infra) are subject to any Order in Council under the Parliamentary Constituencies Act 1986 (see PARA 77 et seq post), as that Act has effect as extended by the Government of Wales Act 2006 s 2(5), Sch 1 (see PARA 103 et seq post): s 2(6). As to the date at which s 2 takes effect see note 1 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 2(2), Sch 1 para 1. Schedule 1 para 1 and Sch 1 para 2(2), (3) (see the text and notes 6-7 infra) are subject to any Order in Council under the Parliamentary Constituencies Act 1986 (see PARA 77 et seq post), as that Act has effect as extended by the Government of Wales Act 1998 Sch 1 (as amended): Sch 1 para 3.

6 Government of Wales Act 2006 s 2(2). The Assembly electoral regions are as specified in the Parliamentary Constituencies and Assembly Electoral Regions (Wales) Order 2006, SI 2006/1041 (see PARA 72 ante): Government of Wales Act 2006 s 2(3). As to the date at which s 2 takes effect see note 1 supra. As to the provision that applies until that date see the Government of Wales Act 1998 Sch 1 para 2(1), (2). See also note 5 supra.

7 Government of Wales Act 2006 s 2(4). As to the date at which s 2 takes effect see note 1 supra. As to the provision that applies until that date see the Government of Wales Act 1998 Sch 1 para 2(3). See also note 5 supra.

8 For the purposes of the Government of Wales Act 2006, provision is made for alterations in the Assembly electoral regions and in the allocation of seats to those regions under Sch 1 (see PARA 103 et seq post): s 2(5), Sch 1 para 1(1). See note 1 supra. For the purposes of the Government of Wales Act 1998, the Assembly constituencies and Assembly electoral regions, and the number of Assembly seats for each Assembly electoral region, are as provided for by or in accordance with Sch 1 (as amended) (see PARA 100 et seq post): s 2(2). As to the review of parliamentary constituencies in Wales see PARA 77 et seq post; and PARLIAMENT vol 78 (2010) PARA 896.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(1) THE ESTABLISHMENT OF ELECTORAL BOUNDARIES/76. Establishment of electoral regions for the purpose of European parliamentary elections.

76. Establishment of electoral regions for the purpose of European parliamentary elections.

For the purposes of electing the 78 members of the European Parliament ('MEPs') for the United Kingdom¹, the area of England² and Gibraltar³ is divided into nine specified electoral regions⁴ and Scotland, Wales⁵ and Northern Ireland are each single electoral regions⁶.

Provision is made for periodic reviews by the Electoral Commission⁷ of the distribution of MEPs between the electoral regions⁸.

1 European Parliamentary Elections Act 2002 s 1(1) (s 1 substituted by the European Parliament (Representation) Act 2003 s 1; and the European Parliamentary Elections Act 2002 s 1(1) amended by the European Parliament (Number of MEPs) (United Kingdom and Gibraltar) Order 2004, SI 2004/1245, art 2(1), (2)). For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

2 For the meaning of 'England' see PARA 13 note 1 ante.

3 In Application 24833/94 *Matthews v United Kingdom* (1999) 28 EHRR 361, ECtHR, it was held that the United Kingdom was responsible for securing for the citizens of Gibraltar the right to free elections to the European Parliament, as that body forms part of Gibraltar's legislature. Accordingly, Gibraltar is combined with an existing electoral region in England and Wales to form a new electoral region (the 'combined region') for the purposes of European parliamentary elections taking place after 1 April 2004: see the European Parliament (Representation) Act 2003 s 9. For these purposes, 'combined region' means the electoral region which includes Gibraltar; 'electoral region' means an electoral region of the United Kingdom established under the European Parliamentary Elections Act 2002 for the purposes of European parliamentary elections; and 'existing electoral region' means an electoral region existing immediately before the passing of the European Parliament (Representation) Act 2003 (ie 8 May 2003): s 27(1). In exercise of powers conferred by ss 11-13, 23(2), 25(3) and 26, the combined region is specified in the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, which also makes consequential amendments and extends certain provisions to Gibraltar (see eg note 4 infra).

4 European Parliamentary Elections Act 2002 s 1(2)(a) (as substituted (see note 1 supra); and amended by the European Parliament (Number of MEPs) (United Kingdom and Gibraltar) Order 2004, SI 2004/1245, art 2(1), (2)). As to the nine electoral regions in England and Gibraltar and the areas included therein see the European Parliamentary Elections Act 2002 s 1(2) (as so substituted); and the European Parliamentary Elections Act 2002 Sch 1 (amended by the European Parliament (Representation) Act 2003 s 8(1), (3); and the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, art 3(1), (6)(b)-(d)). Gibraltar is included in the South West region: see the European Parliamentary Elections Act 2002 Sch 1 para 1, Table (amended by the European Parliament (Representation) Act 2003 s 8(1), (3); and by the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, art 3(1), (6)(b)-(d)).

5 For the meaning of 'Wales' see PARA 13 note 1 ante.

6 European Parliamentary Elections Act 2002 s 1(2)(b) (as substituted: see note 1 supra).

The number of MEPs to be elected for each electoral region is as follows: (1) six for the East Midlands region; (2) seven for the Eastern region; (3) nine for the London region; (4) three for the North East region; (5) nine for the North West region; (6) ten for the South East region; (7) seven for the South West region; (8) seven for the West Midlands region; (9) six for the Yorkshire and the Humber region; (10) seven for Scotland; (11) four for Wales; and (12) three for Northern Ireland: s 1(3) (as so substituted; and further substituted by the European Parliament (Number of MEPs) (United Kingdom and Gibraltar) Order 2004, SI 2004/1245, art 2(1), (3)).

7 As to the establishment and constitution of the Electoral Commission see PARA 31 set seq ante.

8 See PARA 106 et seq post.

UPDATE

76 Establishment of electoral regions for the purpose of European parliamentary elections

TEXT AND NOTE 1--2002 Act s 1(1) further amended: SI 2008/1954.

NOTE 4--European Parliamentary Elections Act 2002 Sch 1 further amended: SI 2009/837.

NOTE 6--2002 Act s 1(3) further substituted: SI 2008/1954.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/(i) Review of Parliamentary Constituencies/A. REVIEW BY THE BOUNDARY COMMISSIONS/77. Reports of the Boundary Commissions.

(2) THE REVIEW OF ELECTORAL BOUNDARIES

(i) Review of Parliamentary Constituencies

A. REVIEW BY THE BOUNDARY COMMISSIONS

77. Reports of the Boundary Commissions.

Until a day to be appointed, the following provisions have effect¹.

Each Boundary Commission² must keep under review the representation in the House of Commons of the part of the United Kingdom³ with which it is concerned and must submit periodical reports⁴ with respect to the whole of that area to the Secretary of State⁵, either: (1) showing the constituencies⁶ into which it recommends that that area should be divided in order to give effect to the statutory rules laid down for its guidance⁷; or (2) stating that, in the opinion of the Commission, no alteration is required to be made in respect of that part of the United Kingdom in order to give effect to those rules⁸. Any Boundary Commission may also from time to time submit to the Secretary of State reports with respect to the area comprised in any particular constituency or constituencies in the part of the United Kingdom with which it is concerned, showing the constituencies into which it recommends that that area should be divided in order to give effect to those statutory rules⁹. A report of a Boundary Commission under the Parliamentary Constituencies Act 1986 showing the constituencies into which the Commission recommends that any area should be divided must state, as respects each constituency, the name by which the Commission recommends that it should be known and whether the Commission recommends that it should be a county constituency or a borough constituency¹⁰.

A Boundary Commission must give written notice to the Secretary of State of its intention to make a report, and a copy of the notice must, where it is given by the Boundary Commission for England or the Boundary Commission for Wales, be published in the London Gazette¹¹. As soon as may be after the report has been submitted to the Secretary of State, he must lay it before Parliament and, unless a Commission has recommended that no alteration is required, drafts of Orders in Council to give effect to the report, whether with or without modifications, must be laid at the same time¹².

The first report of a Boundary Commission with regard to its area as a whole was submitted in November 1954¹³. Subsequent reports on an area as a whole¹⁴ must be submitted not less than eight or more than twelve years from the date of a Commission's last such report on the area as a whole¹⁵. A failure by a Boundary Commission to submit a report within the time limit which is appropriate to that report is not, however, to be regarded as invalidating the report for the purposes of any enactment¹⁶.

1 As from a day to be appointed under the Political Parties, Elections and Referendums Act 2000 s 163(2), the Parliamentary Constituencies Act 1986 ss 3-4, Sch 2 (as amended) is further amended, s 3A is added, and s 5 is substituted, by the Political Parties, Elections and Referendums Act 2000 s 16(1), Sch 3 Pt I to reflect the fact that the functions of each of the Boundary Commissions with respect to keeping under review, and reporting on, representation in the House of Commons of the part of the United Kingdom with which it is

concerned is to be transferred to the Electoral Commission: see PARAS 67 et seq ante, 84 et seq post. At the date at which this volume states the law, no such day had been appointed. As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 As to the constitution of the Boundary Commissions see PARA 67 et seq ante.

3 For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

4 le in accordance with the Parliamentary Constituencies Act 1986 s 3(2) (as amended) (see the text and notes 14-15 infra). See note 1 supra.

5 Ibid s 3(1). See note 1 supra. As to the Secretary of State see PARA 2 ante. See also PARLIAMENT vol 78 (2010) PARA 896.

6 For the meaning of 'constituency' for these purposes see PARA 9 ante.

7 Parliamentary Constituencies Act 1986 s 3(1)(a). The rules referred to in the text are those set out in s 3(6), Sch 2 paras 1-6 (as amended), as read with Sch 2 para 7 (as amended): see PARAS 79-83 post. See note 1 supra.

8 Ibid s 3(1)(b). As to the rules referred to in the text see note 7 supra. See note 1 supra.

9 Ibid s 3(3). As to the rules referred to in the text see note 7 supra. See note 1 supra.

10 Ibid s 3(4). In Scotland, the recommendation will be that the constituency should be either a county constituency or a burgh constituency: see s 3(4). See also PARA 84 post. See note 1 supra.

11 Ibid s 5(1)(a). The notice given by the Boundary Commission for Scotland must be published in the Edinburgh Gazette (see s 5(1)(b)); and the notice given by the Boundary Commission for Northern Ireland must be published in the Belfast Gazette (see s 5(1)(c)). See note 1 supra.

12 Ibid s 3(5).

The draft of any Order in Council laid before Parliament by the Secretary of State under the Parliamentary Constituencies Act 1986 for giving effect, whether with or without modifications, to the recommendations contained in the report of a Boundary Commission may make provision for any matters which appear to him to be incidental to, or consequential on, the recommendations: s 4(1). Where any such draft gives effect to any such recommendations with modifications, the Secretary of State must lay before Parliament together with the draft a statement of the reasons for the modifications: s 4(2). If any such draft is approved by resolution of each House of Parliament, the Secretary of State must submit it to Her Majesty in Council: s 4(3). However, if a motion for the approval of any such draft is rejected by either House of Parliament or withdrawn by leave of the House, the Secretary of State may amend the draft and lay the amended draft before Parliament, and if the draft as so amended is approved by resolution of each House of Parliament, the Secretary of State must submit it to Her Majesty in Council: s 4(4). Where the draft of an Order in Council is so submitted to Her Majesty in Council, Her Majesty in Council may make an order in terms of the draft which comes into force on such date as may be specified in the order and has effect notwithstanding anything in any enactment: s 4(5). However, the coming into force of any such order does not affect any parliamentary election until a proclamation is issued by Her Majesty summoning a new Parliament, nor does it affect the constitution of the House of Commons until the dissolution of the Parliament then in being: s 4(6). The validity of any Order in Council purporting to be made under the Parliamentary Constituencies Act 1986 and reciting that a draft of the order has been approved by resolution of each House of Parliament must not be called in question in any legal proceedings whatsoever: s 4(7). See note 1 supra. See also PARLIAMENT vol 78 (2010) PARA 896.

As from a day to be appointed, s 4(1) is amended, and s 4(2) is repealed, by the Political Parties, Elections and Referendums Act 2000 Sch 3 paras 1, 4(1)-(3), Sch 22 so as to provide that effect must be given to the recommendations contained in a report of the Electoral Commission (rather than a report of a Boundary Commission) whether with or without modifications: see the Parliamentary Constituencies Act 1986 s 4(1) (prospectively amended by the Political Parties, Elections and Referendums Act 2000 Sch 3 paras 1, 4(1), (2)). At the date at which this volume states the law, no such day had been appointed.

13 See *First Periodical Reports of the Boundary Commissions* presented in November 1954 (Cmd 9311) (England), (Cmd 9313) (Wales), (Cmd 9312) (Scotland), (Cmd 9314) (Northern Ireland), submitted under the House of Commons (Redistribution of Seats) Act 1949 s 2(2)(a) (repealed).

14 le under the Parliamentary Constituencies Act 1986 s 3(1) (see the text and notes 2-8 supra). See note 1 supra.

15 Ibid s 3(2) (amended by the Boundary Commissions Act 1992 s 2(1), (3)). This is subject to the exception that the first mandatory report under the Parliamentary Constituencies Act 1986 s 3(1) (see the text and notes

2-8 supra) which fell to be made after 12 November 1992 was to be submitted not later than 31 December 1994: see the Boundary Commissions Act 1992 s 2(1), (2) (prospectively repealed by the Political Parties, Elections and Referendums Act 2000 s 158(2), Sch 22). See note 1 supra.

16 Parliamentary Constituencies Act 1986 s 3(2A) (added by the Boundary Commissions Act 1992 s 2(1), (4)). See note 1 supra.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/(i) Review of Parliamentary Constituencies/A. REVIEW BY THE BOUNDARY COMMISSIONS/78. Procedure relating to reviews and proposed recommendations.

78. Procedure relating to reviews and proposed recommendations.

Until a day to be appointed, the following provisions have effect¹.

Where a Boundary Commission has provisionally determined to make recommendations affecting any constituency², it must publish in at least one newspaper circulating in the constituency a notice stating the effect of its proposed recommendations³. Except in a case where the Commission proposes to recommend that no alteration be made in respect of the constituency, the notice must also state that a copy of the recommendations is open to inspection at a specified place within the constituency⁴. In either case, it must state that representations with respect to the proposed recommendations may be made to the Commission within one month after the publication of the notice⁵. The Commission must take into consideration any representations duly made in accordance with any such notice⁶.

A Boundary Commission may, if it thinks fit, cause a local inquiry to be held in respect of any constituency or constituencies⁷. Where, on the publication of a notice of a recommendation for the alteration of any constituencies⁸, the Commission receives any representation objecting to the proposed recommendation from a local authority⁹ the area of which is wholly or partly comprised in the constituencies affected by the recommendation, or from a body of parliamentary electors for any of those constituencies numbering 100 or more, the Commission may not make the recommendation unless: (1) a local inquiry has been held in respect of the constituencies since the publication of the notice¹⁰; or (2) a local inquiry was held in respect of the constituencies before the publication of the notice and the Commission, after considering the matters discussed at that inquiry, the nature of the representations received on the publication of the notice and any other relevant circumstances, is of opinion that a further local inquiry would not be justified¹¹.

1 As from a day to be appointed under the Political Parties, Elections and Referendums Act 2000 s 163(2): (1) the Parliamentary Constituencies Act 1986 s 5 is substituted, and s 6 is amended, by the Political Parties, Elections and Referendums Act 2000 s 16(1), Sch 3 paras 1, 5, 6, and the Parliamentary Constituencies Act 1986 s 2(2), Sch 1 is repealed by the Political Parties, Elections and Referendums Act 2000 s 158(2), Sch 22; (2) the functions of each of the Boundary Commissions with respect to keeping under review, and reporting on, representation in the House of Commons of the part of the United Kingdom with which it is concerned is to be transferred to the Electoral Commission under s 16 (not yet fully in force). At the date at which this volume states the law, no such day had been appointed in relation to either head (1) or head (2) supra. As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante. As to the provisions of the Parliamentary Constituencies Act 1986 ss 5, 6 (prospectively amended) see PARA 86 post.

2 As to the making of such recommendations see PARA 77 ante. As to the constitution of the Boundary Commissions see PARA 67 et seq ante.

3 Parliamentary Constituencies Act 1986 s 5(2)(a). Where a Boundary Commission revises any proposed recommendations after publishing a notice of them under s 5(2), it must comply again with s 5(2) in relation to the revised recommendations as if no earlier notice had been published: s 5(3). See note 1 supra. See also PARLIAMENT vol 78 (2010) PARA 896.

4 Ibid s 5(2)(a). See note 1 supra.

5 Ibid s 5(2)(b). See note 1 supra.

6 Ibid s 5(2). See note 1 supra.

7 Ibid s 6(1). The Local Government Act 1972 s 250(2), (3) (as amended) (which relates to the attendance of witnesses at inquiries: see LOCAL GOVERNMENT vol 69 (2009) PARA 105) applies in relation to any local inquiry which the Boundary Commission for England or the Boundary Commission for Wales may cause to be held in pursuance of the Parliamentary Constituencies Act 1986: s 6(5). See note 1 supra.

8 le under ibid s 5(2) (see the text and notes 2-6 supra). See note 1 supra.

9 For these purposes, 'local authority' means, in England and Wales, the council of a county, county borough, London borough or district: ibid s 6(4)(a) (amended by the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 80). As to the council of a county, district or London borough in England and the council of a county or county borough in Wales see LOCAL GOVERNMENT vol 69 (2009) PARA 23. For the meaning of 'local authority' in relation to Scotland or Northern Ireland see the Parliamentary Constituencies Act 1986 s 6(4)(b), (c). See note 1 supra.

10 Ibid s 6(2), (4). See note 1 supra.

11 Ibid s 6(3). See note 1 supra.

UPDATE

78 Procedure relating to reviews and proposed recommendations

NOTES--Certain functions under provisions mentioned in this paragraph are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3, see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/(i) Review of Parliamentary Constituencies/A. REVIEW BY THE BOUNDARY COMMISSIONS/79. Rules for redistribution generally.

79. Rules for redistribution generally.

Until a day to be appointed, the following provisions have effect¹.

In discharging its functions, a Boundary Commission² must observe certain rules³. It is not, however, a Boundary Commission's duty to aim at giving full effect in all circumstances to the rules; it must take account, so far as it reasonably can⁴: (1) of the inconveniences attendant on alterations of constituencies⁵ other than alterations made for the purpose of adjusting constituencies to local authority boundaries⁶; and (2) of any local ties which would be broken by such alterations⁷. In so far as the working out and application of the rules is not within the discretion of the Commission, it is a matter for Parliament to determine; it is not for the court to determine whether a particular line of approach which commended itself to the commission was the best⁸.

1 As from a day to be appointed under the Political Parties, Elections and Referendums Act 2000 s 163(2), the Parliamentary Constituencies Act 1986 s 3(6), Sch 2 (as amended) is further amended by the Political Parties, Elections and Referendums Act 2000 s 16(1), Sch 3 Pt I to reflect the fact that the functions of each of the Boundary Commissions with respect to keeping under review, and reporting on, representation in the House of Commons of the part of the United Kingdom with which it is concerned is to be transferred to the Electoral Commission: see PARAS 67 et seq ante, 84 et seq post. At the date at which this volume states the law, no such day had been appointed. As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 As to the constitution of the Boundary Commissions see PARA 67 et seq ante.

3 See the Parliamentary Constituencies Act 1986 s 3(1)(a), (b), (3), (6), Sch 2 (as amended); and PARAS 77 ante, 80-83 post. See PARLIAMENT vol 78 (2010) PARA 896. See also note 1 supra.

4 Ibid Sch 2 para 7 (amended by the Scotland Act 1998 s 86(5)). See note 1 supra.

5 For the meaning of 'constituency' for these purposes see PARA 9 ante.

6 Parliamentary Constituencies Act 1986 Sch 2 para 7(a). The text refers to alterations made for the purposes of Sch 2 para 4 (as amended) (see PARA 81 post). See note 1 supra.

7 Ibid Sch 2 para 7(b). See note 1 supra.

8 *Harper v Secretary of State for the Home Department* [1955] Ch 238, [1955] 1 All ER 331, CA. The question of the competence of the court in the event of a Commission on the face of its report making recommendations in manifest disregard of the rules was left undecided: *Harper v Secretary of State for the Home Department* supra at 251 and 338; and see PARLIAMENT vol 34 (Reissue) PARA 944. See also *Hammersmith Corp'n v Boundary Commission for England* (1954) Times, 15 December; *R v Boundary Commission for England, ex p Foot*, *R v Boundary Commission for England, ex p Gateshead Borough Council* [1983] QB 600, [1983] 1 All ER 1099, CA (the Commission was entrusted with a wide discretion, covering a complex field in which there was no objective standard as to the exercise of that discretion, and as long as the Commission acted honestly and in good faith its recommendations could not be challenged).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/(i) Review of Parliamentary Constituencies/A. REVIEW BY THE BOUNDARY COMMISSIONS/80. Rules for apportioning constituencies.

80. Rules for apportioning constituencies.

Until a day to be appointed, the following provisions have effect¹.

In any redistribution of seats recommended by a Boundary Commission² the number of constituencies³ must not be substantially greater or less than 613 in Great Britain⁴; and in Wales⁵ not less than 35⁶. Every constituency must return a single member⁷.

1 As from a day to be appointed under the Political Parties, Elections and Referendums Act 2000 s 163(2), the Parliamentary Constituencies Act 1986 s 3(6), Sch 2 (as amended) is further amended by the Political Parties, Elections and Referendums Act 2000 s 16(1), Sch 3 Pt I to reflect the fact that the functions of each of the Boundary Commissions with respect to keeping under review, and reporting on, representation in the House of Commons of the part of the United Kingdom with which it is concerned is to be transferred to the Electoral Commission: see PARAS 67 et seq ante, 84 et seq post. At the date at which this volume states the law, no such day had been appointed. As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 As to the constitution of the Boundary Commissions see PARA 67 et seq ante; and as to the redistribution of seats see PARAS 77-79 ante.

3 For the meaning of 'constituency' for these purposes see PARA 9 ante.

4 Parliamentary Constituencies Act 1986 Sch 2 para 1(1). See note 1 supra. For the meaning of 'Great Britain' see PARA 13 note 1 ante.

5 For the meaning of 'Wales' see PARA 13 note 1 ante.

6 Parliamentary Constituencies Act 1986 Sch 2 para 1(3). In Northern Ireland, the number of constituencies must not be greater than 18 nor less than 16 and must be 17 unless it appears to the Boundary Commission for Northern Ireland that Northern Ireland should for the time being be divided into 16 or 18 constituencies: see Sch 2 para 1(4). See note 1 supra. The number of seats at the general election of May 2005 was in England 529, in Wales 40, in Northern Ireland 18, and in Scotland 59.

Provision must be made for the continuation of a constituency to include the whole of the City of London, the name of which must refer to the City of London: see Sch 2 para 3. As to elections in the City of London see PARA 30 ante.

A constituency which includes the Orkney Islands or the Shetland Islands must not include the whole or any part of a local government area other than the Orkney Islands and the Shetland Islands: Sch 2 para 3A (added by the Scotland Act 1998 s 86(3)).

7 Parliamentary Constituencies Act 1986 Sch 2 para 2.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/(i) Review of Parliamentary Constituencies/A. REVIEW BY THE BOUNDARY COMMISSIONS/81. Rules relating to local authority boundaries.

81. Rules relating to local authority boundaries.

Until a day to be appointed, the following provisions have effect¹.

So far as is practicable having regard to the statutory rules², the recommendations of a Boundary Commission as to the redistribution of seats³ must take account of local authority boundaries in the following manner⁴. In England⁵, no county or part of a county may be included in a constituency⁶ which includes the whole or part of any other county or the whole or part of a London borough⁷; and no London borough or part of a London borough may be included in a constituency which includes the whole or part of any other London borough⁸. In Wales, no part of a preserved county⁹ may be included in a constituency which includes the whole or part of any other preserved county¹⁰.

1 As from a day to be appointed under the Political Parties, Elections and Referendums Act 2000 s 163(2), the Parliamentary Constituencies Act 1986 s 3, Sch 2 (as amended) is further amended by the Political Parties, Elections and Referendums Act 2000 s 16(1), Sch 3 Pt I to reflect the fact that the functions of each of the Boundary Commissions with respect to keeping under review, and reporting on, representation in the House of Commons of the part of the United Kingdom with which it is concerned is to be transferred to the Electoral Commission: see PARAS 67 et seq ante, 84 et seq post. At the date at which this volume states the law, no such day had been appointed. As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 I.e the Parliamentary Constituencies Act 1986 Sch 2 paras 1-3A (Sch 2 para 3A as added) (see PARA 80 ante). See note 1 supra.

3 As to the constitution of the Boundary Commissions see PARA 67 et seq ante; and as to the redistribution of seats see PARAS 77-79 ante.

4 See the Parliamentary Constituencies Act 1986 Sch 2 para 4(1) (amended by the Scotland Act 1998 s 86(3)).

For the purposes of the application of the Parliamentary Constituencies Act 1986 Sch 2 para 4 (as amended), a report of a Boundary Commission under s 3(1) (see PARA 77 ante) may take account only of those boundaries, whether of counties, London boroughs, local authority areas in Scotland or wards in Northern Ireland, which are in operation at whichever is the earlier of the date of the report and the tenth anniversary of the date of the submission of the most recent report of the Commission under s 3(1); but nothing in this provision prevents a Boundary Commission publishing proposed recommendations which take account of boundaries which at the time of publication are prospective only; and a boundary is regarded as prospective at any time if, at that time, it is specified in a provision of an Act, Measure of the Northern Ireland Assembly, statutory instrument or statutory rule but the boundary has not yet come into operation: s 3(7), (8) (added by the Boundary Commissions Act 1992 s 3(1)). See note 1 supra. For transitional provisions relating to the first reports which fell to be submitted after 12 November 1992, and which were to be submitted not later than 31 December 1994 see PARA 77 note 15 ante. For the meaning of 'county' in relation to England see LOCAL GOVERNMENT vol 69 (2009) PARA 24. As to London boroughs see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 30.

5 For the meaning of 'England' see PARA 13 note 1 ante.

6 For the meaning of 'constituency' for these purposes see PARA 9 ante.

7 Parliamentary Constituencies Act 1986 Sch 2 para 4(1)(a)(i). See note 1 supra.

8 Ibid Sch 2 para 4(1)(a)(ii). See note 1 supra.

9 le within the meaning of the Local Government (Wales) Act 1994 s 64 (see LOCAL GOVERNMENT vol 69 (2009) PARA 1).

10 Parliamentary Constituencies Act 1986 Sch 2 para 4(1)(a)(i), (1A) (Sch 2 para 4(1A) added by the Local Government (Wales) Act 1994 s 1(3), Sch 2 para 13).

In Scotland, regard must be had to the boundaries of local authority areas and in Northern Ireland no ward may be included partly in one constituency and partly in another: see the Parliamentary Constituencies Act 1986 Sch 2 para 4(1)(b), (c), (2). See note 1 *supra*.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/(i) Review of Parliamentary Constituencies/A. REVIEW BY THE BOUNDARY COMMISSIONS/82. Rules relating to the electoral quota.

82. Rules relating to the electoral quota.

Until a day to be appointed, the following provisions have effect¹.

The electorate² of any constituency recommended for redistribution by a Boundary Commission must be as near the electoral quota³ as is practicable having regard to the statutory rules⁴ laid down for the Commission's guidance⁵. A Boundary Commission may depart from the strict application of the rule relating to local authority boundaries⁶ if it appears to that Commission that a departure is desirable to avoid an excessive disparity between the electorate of any constituency and the electoral quota, or between the electorate of that constituency and that of neighbouring constituencies in the part of the United Kingdom with which the particular Commission is concerned⁷.

1 As from a day to be appointed under the Political Parties, Elections and Referendums Act 2000 s 163(2), the Parliamentary Constituencies Act 1986 s 3(6), Sch 2 (as amended) is further amended by the Political Parties, Elections and Referendums Act 2000 s 16(1), Sch 3 Pt I to reflect the fact that the functions of each of the Boundary Commissions with respect to keeping under review, and reporting on, representation in the House of Commons of the part of the United Kingdom with which it is concerned is to be transferred to the Electoral Commission: see PARAS 67 et seq ante, 84 et seq post. At the date at which this volume states the law, no such day had been appointed. As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 In relation to a constituency, 'electorate' means the number of persons whose names appear on the register of parliamentary electors in force under the Representation of the People Acts for the constituency on the enumeration date; and in relation to the part of the United Kingdom with which a Boundary Commission is concerned, 'electorate' means the aggregate electorate (as so defined) of all the constituencies in it: Parliamentary Constituencies Act 1986 s 3(6), Sch 2 para 8(b). In relation to any report of a Boundary Commission under the Parliamentary Constituencies Act 1986, 'enumeration date' means the date on which the notice with respect to that report is published under s 5(1) (see PARA 77 ante); Sch 2 para 8(c). See note 1 supra. For the meaning of 'the Representation of the People Acts' see PARA 3 note 1 ante; for the meaning of 'constituency' for these purposes see PARA 9 ante; and for the meaning of 'United Kingdom' see PARA 13 note 1 ante. As to the constitution of the Boundary Commissions see PARA 67 et seq ante; and as to the registration of parliamentary electors see PARA 128 et seq post.

3 'Electoral quota' means the number obtained by dividing the electorate for that part of the United Kingdom with which a Commission is concerned by the number of constituencies existing in it on the enumeration date: *ibid* Sch 2 para 8(a). See note 1 supra.

4 *Ie* the rules laid down in *ibid* Sch 2 paras 1-4 (as amended): see PARAS 80-81 ante. See also note 1 supra.

5 *Ibid* Sch 2 para 5. See note 1 supra.

6 *Ie* the rules laid down in *ibid* Sch 2 para 4 (as amended): see PARA 81 ante. See also note 1 supra.

7 *Ibid* Sch 2 para 5. See note 1 supra.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/(i) Review of Parliamentary Constituencies/A. REVIEW BY THE BOUNDARY COMMISSIONS/83. Taking into account geographical considerations.

83. Taking into account geographical considerations.

Until a day to be appointed, the following provisions have effect¹.

A Boundary Commission² may depart from the strict application of the rules relating to local authority boundaries³ and to the electoral quota⁴ if special geographical considerations, including in particular the size, shape and accessibility of a constituency⁵, appear to that Commission to render a departure desirable⁶.

1 As from a day to be appointed under the Political Parties, Elections and Referendums Act 2000 s 163(2), the Parliamentary Constituencies Act 1986 s 3(6), Sch 2 (as amended) is further amended by the Political Parties, Elections and Referendums Act 2000 s 16(1), Sch 3 Pt I to reflect the fact that the functions of each of the Boundary Commissions with respect to keeping under review, and reporting on, representation in the House of Commons of the part of the United Kingdom with which it is concerned is to be transferred to the Electoral Commission: see PARAS 67 et seq ante, 84 et seq post. At the date at which this volume states the law, no such day had been appointed. As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 As to the constitution of the Boundary Commissions see PARA 67 et seq ante.

3 Ie the Parliamentary Constituencies Act 1986 s 3(6), Sch 2 para 4 (as amended): see PARA 81 ante.

4 Ie ibid Sch 2 para 5 (see PARA 82 ante).

5 For the meaning of 'constituency' for these purposes see PARA 9 ante.

6 Parliamentary Constituencies Act 1986 Sch 2 para 6. See note 1 supra.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/(i) Review of Parliamentary Constituencies/B. REVIEW BY THE ELECTORAL COMMISSION AND BOUNDARY COMMITTEES/84. Reports of the Electoral Commission.

B. REVIEW BY THE ELECTORAL COMMISSION AND BOUNDARY COMMITTEES

84. Reports of the Electoral Commission.

As from a day to be appointed, the following provisions have effect¹.

The Electoral Commission² must keep under review the representation in the House of Commons of each of England³, Scotland, Wales⁴ and Northern Ireland and must submit separate periodical reports⁵ with respect to the whole of each of those parts of the United Kingdom to the Secretary of State⁶, either: (1) showing the constituencies⁷ into which it recommends that that area should be divided in order to give effect to the statutory rules laid down for its guidance⁸; or (2) stating that, in the opinion of the Commission, no alteration is required to be made in respect of that part of the United Kingdom in order to give effect to those rules⁹. The Commission may also from time to time submit to the Secretary of State reports with respect to the area comprised in any particular constituency or constituencies in any part of the United Kingdom, showing the constituencies into which it recommends that that area should be divided in order to give effect to those statutory rules¹⁰. A report of the Commission under the Parliamentary Constituencies Act 1986 showing the constituencies into which the Commission recommends that any area should be divided must state, as respects each constituency, the name by which the Commission recommends that it should be known and whether the Commission recommends that it should be a county constituency or a borough constituency¹¹.

The Commission must give written notice to the Secretary of State of its intention to consider making a report, and a copy of the notice must be published, if the report would be with respect to England or Wales (or an area comprised therein), in the London Gazette¹². As soon as practicable after the Commission has submitted a report to the Secretary of State, he must lay it before Parliament and, except where the report states that no alteration is required to be made in respect of the part of the United Kingdom to which it relates, the draft of an Order in Council for giving effect to the recommendations contained in the report must be laid at the same time¹³.

Reports¹⁴ with respect to a particular part of the United Kingdom¹⁶ must be submitted by the Electoral Commission not less than eight nor more than twelve years from the date of the last such report with respect to that part of the United Kingdom¹⁷. A failure by the Electoral Commission to submit a report within the time limit which is appropriate to that report is not, however, to be regarded as invalidating the report for the purposes of any enactment¹⁸.

1 As from a day to be appointed under the Political Parties, Elections and Referendums Act 2000 s 163(2), the Parliamentary Constituencies Act 1986 ss 3, 4, Sch 2 (as amended) are further amended, s 3A is added and s 5 is substituted by the Political Parties, Elections and Referendums Act 2000 s 16(1), Sch 3 Pt I to reflect the fact that the functions of each of the Boundary Commissions with respect to keeping under review, and reporting on, representation in the House of Commons of the part of the United Kingdom with which it is concerned is to be transferred to the Electoral Commission: see PARAS 67 et seq ante, 85 et seq post. At the date at which this volume states the law, no such day had been appointed. As to the system until that day is appointed see PARA 77 et seq ante.

2 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

3 For the meaning of 'England' see PARA 13 note 1 ante.

4 For the meaning of 'Wales' see PARA 13 note 1 ante.

5 le in accordance with the Parliamentary Constituencies Act 1986 s 3(2) (prospectively substituted) (see the text and notes 16-17 infra).

6 Ibid s 3(1) (prospectively amended by the Political Parties, Elections and Referendums Act 2000 Sch 3 paras 1, 2(1), (2)). See note 1 supra. As to the review and proposed recommendations by Boundary Committees in relation to such reports see PARA 85 post. As to the Secretary of State see PARA 2 ante. For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

7 For the meaning of 'constituency' for these purposes see PARA 9 ante.

8 Parliamentary Constituencies Act 1986 s 3(1)(a). The rules referred to in the text are those set out in s 3(6), Sch 2 paras 1-6 (as amended; prospectively amended), as read with Sch 2 para 7 (as amended; prospectively amended): see PARAS 87-91 post. See note 1 supra.

9 Ibid s 3(1)(b). As to the rules referred to in the text see note 8 supra. See note 1 supra.

10 Ibid s 3(3) (prospectively amended by the Political Parties, Elections and Referendums Act 2000 Sch 3 paras 1, 2(1), (5)(a), (b)). As to the rules referred to in the text see note 8 supra. See note 1 supra.

11 Parliamentary Constituencies Act 1986 s 3(4) (prospectively amended by the Political Parties, Elections and Referendums Act 2000 Sch 3 paras 1, 2(1), (6)). In Scotland, the recommendation will be that the constituency should be either a county constituency or a burgh constituency: see the Parliamentary Constituencies Act 1986 s 3(4) (as so prospectively amended). See note 1 supra.

12 Ibid s 5(1)(a) (s 5 prospectively substituted by the Political Parties, Elections and Referendums Act 2000 Sch 3 paras 1, 5). If the report would be with respect to Scotland (or an area comprised therein), the notice must be published in the Edinburgh Gazette (see the Parliamentary Constituencies Act 1986 s 5(1)(b) (prospectively substituted)); and with respect to Northern Ireland (or an area comprised therein) the report must be published in the Belfast Gazette (see s 5(1)(c) (prospectively substituted)). See note 1 supra.

13 Ibid s 3(5) (prospectively substituted by the Political Parties, Elections and Referendums Act 2000 Sch 3 paras 1, 2(1), (7)). See note 1 supra. As to the making of Orders in Council under the Parliamentary Constituencies Act 1986 see PARA 77 note 12 ante.

In *R (on the application of Elliot) v Electoral Commission* [2003] EWHC 395 (Admin), [2003] All ER (D) 218 (Feb), a representative of local electors made an application for judicial review to challenge new boundaries made for electoral wards. Although proceedings had been issued within the limitation period, which ran from the date of the order by which the Commission had given legal effect to its decision to change the boundaries, the court held that the challenge had not been made with sufficient promptness in the circumstances and that to allow the action to proceed would cause a substantial degree of prejudice with regard to the impending local elections.

14 le reports subsequent to the first report of a Boundary Commission with regard to its area as a whole which was submitted in November 1954. As to the Boundary Commissions see PARA 67 et seq ante.

15 See the *First Periodical Reports of the Boundary Commissions* presented in November 1954 (Cmd 9311) (England), (Cmd 9313) (Wales), (Cmd 9312) (Scotland), (Cmd 9314) (Northern Ireland), submitted under the House of Commons (Redistribution of Seats) Act 1949 s 2(2)(a) (repealed).

16 le under the Parliamentary Constituencies Act 1986 s 3(1) (prospectively amended) (see the text and notes 2-9 supra).

17 Ibid s 3(2) (prospectively substituted by the Political Parties, Elections and Referendums Act 2000 Sch 3 paras 1, 2(1), (3), (10)). See note 1 supra.

18 Parliamentary Constituencies Act 1986 s 3(2A) (added by the Boundary Commissions Act 1992 s 2(1), (4); and prospectively amended by the Political Parties, Elections and Referendums Act 2000 Sch 3 paras 1, 2(1), (4)). See note 1 supra.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/(i) Review of Parliamentary Constituencies/B. REVIEW BY THE ELECTORAL COMMISSION AND BOUNDARY COMMITTEES/85. Reviews and recommendations proposed by Boundary Committees.

85. Reviews and recommendations proposed by Boundary Committees.

As from a day to be appointed, the following provisions have effect¹.

Where the Electoral Commission² intends to consider making a report under the Parliamentary Constituencies Act 1986³ with respect to⁴: (1) a particular part of the United Kingdom⁵; or (2) any area comprised in a particular part of the United Kingdom⁶, the Boundary Committee for that part of the United Kingdom⁷ must⁸ carry out a review in accordance with the Parliamentary Constituencies Act 1986 for the purpose of enabling it to submit to the Commission proposals as to the recommendations⁹ to be included in the report¹⁰. Once the Boundary Committee has carried out such a review, it must accordingly submit to the Commission a report containing the recommendations which the Committee proposes should be included in the report¹¹ in the light of the review¹². Where the Commission has received such a report of a Boundary Committee, the Commission may¹³:

- 83 (a) accept in full the proposed recommendations contained in the Boundary Committee report and include them in its report¹⁴;
- 84 (b) accept those proposed recommendations subject to modifications agreed with the Boundary Committee and include them, as so modified, in its report¹⁵;
- 85 (c) reject those proposed recommendations and either¹⁶: (i) require the Boundary Committee to reconsider its proposed recommendations with a view to deciding whether to submit a further report¹⁷ containing different proposed recommendations¹⁸; (ii) require the Boundary Committee to carry out a fresh review¹⁹ with respect to the whole, or any specified part, of the area which was the subject of the original review²⁰; or (iii) in the case only of a review carried out for the purposes of a report that the Commission has discretion to submit²¹, take no further action²².

1 As from a day to be appointed under the Political Parties, Elections and Referendums Act 2000 s 163(2), the Parliamentary Constituencies Act 1986 s 3A is added by the Political Parties, Elections and Referendums Act 2000 s 16(1), Sch 3 Pt I to reflect the fact that the functions of each of the Boundary Commissions with respect to keeping under review, and reporting on, representation in the House of Commons of the part of the United Kingdom with which it is concerned is to be transferred to the Electoral Commission: see PARAS 67 et seq ante, 86 et seq post. At the date at which this volume states the law, no such day had been appointed. As to the system until that day is appointed see PARA 77 et seq ante.

2 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

3 I.e. a report under the Parliamentary Constituencies Act 1986 s 3 (as amended; prospectively amended) (a 'section 3 report') (see PARA 84 ante).

4 Ibid s 3A(1) (s 3A prospectively added by the Political Parties, Elections and Referendums Act 2000 s 16(1), Sch 3 paras 1, 3). See note 1 supra.

5 Parliamentary Constituencies Act 1986 s 3A(1)(a) (prospectively added: see note 4 supra). See note 1 supra. For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

6 Ibid s 3A(1)(b) (prospectively added: see note 4 supra). See note 1 supra.

7 For these purposes, 'Boundary Committee' means a Boundary Committee established by the Electoral Commission under the Political Parties, Elections and Referendums Act 2000 s 14 (in force in relation to England only) (see PARA 60 ante); Parliamentary Constituencies Act 1986 s 3A(5)(a) (prospectively added: see note 4 supra).

8 A Boundary Committee must, in or in connection with the exercise or performance of its powers or duties under the Parliamentary Constituencies Act 1986, comply with any directions given to it by the Electoral Commission, so far as consistent with the rules set out in s 3(6), Sch 2 paras 1-6 (as amended; prospectively amended), as read with Sch 2 para 7 (as amended; prospectively amended) (see PARAS 87-91 post): s 3A(4) (prospectively added: see note 4 supra). See note 1 supra.

9 For these purposes, 'recommendations' includes, unless the context otherwise requires, a recommendation that no alteration is required: *ibid* s 3A(5)(ab) (prospectively added: see note 4 supra). See note 1 supra.

10 *Ibid* s 3A(1) (prospectively added: see note 4 supra). See note 1 supra. The text refers to a 'section 3 report' (see note 3 supra).

11 *Ie* the 'section 3 report' (see note 3 supra).

12 Parliamentary Constituencies Act 1986 s 3A(2) (prospectively added: see note 4 supra). See note 1 supra.

13 *Ibid* s 3A(3) (prospectively added: see note 4 supra). See note 1 supra.

14 *Ibid* s 3A(3)(a) (prospectively added: see note 4 supra). See note 1 supra. The text refers to the Electoral Commission's 'section 3 report' (see note 3 supra).

15 *Ibid* s 3A(3)(b) (prospectively added: see note 4 supra). See note 1 supra. The text refers to the Electoral Commission's 'section 3 report' (see note 3 supra).

16 *Ibid* s 3A(3)(c) (prospectively added: see note 4 supra). See note 1 supra.

17 *Ie* under *ibid* s 3A(2) (prospectively added) (see the text and notes 8-12 supra).

18 *Ibid* s 3A(3)(c)(i) (prospectively added: see note 4 supra). See note 1 supra.

19 *Ie* under *ibid* s 3A(1) (prospectively added) (see the text and notes 2-10 supra).

20 *Ibid* s 3A(3)(c)(ii) (prospectively added: see note 4 supra). See note 1 supra.

21 *Ie* a report under *ibid* s 3(3) (prospectively amended) which the Electoral Commission may also from time to time submit to the Secretary of State (see PARA 84 ante).

22 *Ibid* s 3A(3)(c)(iii) (prospectively added: see note 4 supra). See note 1 supra.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/(i) Review of Parliamentary Constituencies/B. REVIEW BY THE ELECTORAL COMMISSION AND BOUNDARY COMMITTEES/86. Procedure relating to reviews and proposed recommendations.

86. Procedure relating to reviews and proposed recommendations.

As from a day to be appointed, the following provisions have effect¹.

Where a Boundary Committee² has provisionally determined to make recommendations³ affecting any constituency⁴ which it is minded to include in a report following its review of a report by the Electoral Commission⁵, the Committee must publish in at least one newspaper circulating in the constituency a notice stating the effect of the proposed recommendations⁶. Except where the effect of the Committee's recommendations is that no alteration should be made in respect of the constituency, the notice must also state that a copy of the recommendations is open to inspection at a specified place within the constituency⁷. In either case, it must state that representations with respect to the proposed recommendations may be made to the Committee within one month after the publication of the notice⁸. The Committee must take into consideration any representations duly made in accordance with any such notice⁹.

In connection with carrying out any review where the Electoral Commission intends to consider making a report¹⁰, a Committee may, if it thinks fit, cause a local inquiry to be held in respect of any constituency or constituencies¹¹. Where, on the publication of a notice of a recommendation for the alteration of any constituencies¹², the Committee receives any representation objecting to the proposed recommendation from a local authority¹³ the area of which is wholly or partly comprised in the constituencies affected by the recommendation ('an interested authority'), or from a body of parliamentary electors for any of those constituencies numbering 100 or more, the Committee may not proceed with the proposed recommendation unless: (1) a local inquiry has been held in respect of the constituencies since the publication of the notice¹⁴; or (2) a local inquiry was held in respect of the constituencies before the publication of the notice and the Committee, after considering the matters discussed at that inquiry, the nature of the representations received on the publication of the notice and any other relevant circumstances, is of opinion that a further local inquiry would not be justified¹⁵.

Where a Committee has caused a local inquiry to be held in pursuance of the Parliamentary Constituencies Act 1986: (a) the Committee must take into consideration the findings of the inquiry¹⁶; and (b) where the Electoral Commission is minded to exercise in relation to the Committee's proposed recommendations any of its powers to modify or reject them¹⁷, the Electoral Commission must have regard to the findings of the inquiry¹⁸ or (where it is minded to exercise any of those powers in relation to part only of the area which was the subject of the Committee's review) the findings of the inquiry so far as relating to that part of that area¹⁹.

1 As from a day to be appointed under the Political Parties, Elections and Referendums Act 2000 s 163(2), the Parliamentary Constituencies Act 1986 s 5 is substituted and s 6 is amended by the Political Parties, Elections and Referendums Act 2000 s 16(1), Sch 3 Pt I to reflect the fact that the functions of each of the Boundary Commissions with respect to keeping under review, and reporting on, representation in the House of Commons of the part of the United Kingdom with which it is concerned is to be transferred to the Electoral Commission: see PARAS 67 et seq, 85 ante. At the date at which this volume states the law, no such day had been appointed. As to the system until that day is appointed see PARA 77 et seq ante.

2 For the meaning of 'Boundary Committee' see PARA 85 note 7 ante.

3 As to the meaning of 'recommendations' see PARA 85 note 9 ante. As to the making of such recommendations see PARA 85 ante.

4 For the meaning of 'constituency' for these purposes see PARA 9 ante.

5 Ie under the Parliamentary Constituencies Act 1986 s 3A(2) (prospectively added) (see PARA 85 ante). As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

6 Ibid s 5(2)(a) (s 5 prospectively substituted by the Political Parties, Elections and Referendums Act 2000 Sch 3 paras 1, 5). Where a Boundary Committee revises any proposed recommendations after publishing a notice of them under the Parliamentary Constituencies Act 1986 s 5(2) (prospectively substituted), it must comply again with s 5(2) (prospectively substituted) in relation to the revised recommendations as if no earlier notice had been published: s 5(3) (as so prospectively substituted). See note 1 supra.

7 Ibid s 5(2)(a) (prospectively substituted: see note 6 supra). See note 1 supra.

8 Ibid s 5(2)(b) (prospectively substituted: see note 6 supra). See note 1 supra.

9 Ibid s 5(2) (prospectively substituted: see note 6 supra). See note 1 supra.

10 Ie under ibid s 3A(1) (prospectively added) (see PARA 85 ante).

11 Ibid s 6(1) (prospectively amended by the Political Parties, Elections and Referendums Act 2000 Sch 3 paras 1, 6(1), (2)). The Local Government Act 1972 s 250(2), (3) (as amended) (which relates to the attendance of witnesses at inquiries: see LOCAL GOVERNMENT vol 69 (2009) PARA 105) applies in relation to any local inquiry which the Boundary Committee for England or the Boundary Committee for Wales may cause to be held in pursuance of the Parliamentary Constituencies Act 1986: s 6(5) (prospectively amended by the Political Parties, Elections and Referendums Act 2000 Sch 3 paras 1, 6(1), (6)). See note 1 supra.

12 Ie under the Parliamentary Constituencies Act 1986 s 5(2) (prospectively substituted) (see the text and notes 2-9 supra).

13 For these purposes, 'local authority' means the council of a county, county borough, London borough or district: ibid s 6(4)(a) (amended by the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 80). As to the council of a county, district or London borough in England and the council of a county or county borough in Wales see LOCAL GOVERNMENT vol 69 (2009) PARA 23. For the meaning of 'local authority' in relation to Scotland for these purposes see the Parliamentary Constituencies Act 1986 s 6(4)(b) (amended by the Local Government etc (Scotland) Act 1994 s 180(1), Sch 13 para 150); and in relation to Northern Ireland for these purposes see the Parliamentary Constituencies Act 1986 s 6(4)(c). See note 1 supra.

14 Ibid s 6(2), (4) (s 6(2) prospectively amended by the Political Parties, Elections and Referendums Act 2000 Sch 3 paras 1, 6(1), (3)(b), (c)). See note 1 supra.

15 Parliamentary Constituencies Act 1986 s 6(3) (prospectively amended by the Political Parties, Elections and Referendums Act 2000 Sch 3 paras 1, 6(1), (4)). See note 1 supra.

16 Parliamentary Constituencies Act 1986 s 6(4A) (s 6(4A), (4B) prospectively added by the Political Parties, Elections and Referendums Act 2000 Sch 3 paras 1, 6(1), (5)). See note 1 supra.

17 Ie the powers conferred by the Parliamentary Constituencies Act 1986 s 3A(3)(b) or s 3A(3)(c) (prospectively added) (see PARA 85 ante).

18 Ibid s 6(4B)(a) (prospectively added: see note 16 supra). See note 1 supra.

19 Ibid s 6(4B)(b) (prospectively added: see note 16 supra). See note 1 supra.

UPDATE

86 Procedure relating to reviews and proposed recommendations

NOTES--Certain functions under provisions mentioned in this paragraph are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3, see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/(i) Review of Parliamentary Constituencies/B. REVIEW BY THE ELECTORAL COMMISSION AND BOUNDARY COMMITTEES/87. Rules for redistribution generally.

87. Rules for redistribution generally.

As from a day to be appointed, the following provisions have effect¹.

In discharging its functions, the Electoral Commission² or (as the case may be) a Boundary Committee³ must observe certain rules⁴. It is not, however, the duty of either the Commission or of such a Committee to aim at giving full effect in all circumstances to the rules⁵, but they must take account, so far as they reasonably can⁶: (1) of the inconveniences attendant on alterations of constituencies⁷ other than alterations made for the purpose of adjusting constituencies to local authority boundaries⁸; and (2) of any local ties which would be broken by such alterations⁹. In so far as the working out and application of the rules is not within the discretion of the Commission or of such a Committee, it is a matter for Parliament to determine; it is not for the court to determine whether a particular line of approach which commended itself to the body concerned was the best¹⁰.

1 As from a day to be appointed under the Political Parties, Elections and Referendums Act 2000 s 163(2), the Parliamentary Constituencies Act 1986 s 3(6), Sch 2 (as amended) is further amended by the Political Parties, Elections and Referendums Act 2000 s 16(1), Sch 3 Pt I to reflect the fact that the functions of each of the Boundary Commissions with respect to keeping under review, and reporting on, representation in the House of Commons of the part of the United Kingdom with which it is concerned is to be transferred to the Electoral Commission: see PARAS 67 et seq, 85 et seq ante. At the date at which this volume states the law, no such day had been appointed. As to the system until that day is appointed see PARA 77 et seq ante.

2 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

3 For the meaning of 'Boundary Committee' see PARA 85 note 7 ante.

4 See the Parliamentary Constituencies Act 1986 s 3(1)(a), (b), (3), (6), Sch 2 (as amended); para 84 et seq ante. See also note 1 supra.

5 Ie except ibid Sch 2 para 3A (as added) (see PARA 88 note 6 post).

6 Ibid Sch 2 para 7 (amended by the Scotland Act 1998 s 86(5); and prospectively amended by the Political Parties, Elections and Referendums Act 2000 Sch 3 paras 1, 7(1), (5)). See note 1 supra.

7 For the meaning of 'constituency' for these purposes see PARA 9 ante.

8 Parliamentary Constituencies Act 1986 Sch 2 para 7(a). See note 1 supra. The text refers to alterations made for the purposes of Sch 2 para 4 (as amended) (see PARA 89 post).

9 Ibid Sch 2 para 7(b). See note 1 supra.

10 *Harper v Secretary of State for the Home Department* [1955] Ch 238, [1955] 1 All ER 331, CA. The question of the competence of the court in the event of a Commission on the face of its report making recommendations in manifest disregard of the rules was left undecided: *Harper v Secretary of State for the Home Department* supra at 251 and 338; and see PARLIAMENT vol 34 (Reissue) PARA 944. See also *Hammersmith Corp'n v Boundary Commission for England* (1954) Times, 15 December; *R v Boundary Commission for England, ex p Foot*, *R v Boundary Commission for England, ex p Gateshead Borough Council* [1983] QB 600, [1983] 1 All ER 1099, CA (the Commission was entrusted with a wide discretion, covering a complex field in which there was no objective standard as to the exercise of that discretion, and as long as the Commission acted honestly and in good faith its recommendations could not be challenged).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/(i) Review of Parliamentary Constituencies/B. REVIEW BY THE ELECTORAL COMMISSION AND BOUNDARY COMMITTEES/88. Rules for apportioning constituencies.

88. Rules for apportioning constituencies.

As from a day to be appointed, the following provisions have effect¹.

In any redistribution of seats following a report of the Electoral Commission², the number of constituencies³ must not be substantially greater or less than 613 in Great Britain⁴; and in Wales⁵ not less than 35⁶. Every constituency must return a single member⁷.

1 As from a day to be appointed under the Political Parties, Elections and Referendums Act 2000 s 163(2), the Parliamentary Constituencies Act 1986 s 3(6), Sch 2 (as amended) is further amended by the Political Parties, Elections and Referendums Act 2000 s 16(1), Sch 3 Pt I to reflect the fact that the functions of each of the Boundary Commissions with respect to keeping under review, and reporting on, representation in the House of Commons of the part of the United Kingdom with which it is concerned is to be transferred to the Electoral Commission: see PARAS 67 et seq, 84 et seq ante. At the date at which this volume states the law, no such day had been appointed. As to the system until that day is appointed see PARA 77 et seq ante.

2 As to the redistribution of seats see PARAS 84-87 ante. As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

3 For the meaning of 'constituency' for these purposes see PARA 9 ante.

4 Parliamentary Constituencies Act 1986 Sch 2 para 1(1). See note 1 supra. For the meaning of 'Great Britain' see PARA 13 note 1 ante.

5 For the meaning of 'Wales' see PARA 13 note 1 ante.

6 Parliamentary Constituencies Act 1986 Sch 2 para 1(3). In Northern Ireland, the number of constituencies must not be greater than 18 nor less than 16 and must be 17 unless it appears to the Electoral Commission or (as the case may be) the Boundary Committee for Northern Ireland that Northern Ireland should for the time being be divided into 16 or 18 constituencies: see Sch 2 para 1(4) (prospectively amended by the Political Parties, Elections and Referendums Act 2000 Sch 3 paras 1, 7(1), (2)). See note 1 supra. For the meaning of 'Boundary Committee' see PARA 85 note 7 ante. The number of seats at the general election of May 2005 was in England 529, in Wales 40, in Northern Ireland 18, and in Scotland 59.

Provision must be made for the continuation of a constituency to include the whole of the City of London, the name of which must refer to the City of London: see the Parliamentary Constituencies Act 1986 Sch 2 para 3. As to elections in the City of London see PARA 30 ante.

A constituency which includes the Orkney Islands or the Shetland Islands must not include the whole or any part of a local government area other than the Orkney Islands and the Shetland Islands: Sch 2 para 3A (added by the Scotland Act 1998 s 86(3)).

7 Parliamentary Constituencies Act 1986 Sch 2 para 2.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/(i) Review of Parliamentary Constituencies/B. REVIEW BY THE ELECTORAL COMMISSION AND BOUNDARY COMMITTEES/89. Rules relating to local authority boundaries.

89. Rules relating to local authority boundaries.

As from a day to be appointed, the following provisions have effect¹.

So far as is practicable having regard to the statutory rules², recommendations as to the redistribution of seats³ must take account of local authority boundaries in the following manner⁴. In England⁵, no county or part of a county may be included in a constituency⁶ which includes the whole or part of any other county or the whole or part of a London borough⁷; and no London borough or part of a London borough may be included in a constituency which includes the whole or part of any other London borough⁸. In Wales, no part of a preserved county⁹ may be included in a constituency which includes the whole or part of any other preserved county¹⁰.

1 As from a day to be appointed under the Political Parties, Elections and Referendums Act 2000 s 163(2), the Parliamentary Constituencies Act 1986 s 3(6), Sch 2 (as amended) is further amended by the Political Parties, Elections and Referendums Act 2000 s 16(1), Sch 3 Pt I to reflect the fact that the functions of each of the Boundary Commissions with respect to keeping under review, and reporting on, representation in the House of Commons of the part of the United Kingdom with which it is concerned is to be transferred to the Electoral Commission: see PARAS 67 et seq, 84 et seq ante. At the date at which this volume states the law, no such day had been appointed. As to the system until that day is appointed see PARA 77 et seq ante.

2 Ie the Parliamentary Constituencies Act 1986 Sch 2 paras 1-3A (Sch 2 para 1 as prospectively amended; Sch 2 para 3A as added) (see PARA 88 ante).

3 As to the redistribution of seats see PARA 84 et seq ante.

4 See the Parliamentary Constituencies Act 1986 Sch 2 para 4(1) (amended by the Scotland Act 1998 s 86(3)). See note 1 supra.

For the purposes of the application of the Parliamentary Constituencies Act 1986 Sch 2 para 4 (as amended), a report of the Electoral Commission under s 3(1) (prospectively amended) (see PARA 77 ante) with respect to a particular part of the United Kingdom may take account only of those boundaries, whether of counties, London boroughs, local authority areas in Scotland or wards in Northern Ireland, which are in operation at whichever is the earlier of the date of the report and the tenth anniversary of the date of the submission of the most recent report under s 3(1) (prospectively amended) with respect to that part of the United Kingdom; but nothing in this provision prevents a Boundary Committee publishing under s 5 (prospectively substituted) (see PARA 86 ante) proposed recommendations which take account of boundaries which at the time of publication are prospective only: s 3(7) (added by the Boundary Commissions Act 1992 s 3(1); and prospectively amended by the Political Parties, Elections and Referendums Act 2000 Sch 3 paras 1, 2(1), (8)(a)-(c), (10)). For these purposes, a boundary is regarded as prospective at any time if, at that time, it is specified in a provision of an Act, Measure of the Northern Ireland Assembly, statutory instrument or statutory rule but the boundary has not yet come into operation: Parliamentary Constituencies Act 1986 s 3(8) (added by the Boundary Commissions Act 1992 s 3(1)). For the meaning of 'Boundary Committee' see PARA 85 note 7 ante. As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante. For the meaning of 'county' in relation to England see LOCAL GOVERNMENT vol 69 (2009) PARA 24. As to London boroughs see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 30.

5 For the meaning of 'England' see PARA 13 note 1 ante.

6 For the meaning of 'constituency' for these purposes see PARA 9 ante.

7 Parliamentary Constituencies Act 1986 Sch 2 para 4(1)(a)(i). See note 1 supra.

8 Ibid Sch 2 para 4(1)(a)(ii). See note 1 supra.

9 le within the meaning of the Local Government (Wales) Act 1994 s 64 (see LOCAL GOVERNMENT vol 69 (2009) PARA 1).

10 Parliamentary Constituencies Act 1986 Sch 2 para 4(1)(a)(i), (1A) (Sch 2 para 4(1A) added by the Local Government (Wales) Act 1994 s 1(3), Sch 2 para 13). See note 1 *supra*.

In Scotland, regard must be had to the boundaries of local authority areas and in Northern Ireland no ward may be included partly in one constituency and partly in another: see the Parliamentary Constituencies Act 1986 Sch 2 para 4(1)(b), (c), (2).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/(i) Review of Parliamentary Constituencies/B. REVIEW BY THE ELECTORAL COMMISSION AND BOUNDARY COMMITTEES/90. Rules relating to the electoral quota.

90. Rules relating to the electoral quota.

As from a day to be appointed, the following provisions have effect¹.

The electorate² of any constituency recommended for redistribution³ must be as near the electoral quota⁴ as is practicable having regard to the statutory rules⁵ laid down for guidance⁶. The Electoral Commission or (as the case may be) a Boundary Committee may depart from the strict application of the rule relating to local authority boundaries⁷ if it appears to it that a departure is desirable to avoid an excessive disparity between the electorate of any constituency and the electoral quota, or between the electorate of that constituency and that of neighbouring constituencies in the part of the United Kingdom with which it is concerned⁸.

1 As from a day to be appointed under the Political Parties, Elections and Referendums Act 2000 s 163(2), the Parliamentary Constituencies Act 1986 s 3(6), Sch 2 (as amended) is further amended by the Political Parties, Elections and Referendums Act 2000 s 16(1), Sch 3 Pt I to reflect the fact that the functions of each of the Boundary Commissions with respect to keeping under review, and reporting on, representation in the House of Commons of the part of the United Kingdom with which it is concerned is to be transferred to the Electoral Commission: see PARAS 67 et seq, 84 et seq ante. At the date at which this volume states the law, no such day had been appointed. As to the system until that day is appointed see PARA 77 et seq ante.

2 In relation to a constituency, 'electorate' means the number of persons whose names appear on the register of parliamentary electors in force under the Representation of the People Acts for the constituency on the enumeration date; and in relation to each part of the United Kingdom, 'electorate' means the aggregate electorate (as so defined) of all the constituencies in it: Parliamentary Constituencies Act 1986 Sch 2 para 8(b). In relation to any report of the Electoral Commission (or one made by a Boundary Committee for these purposes) under the Parliamentary Constituencies Act 1986, 'enumeration date' means the date on which the notice with respect to that report is published under s 5(1) (prospectively substituted) (see PARA 84 ante): Sch 2 para 8(c) (prospectively amended by the Political Parties, Elections and Referendums Act 2000 Sch 3 paras 1, 7(1), (6)(b)). See note 1 supra. For the meaning of 'the Representation of the People Acts' see PARA 3 note 1 ante; for the meaning of 'constituency' for these purposes see PARA 9 ante; for the meaning of 'United Kingdom' see PARA 13 note 1 ante; and for the meaning of 'Boundary Committee' see PARA 85 note 7 ante. As to the registration of parliamentary electors see PARA 128 et seq post. As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

3 As to the redistribution of seats see PARA 84 et seq ante.

4 'Electoral quota' means the number obtained by dividing the electorate for each part of the United Kingdom by the number of constituencies existing in it on the enumeration date: Parliamentary Constituencies Act 1986 Sch 2 para 8(a). See note 1 supra.

5 I.e. the rules laid down in ibid Sch 2 paras 1-4 (as amended; prospectively further amended): see PARAS 88-89 ante.

6 Ibid Sch 2 para 5. See note 1 supra.

7 I.e. the rules laid down in ibid Sch 2 para 4 (as amended): see PARA 89 ante.

8 Ibid Sch 2 para 5 (prospectively amended by the Political Parties, Elections and Referendums Act 2000 Sch 3 paras 1, 7(1), (3)). See note 1 supra.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/(i) Review of Parliamentary Constituencies/B. REVIEW BY THE ELECTORAL COMMISSION AND BOUNDARY COMMITTEES/91. Taking into account geographical considerations.

91. Taking into account geographical considerations.

As from a day to be appointed, the following provisions have effect¹.

The Electoral Commission² or (as the case may be) a Boundary Committee³ may depart from the strict application of the rules relating to local authority boundaries⁴ and to the electoral quota⁵ if special geographical considerations, including in particular the size, shape and accessibility of a constituency⁶, appear to render a departure desirable⁷.

1 As from a day to be appointed under the Political Parties, Elections and Referendums Act 2000 s 163(2), the Parliamentary Constituencies Act 1986 s 3(6), Sch 2 (as amended) is further amended by the Political Parties, Elections and Referendums Act 2000 s 16(1), Sch 3 Pt I to reflect the fact that the functions of each of the Boundary Commissions with respect to keeping under review, and reporting on, representation in the House of Commons of the part of the United Kingdom with which it is concerned is to be transferred to the Electoral Commission: see PARAS 67 et seq, 84 et seq ante. At the date at which this volume states the law, no such day had been appointed. As to the system until that day is appointed see PARA 77 et seq ante.

2 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

3 For the meaning of 'Boundary Committee' see PARA 85 note 7 ante.

4 Ie the Parliamentary Constituencies Act 1986 s 3(6), Sch 2 para 4 (as amended): see PARA 81 ante.

5 Ie ibid Sch 2 para 5 (prospectively amended) (see PARA 82 ante).

6 For the meaning of 'constituency' for these purposes see PARA 9 ante.

7 Parliamentary Constituencies Act 1986 Sch 2 para 6 (prospectively amended by the Political Parties, Elections and Referendums Act 2000 Sch 3 paras 1, 7(1), (4)). See note 1 supra.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/(ii) Review of Local Government Electoral Areas/A. ENGLAND/(A) Principal Areas and Parishes/92. Review of electoral arrangements by the Electoral Commission.

(ii) Review of Local Government Electoral Areas

A. ENGLAND

(A) PRINCIPAL AREAS AND PARISHES

92. Review of electoral arrangements by the Electoral Commission.

The Electoral Commission¹:

- 86 (1) may direct the Boundary Committee for England² to conduct a review of a specified area in England³, and to recommend whether an electoral change⁴ should be made in respect of that area⁵; and
- 87 (2) must from time to time direct the Boundary Committee for England to conduct a review of each principal area in England, and to recommend whether an electoral change should be made in respect of that area⁶.

In carrying out a function under head (1) or head (2) above, the Commission or the Boundary Committee for England must have regard to the need to reflect the identities and interests of local communities, the need to secure effective and convenient local government, the need to secure equality of representation⁷, and any scheme for elections specified by order under the power to specify a scheme for elections⁸. The Commission may give a direction to the Boundary Committee for England about the exercise of a function under head (1) or head (2) above⁹; and such a direction may, in particular, require the Boundary Committee for England to have regard to guidance given by the Commission as to matters to be taken into account in considering electoral changes¹⁰.

Provision is made for the procedure on a review of electoral arrangements, structural changes or boundary changes¹¹.

Where the Boundary Committee for England makes recommendations to the Commission for electoral changes, the Commission may by order give effect to all or any of the recommendations, subject to any modifications to those recommendations agreed with that Committee¹².

1 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 As to the establishment of the Boundary Committee for England see PARA 60 et seq ante.

3 Local Government Act 1992 s 13(3)(a) (s 13 substituted by the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962, art 8, Sch 1 para 1). For the meaning of 'England' see PARA 13 note 1 ante.

4 For these purposes, an 'electoral change' is a change of electoral arrangements for any local government area, whether made in consequence of any structural or boundary change or independently of any such change: Local Government Act 1992 s 14(1)(c). For the purposes of s 14(1)(c), 'electoral arrangements' means:

- 23 (1) in relation to a principal area: (a) the number of councillors of the council for that area (s 14(4)(a)(i)); (b) the number and boundaries of the electoral areas into which that area is for the time being divided for the purposes of the election of councillors (s 14(4)(a)(ii)); (c) the number of councillors to be elected for any electoral area in that principal area (s 14(4)(a)(iii) (amended by the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962, art 8, Sch 1 para 2(1), (3))); and (d) the name of any electoral area (Local Government Act 1992 s 14(4)(a)(iv));
- 24 (2) in relation to a parish council: (a) the number of councillors (s 14(4)(b)(i)); (b) the question whether or not the parish or, in the case of a common parish council, any of the parishes should be divided into wards for the purposes of the election of councillors (s 14(4)(b)(ii)); (c) the number and boundaries of any such wards (s 14(4)(b)(iii)); (d) the number of councillors to be elected for any such ward or, in the case of a common parish, for each parish (s 14(4)(b)(iv)); and (e) the name of any such ward (s 14(4)(b)(v)).

For the meanings of 'boundary change', 'local government area', 'principal area' and 'structural change' for the purposes of the Local Government Act 1992 see LOCAL GOVERNMENT vol 69 (2009) PARA 56. As to parishes see LOCAL GOVERNMENT vol 69 (2009) PARA 27 et seq. As to the election of councillors see PARA 204 et seq post; and LOCAL GOVERNMENT vol 69 (2009) PARA 126 et seq.

In considering the electoral arrangements for any local government area for the purposes of Pt II (ss 12-27) (as amended), the Electoral Commission and the Boundary Committee for England must comply, so far as is reasonably practicable, with the rules set out in the Local Government Act 1972 s 78, Sch 11 (as amended): see the Local Government Act 1992 s 27(2). As to the rules to be observed in relation to electoral arrangements see the Local Government Act 1972 Sch 11 para 1 (as amended) (counties in England), Sch 11 para 3 (as amended) (districts and London boroughs), Sch 11 para 4 (as amended) (parishes); and PARA 94 post. As to the alteration of the boundaries of Greater London, London boroughs, the City of London and the Temples under the Local Government Act 1992 Pt II (as amended) see further LONDON GOVERNMENT vol 29(2) (Reissue) PARAS 29-32.

As to the application (with modifications) of the Local Government Act 1992 ss 14-16 (as amended) to local government reviews by the Boundary Committee under the Regional Assemblies (Preparations) Act 2003 see s 15; and PARA 553 post.

5 Local Government Act 1992 s 13(3)(b) (as substituted: see note 3 supra). Notwithstanding the Local Government Act 1972 s 6(2)(a) (as amended) (see PARA 73 ante), the Boundary Committee for England may recommend under the Local Government Act 1992 s 13(3) (as substituted) that an electoral division of a non-metropolitan county should return more than one councillor: s 14(8) (added by the Local Government Act 2000 s 89(2); and amended by the Political Parties, Elections and Referendums Act 2000 s 158(1), Sch 21 para 10; and the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962, art 8, Sch 1 para 2(1), (4)(a), (b)). For the meaning of 'non-metropolitan county' see LOCAL GOVERNMENT vol 69 (2009) PARA 24.

6 Local Government Act 1992 s 13(4) (as substituted: see note 3 supra). Notwithstanding the Local Government Act 1972 s 6(2)(a) (as amended) (see PARA 73 ante), the Boundary Committee for England may recommend under the Local Government Act 1992 s 13(4) (as substituted) that an electoral division of a non-metropolitan county should return more than one councillor: s 14(8) (as added and amended: see note 5 supra).

7 In the matters mentioned in the Local Government Act 1972 Sch 11 paras 1(2)(a), 3(2)(a) (see note 4 supra).

8 Local Government Act 1992 s 13(5) (as substituted: see note 3 supra). The text refers to the power to specify a scheme for the election of councillors under the Local Government Act 2000 s 86 (see LOCAL GOVERNMENT vol 69 (2009) PARA 134).

9 Local Government Act 1992 s 13(6) (as substituted: see note 3 supra).

10 Ibid s 13(7) (as substituted: see note 3 supra).

11 See ibid s 15 (as amended), s 15A (as added), s 16 (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 56.

12 Ibid s 17(1A) (added by the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962, art 8, Sch 1 para 6(1), (3)). As to the implementation of recommendations under the Local Government Act 1992 Pt II (as amended) see further ss 17, 19 (as amended).

UPDATE

92 Review of electoral arrangements by the Electoral Commission

TEXT AND NOTES--Repealed: Local Democracy, Economic Development and Construction Act 2009 Sch 7 Pt 3.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/(ii) Review of Local Government Electoral Areas/A. ENGLAND/(A) Principal Areas and Parishes/93. Review of electoral arrangements in relation to parishes.

93. Review of electoral arrangements in relation to parishes.

In addition to the duty of the Electoral Commission¹ to conduct reviews of electoral arrangements under the Local Government Act 1992², there is a power under Part II of the Local Government and Rating Act 1997³ for certain local authorities to conduct reviews of electoral arrangements⁴ in relation to parishes⁵. A district council or unitary county council⁶ may conduct a review of the electoral arrangements for the council of a parish in its area for the purpose of considering whether or not to make any changes to the arrangements and, if so, what changes⁷. If, following such a review, the council decides that changes should be made to the electoral arrangements, it may by order give effect to all or any of the changes⁸.

1 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 Reviews of electoral arrangements are made by the Boundary Committee for England under the direction of the Electoral Commission: see PARA 92 ante.

3 Ie the Local Government and Rating Act 1997 Pt II (ss 9-25) (as amended).

4 'Electoral arrangements', in relation to an existing or proposed parish council, means: (1) the number of councillors (ibid s 24(1), (2)(a)); (2) the question whether or not the parish or (in the case of a common parish council) any of the parishes should be, or continue to be, divided into wards for the purposes of the election of councillors (s 24(1), (2)(b)); (3) the number and boundaries of any such wards (s 24(1), (2)(c)); (4) the number of councillors to be elected for any such ward or (in the case of a common parish council) for each parish (s 24(1), (2)(d)); and (5) the name of any such ward (s 24(1), (2)(e)). 'Electoral arrangements' are defined also for the purposes of the Local Government Act 1972 Pt IV (ss 53-78) (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 77 et seq) in relation to a parish council or a common parish council: see s 78(1)(b); and LOCAL GOVERNMENT vol 69 (2009) PARA 91. As to parishes see LOCAL GOVERNMENT vol 69 (2009) PARA 27 et seq.

5 See the Local Government and Rating Act 1997 s 17 (as amended); and the text and notes 6-8 infra.

6 For the meaning of 'unitary county council' see LOCAL GOVERNMENT vol 69 (2009) PARA 240.

7 Local Government and Rating Act 1997 s 17(2). As to the factors to be considered in exercising functions under s 17 (as amended) see LOCAL GOVERNMENT vol 69 (2009) PARA 56.

In the consideration by a district council of the electoral arrangements for a parish having a parish council (whether separate or common) the rules set out in s 78, Sch 11 para 4 (as amended) must be complied with: see PARA 94 post. Principal councils must also keep under review polling districts and places: see PARA 348 et seq post.

8 Local Government and Rating Act 1997 s 17(3). As to the power to make orders, and the provision that may be made, under s 17 (as amended) see LOCAL GOVERNMENT vol 69 (2009) PARA 56. The power of a council to make an order under s 17 (as amended) includes power to vary or revoke any order previously made under s 16 (establishment of new parish councils by local authorities: see LOCAL GOVERNMENT vol 69 (2009) PARA 69) or s 17 (as amended): s 17(5). Where a council makes an order under s 17 (as amended), it must send two copies of the order to the Secretary of State and to the Electoral Commission: s 23(8) (amended by the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962, art 9, Sch 2 para 12(1), (3)). As to the Secretary of State for these purposes see PARA 2 ante. The Local Government and Rating Act 1997 s 17(3) does not apply if the electoral arrangements for the parish council have been made or altered by or in pursuance of an order under s 14 (as amended) (implementation by Secretary of State: see LOCAL GOVERNMENT vol 69 (2009) PARA 69), or by an order under the Local Government Act 1972 Pt IV (as amended) or the Local Government Act 1992 s 17 (as amended) (see PARA 92 ante), and: (1) the period of five years beginning with the day on which the order was made has not expired; and (2) the Electoral Commission has not consented to the council making the changes: Local Government and Rating Act 1997 s 17(4) (amended in relation to England by

the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962, art 9, Sch 2 para 9).

Agreements may be made as to incidental matters when an order is made under the Local Government Act 1992 s 17 (as amended): see s 23(9), which applies s 20 (see LOCAL GOVERNMENT vol 69 (2009) PARA 69) to an order under the Local Government and Rating Act 1997 s 17 (as amended) as it applies to an order under the Local Government Act 1992 Pt II (ss 12-27) (as amended).

UPDATE

93 Review of electoral arrangements in relation to parishes

NOTE 8--Local Government Act 1992 s 17 repealed: Local Democracy, Economic Development and Construction Act 2009 Sch 7 Pt 3.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/(ii) Review of Local Government Electoral Areas/A. ENGLAND/(A) Principal Areas and Parishes/94. Statutory rules to be observed in considering electoral arrangements in England.

94. Statutory rules to be observed in considering electoral arrangements in England.

In considering the electoral arrangements¹ for any local government area in England², the Electoral Commission³ and the Boundary Committee for England⁴ (or, as the case may be, a district council⁵) must comply, so far as is reasonably practicable, with the rules set out below⁶.

In the consideration of the electoral arrangements for elections of county councillors⁷ in England⁸ and having regard to any change in the number or distribution of the local government electors⁹ of the county likely to take place within the period of five years immediately following the consideration¹⁰:

- 88 (1) the number of local government electors must be, as nearly as may be, the same in every electoral division¹¹ of the county¹²;
- 89 (2) every electoral division must lie wholly within a single district¹³;
- 90 (3) every ward of a parish¹⁴ having a parish council (whether separate or common) must lie wholly within a single electoral division¹⁵; and
- 91 (4) every parish which is not divided into parish wards must lie wholly within a single electoral division¹⁶.

In the consideration of the electoral arrangements for elections of councillors of a district¹⁷ or London borough¹⁸ and having regard to any change in the number or distribution of the local government electors of the district or borough likely to take place within the period of five years immediately following the consideration¹⁹:

- 92 (a) the ratio of the number of local government electors to the number of councillors to be elected must be, as nearly as may be, the same in every ward of the district or borough²⁰;
- 93 (b) in a district, every ward of a parish having a parish council (whether separate or common) must lie wholly within a single ward of the district²¹;
- 94 (c) in a district, every parish which is not divided into parish wards must lie wholly within a single ward of the district²².

In the consideration of the electoral arrangements for a parish having a parish council (whether separate or common)²³:

- 95 (i) in considering whether any such parish is to be divided into parish wards, regard must be had to the questions whether: (A) the number or distribution of the local government electors for the parish is such as to make a single election of parish councillors impracticable or inconvenient²⁴; and (B) it is desirable that any area or areas of the parish should be separately represented on the parish council²⁵; and
- 96 (ii) where it is decided to divide any such parish into parish wards, in considering the size and boundaries of the wards and in fixing the number of parish councillors to be elected for each ward, regard must be had to²⁶: (A) any change in the number

or distribution of the local government electors of the parish which is likely to take place within the period of five years immediately following the consideration²⁷; (B) the desirability of fixing boundaries which are and will remain easily identifiable²⁸; and (c) any local ties which will be broken by the fixing of any particular boundaries²⁹;

- 97 (iii) where it is decided not to divide the parish into parish wards, in fixing the number of councillors to be elected for each parish, regard must be had to the number and distribution of the local government electors of the parish and any change in either which is likely to take place within the period of five years immediately following the fixing of the number of parish councillors³⁰.

1 For the meaning of 'electoral arrangements' for these purposes see PARA 92 note 4 ante.

2 le for the purposes of the Local Government Act 1992 Pt II (ss 12-27) (as amended) (see PARA 92 ante). For the meaning of 'local government area' for the purposes of the Local Government Act 1992 see LOCAL GOVERNMENT vol 69 (2009) PARA 22. For the meaning of 'England' see PARA 13 note 1 ante.

3 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

4 As to the establishment of the Boundary Committee for England see PARA 60 et seq ante.

5 le where a district council considers the electoral arrangements for a parish having a parish council (whether separate or common) (see PARA 93 ante). For the meaning of 'district council' see LOCAL GOVERNMENT vol 69 (2009) PARA 24.

6 See the Local Government Act 1992 s 27(2); and LOCAL GOVERNMENT vol 69 (2009) PARA 54 et seq. The rules referred to in the text are those set out in the Local Government Act 1972 s 78, Sch 11 (as amended) (see the text and notes 7-30 infra).

7 As to the election of councillors see PARA 204 et seq post; and LOCAL GOVERNMENT vol 69 (2009) PARA 126 et seq. For the meaning of 'county' see LOCAL GOVERNMENT vol 69 (2009) PARA 24.

8 This does not apply in relation to any county in Wales: see the Local Government Act 1972 Sch 11 para 1(1) (amended by the Local Government (Wales) Act 1994 s 7(2); and amended in relation to England by the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962, art 9, Sch 2 para 2(1), (2)). For the meaning of 'Wales' see PARA 13 note 1 ante.

Subject to the Local Government Act 1972 Sch 11 para 1(2) (as amended) (see the text and notes 9-16 infra), in considering the electoral arrangements referred to in Sch 11 para 1(1) (as amended), regard must be had to the desirability of fixing boundaries which are and will remain easily identifiable, any local ties which would be broken by the fixing of any particular boundary, and the boundaries of the wards of the districts in the county: Sch 11 para 1(3).

9 For the meaning of 'local government electors' see LOCAL GOVERNMENT vol 69 (2009) PARA 127.

10 Local Government Act 1972 Sch 11 para 1(2).

11 As to the establishment of electoral areas for the purpose of local government elections see PARA 73 ante.

12 Local Government Act 1972 Sch 11 para 1(2)(a).

13 Ibid Sch 11 para 1(2)(b).

14 As to parishes see LOCAL GOVERNMENT vol 69 (2009) PARA 27 et seq.

15 Local Government Act 1972 Sch 11 para 1(2)(c) (amended by the Local Government (Wales) Act 1994 s 7(2)).

16 Local Government Act 1972 Sch 11 para 1(2)(d) (amended by the Local Government (Wales) Act 1994 s 7(2)).

17 For the meaning of 'district' see LOCAL GOVERNMENT vol 69 (2009) PARA 24.

18 Local Government Act 1972 Sch 11 para 3(1) (amended in relation to England by the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962, art 9, Sch 2 para 2(1), (3)). As to the

London boroughs and their councils see LONDON GOVERNMENT vol 29(2) (Reissue) PARAS 30, 35-39, 59 et seq; and as to the election of London borough councillors see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 38.

Subject to the Local Government Act 1972 Sch 11 para 3(2) (as amended) (see the text and notes 19-22 infra), in considering the electoral arrangements referred to in Sch 11 para 3(1) (as amended), regard must be had to the desirability of fixing boundaries which are and will remain easily identifiable and any local ties which would be broken by the fixing of any particular boundary: Sch 11 para 3(3).

19 Ibid Sch 11 para 3(2).

20 Ibid Sch 11 para 3(2)(a).

21 Ibid Sch 11 para 3(2)(b) (amended by the Local Government (Wales) Act 1994 s 66(5), (8), Sch 15 paras 1, 61, Sch 18).

22 Local Government Act 1972 Sch 11 para 3(2)(c) (amended by the Local Government (Wales) Act 1994 Sch 15 paras 1, 61, Sch 18).

23 Local Government Act 1972 Sch 11 para 4(1) (amended in relation to England by the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962, art 9, Sch 2 para 2(1), (4)).

24 Local Government Act 1972 Sch 11 para 4(2)(a).

25 Ibid Sch 11 para 4(2)(b).

26 Ibid Sch 11 para 4(3).

27 Ibid Sch 11 para 4(3)(a).

28 Ibid Sch 11 para 4(3)(b).

29 Ibid Sch 11 para 4(3)(c).

30 Ibid Sch 11 para 4(4).

UPDATE

94 Statutory rules to be observed in considering electoral arrangements in England

NOTE 6--Local Government Act 1992 s 27(2) repealed: Local Democracy, Economic Development and Construction Act 2009 Sch 7 Pt 3.

TEXT AND NOTES 8-22--Local Government Act 1972 Sch 11 paras 1, 3 repealed: Local Democracy, Economic Development and Construction Act 2009 Sch 7 Pt 3.

NOTE 23--Local Government Act 1972 Sch 11 para 4(1) further amended: Local Democracy, Economic Development and Construction Act 2009 Sch 7 Pt 3.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/(ii) Review of Local Government Electoral Areas/A. ENGLAND/(B) London Assembly Constituencies/95. Review of London Assembly constituencies.

(B) LONDON ASSEMBLY CONSTITUENCIES

95. Review of London Assembly constituencies.

If the Electoral Commission¹ at any time so directs², the Boundary Committee for England³ must carry out a comprehensive review of Assembly constituencies⁴ and must submit to the Commission a report⁵ showing the areas into which it recommends Greater London⁶ should be divided to form the Assembly constituencies⁷ and stating the name by which it recommends that each Assembly constituency should be known⁸. No recommendations may be made by the Boundary Committee for England in such a report unless the recommendations comply with the rules about Assembly constituencies⁹.

Where a report of a review of the Assembly constituencies is submitted to the Commission¹⁰, the Commission may, if it thinks fit, direct the Boundary Committee for England¹¹ to review such of the recommendations made in the report as may be specified in the direction¹² and to submit a further report¹³ making revised recommendations as respects the areas into which Greater London should be divided to form the Assembly constituencies¹⁴ and the name by which each Assembly constituency should be known¹⁵. No recommendations may be made by the Boundary Committee for England in a further report unless the recommendations comply with the rules about Assembly constituencies¹⁶.

Provision is made for the procedure where, in consequence of recommendations of the Commission for certain structural or boundary changes following a review conducted under the Local Government Act 1992¹⁷, changes are required to Assembly constituencies in order to comply with the rules about Assembly constituencies¹⁸.

1 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

2 A direction to submit a report under the Greater London Authority Act 1999 s 2(5), Sch 1 para 2(1) (as amended) must specify the timetable in accordance with which the report is to be prepared, submitted and available for inspection under Sch 1 (as amended): Sch 1 para 3(1). As to the giving of such directions generally see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 13.

3 As to the establishment of the Boundary Committee for England see PARA 60 et seq ante. The Electoral Commission may give directions as to the exercise by the Committee of any of its functions under *ibid* Sch 1 (as amended): Sch 1 para 5 (amended by the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962, art 9, Sch 2 para 14(1), (6)). In particular, the directions may specify matters which the Committee must take into account in preparing a report (Greater London Authority Act 1999 Sch 1 para 5(a) (amended by the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962, art 9, Sch 2 para 14(1), (6))) and require the Committee to have regard to any guidance given by the Commission as respects matters to be taken into account in preparing a report (Greater London Authority Act 1999 Sch 1 para 5(b) (amended by the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962, art 9, Sch 2 para 14(1), (6))).

4 As to the establishment of London Assembly constituencies see PARA 74 ante.

5 As soon as reasonably practicable after being directed to submit a report under the Greater London Authority Act 1999 Sch 1 para 2(1) (as amended), the Boundary Committee for England must take such steps as it considers sufficient to secure that persons who may be interested in the subject-matter of the report are informed of the direction requiring the report to be submitted, including, in particular, the period specified in the timetable within which representations with respect to the subject-matter of the report may be made to the

Committee (Sch 1 para 3(2)(a) (amended by the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962, art 9, Sch 2 para 14(1), (4))), and any direction under the Greater London Authority Act 1999 Sch 1 para 5 (as amended) (see note 3 supra) (Sch 1 para 3(2)(b)). Before submitting its report, the Boundary Committee for England must: (1) take into consideration any representations made to it within the period mentioned in Sch 1 para 3(2)(a) (as amended) (Sch 1 para 3(3)(a) (amended by the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962, art 9, Sch 2 para 14(1), (4))); (2) prepare a draft report and take such steps as it considers sufficient to secure that persons who may be interested in the report are informed of it and of the period specified in the timetable within which representations with respect to it may be made (Greater London Authority Act 1999 Sch 1 para 3(3)(b) (amended by the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962, art 9, Sch 2 para 14(1), (4))); (3) deposit copies of the draft report at the principal office of the Greater London Authority, each London borough council and the Common Council of the City of London (Greater London Authority Act 1999 Sch 1 para 3(3)(c)); and (4) take into consideration representations made to the Boundary Committee for England within the period mentioned in Sch 1 para 3(3)(b) (as amended) (Greater London Authority Act 1999 Sch 1 para 3(3)(d) (amended by the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962, art 9, Sch 2 para 14(1), (4))). As to the establishment of the Greater London Authority see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 79; as to the London boroughs and their councils see LONDON GOVERNMENT vol 29(2) (Reissue) PARAS 30, 35-39, 59 et seq; and as to the Common Council of the City of London see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 51 et seq.

As soon as the Boundary Committee for England is in a position to submit its report to the Electoral Commission (and in any event not later than the date specified in the timetable for submission of the report), it must: (a) so submit the report (Sch 1 para 3(4)(a) (amended by the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962, art 9, Sch 2 para 14(1), (4))); (b) take such steps as it considers sufficient to secure that persons who may be interested in the report are informed of it and of the period specified in the timetable within which it may be inspected (Greater London Authority Act 1999 Sch 1 para 3(4)(b) (amended by the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962, art 9, Sch 2 para 14(1), (4))); and (c) deposit copies of the report at the principal office of each London borough council and the Common Council of the City of London (Greater London Authority Act 1999 Sch 1 para 3(4)(c)).

Copies of the draft report deposited under Sch 1 para 3(3)(c) (see head (3) supra), and of the report deposited under Sch 1 para 3(4)(c) (see head (c) supra), must be kept available for inspection at the offices concerned in accordance with the timetable: Sch 1 para 3(5).

6 As to Greater London see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 29.

7 Greater London Authority Act 1999 Sch 1 para 2(1)(a) (amended by the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962, art 9, Sch 2 para 14(1), (3)).

8 Greater London Authority Act 1999 Sch 1 para 2(1)(b) (amended by the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962, art 9, Sch 2 para 14(1), (3)). See also LONDON GOVERNMENT vol 29(2) (Reissue) PARA 94.

As to the rules to be observed in relation to the electoral arrangements of London Assembly constituencies see PARA 96 post.

9 Greater London Authority Act 1999 Sch 1 para 2(2) (amended by the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962, art 9, Sch 2 para 14(1), (3)). As to the rules to be observed in considering electoral arrangements of Assembly constituencies see the Greater London Authority Act 1999 Sch 1 para 7; and PARA 96 post.

10 Ie in accordance with a direction under *ibid* Sch 1 para 2(1) (as amended) (see the text and notes 1-8 supra).

11 *Ibid* Sch 1 para 4(1) (amended by the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962, art 9, Sch 2 para 14(1), (5)). As to directions given by the Electoral Commission for these purposes see note 3 supra.

12 Greater London Authority Act 1999 Sch 1 para 4(1)(a).

13 *Ibid* Sch 1 para 3 (as amended) (see note 5 supra) applies, with such modifications as may be specified in the direction under Sch 1 para 4(1) (as amended), in relation to any further report submitted under Sch 1 para 4(1)(b): Sch 1 para 4(2).

14 *Ibid* Sch 1 para 4(1)(b)(i).

15 *Ibid* Sch 1 para 4(1)(b)(ii). See also LONDON GOVERNMENT vol 29(2) (Reissue) PARA 95.

16 Ibid Sch 1 para 4(3) (amended by the Local Government Commission for England (Transfer of Functions) Order 2001, SI 2001/3962, art 9, Sch 2 para 14(1), (5)). As to the rules referred to in the text see note 9 supra.

17 Ie a review conducted under the Local Government Act 1992 s 13(1) (as substituted) (see LOCAL GOVERNMENT vol 69 (2009) PARAS 55-56) or a further review conducted under s 15(6).

18 See the Greater London Authority Act 1999 Sch 1 para 1 (as amended); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 96.

UPDATE

95 Review of London Assembly constituencies

TEXT AND NOTES--Greater London Authority Act 1999 Sch 1 paras 1-5 substituted, para 7 amended; Local Democracy, Economic Development and Construction Act 2009 Sch 4 para 10; and see LONDON GOVERNMENT vol 29(2) (Reissue) PARAS 93-96.

NOTE 17--Local Government Act 1992 s 13 repealed; Local Democracy, Economic Development and Construction Act 2009 Sch 7 Pt 3.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/(ii) Review of Local Government Electoral Areas/A. ENGLAND/(B) London Assembly Constituencies/96. Statutory rules to be observed in considering electoral arrangements of London Assembly constituencies.

96. Statutory rules to be observed in considering electoral arrangements of London Assembly constituencies.

For the purpose of elections to the London Assembly¹, there are, under the rules relating to London Assembly constituencies², 14 Assembly constituencies³, each of which consists of two or more entire London boroughs⁴. A part of the boundary⁵ of each London borough contained within an Assembly constituency must adjoin a part of the boundary of at least one other London borough contained within that constituency⁶, and no London borough is to be included in more than one Assembly constituency⁷. The electorate for an Assembly constituency must be as near the electorate for each other Assembly constituency as is reasonably practicable⁸.

1 As to London Assembly elections see PARA 206 et seq post; and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 88 et seq.

2 Ie the rules contained in the Greater London Authority Act 1999 s 2(5), Sch 1 para 7(1): see the text and notes 3-8 infra. As to the establishment of London Assembly constituencies see PARA 74 ante.

3 Ibid Sch 1 para 7(1), r 1.

4 Ibid Sch 1 para 7(1), r 2. As to the London boroughs see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 30. For the purposes of Sch 1 para 7(1), any reference to a London borough includes a reference to the City of London, which for these purposes is taken to include the Inner Temple and the Middle Temple: Sch 1 para 7(2) (a). As to the City of London and the Temples see PARA 30 ante; and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 31 et seq.

5 For the purposes of ibid Sch 1 para 7(1), a part of a boundary which would, except for the River Thames or a tributary of the River Thames, adjoin a part of another boundary is deemed to adjoin that part of that other boundary: Sch 1 para 7(2)(b).

6 Ibid Sch 1 para 7(1), r 3.

7 Ibid Sch 1 para 7(1), r 4.

8 Ibid Sch 1 para 7(1), r 5.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/(ii) Review of Local Government Electoral Areas/B. WALES/97. Review of electoral arrangements for principal areas by the Local Government Boundary Commission for Wales.

B. WALES

97. Review of electoral arrangements for principal areas by the Local Government Boundary Commission for Wales.

It is the duty of the Local Government Boundary Commission for Wales (the 'Welsh Commission')¹, not less than ten nor more than 15 years after the completion of the initial review² of the electoral arrangements³ for principal areas and thereafter, so far as is reasonably practicable, at intervals of not less than ten nor more than 15 years from the submission of the last report on the previous review for the area in question, to review the electoral arrangements for every principal area in Wales for the purpose of considering whether or not to make proposals to the National Assembly for Wales⁴ for a substantive change⁵ in those arrangements and what proposals, if any, to make⁶. The Welsh Commission must, if it thinks fit, formulate such proposals accordingly⁷.

In addition, the Welsh Commission has power at any time, whether at the request of a local authority or otherwise, to review the electoral arrangements for a principal area in Wales for the purpose of considering whether or not to make proposals to the National Assembly for Wales for a substantive change in those arrangements and what proposals, if any, to make⁸. If it thinks fit, the Welsh Commission may formulate proposals accordingly⁹.

Provision is made for the procedure on a review of electoral arrangements, structural changes or boundary changes¹⁰.

Where the Welsh Commission has¹¹ been conducting a review of electoral arrangements on which it has a power or duty to formulate proposals to, or submit a report to, the National Assembly for Wales¹², and the Commission is of the opinion that it is in a position to submit to the Assembly a report on the review or any part of it or any of the recommendations, the Commission must submit a report to the Assembly on the review or that part or those recommendations, together with the proposals the Commission has formulated thereon, or, as the case may be, a notification that it has no proposals to put forward thereon¹³. The National Assembly for Wales may if it thinks fit by order give effect to any proposals made to it by the Welsh Commission, either as submitted to it or with modifications¹⁴.

1 As to the Local Government Boundary Commission for Wales see PARA 71 ante.

2 As to the initial review see LOCAL GOVERNMENT vol 69 (2009) PARA 83.

3 'Electoral arrangements', in relation to a Welsh principal area, means the number of councillors of the council for that area, the number and boundaries of the electoral areas into which that area is for the time being divided for the purpose of the election of councillors, the number of councillors to be elected for any electoral area in that principal area and the name of any electoral area: Local Government Act 1972 s 78(1)(a). 'Electoral area' means any area for which councillors are elected to any local authority: s 270(1). For the meanings of 'local authority' and 'principal area' see LOCAL GOVERNMENT vol 69 (2009) PARA 23. As to the election of councillors see PARA 204 et seq post; and LOCAL GOVERNMENT vol 69 (2009) PARA 126 et seq.

Bodies considering the electoral arrangements for the purposes of Pt IV (ss 53-78) (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 77 et seq) must so far as is reasonably practicable comply with the rules set out in s 78, Sch 11 (as amended): see s 78(2) (amended by the Education Reform Act 1988 s 237(1), Sch 12 Pt II para 42; the Local Government Act 1992 s 27(1), Sch 3 para 18; and the Local Government (Wales) Act 1994 s

66(5), Sch 15 paras 1, 22). As to the rules to be observed in relation to electoral arrangements for elections of councillors for principal areas in Wales see the Local Government Act 1972 Sch 11 para 1A (as added); and PARA 99 post.

4 The Local Government Act 1972 refers to the Secretary of State, but certain functions of the Secretary of State, so far as exercisable in relation to Wales, have been transferred to the National Assembly for Wales: see LOCAL GOVERNMENT vol 69 (2009) PARA 97.

5 For the meaning of 'substantive change' for these purposes see LOCAL GOVERNMENT vol 69 (2009) PARA 78.

6 Local Government Act 1972 s 57(2) (amended by the Local Government (Wales) Act 1994 Sch 15 paras 1, 10). Reviews for the purpose of making proposals for a substantive change of electoral arrangements may not be conducted under the Local Government Act 1972 s 55 (as amended) (review of local government areas in Wales: see LOCAL GOVERNMENT vol 69 (2009) PARAS 79-80) or s 56 (as amended) (power of National Assembly for Wales to direct holding of reviews: see LOCAL GOVERNMENT vol 69 (2009) PARA 81): see s 57(1).

7 Ibid s 57(2) (as amended: see note 6 supra).

8 Ibid s 57(3).

9 Ibid s 57(3).

10 See LOCAL GOVERNMENT vol 69 (2009) PARA 85.

11 Ie in accordance with the Local Government Act 1972 s 57 (as amended) (see the text and notes 1-9 supra).

12 Ibid s 58(1)(b).

13 Ibid s 58(1).

14 Ibid s 58(2). An order giving effect to any such proposals may not be made until after the expiry of six weeks from the day on which those proposals were submitted to the National Assembly for Wales: s 58(2) proviso. See further LOCAL GOVERNMENT vol 69 (2009) PARA 86.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/(ii) Review of Local Government Electoral Areas/B. WALES/98. Review of electoral arrangements for communities by principal councils.

98. Review of electoral arrangements for communities by principal councils.

It is the duty of each principal council¹ in Wales² to keep under review the electoral arrangements³ for the communities⁴ in its area for the purpose of considering whether or not to make substantive changes⁵ in those arrangements and what changes, if any, to make⁶. The principal council must consider any requests made with respect to those arrangements by the council for, or not less than 30 local government electors⁷ of, any community appearing to the principal council to be likely to be affected by those changes⁸. The principal council may, if it thinks fit, make an order giving effect to those changes⁹. On a request made by a council for, or not less than 30 local government electors of, any community, the Local Government Boundary Commission for Wales (the 'Welsh Commission')¹⁰ may review the electoral arrangements for the community for the purpose of considering whether or not to make proposals to the principal council for an order changing those arrangements, and what proposals, if any, to make¹¹. If it thinks fit, the Welsh Commission may formulate such proposals and send them to the principal council accordingly¹². Where a principal council has received proposals from the Welsh Commission for such an order, it may, if it thinks fit, make the order proposed or suggest modifications to the proposals; and where the Welsh Commission agrees to the modifications suggested, the principal council may make the order with those modifications¹³.

If after receiving any such proposals a principal council informs the Welsh Commission that in its opinion the order proposed should not be made (whether with or without modifications) or if, within six months of receiving any such proposals, the principal council has not made the order proposed (whether with or without modifications), the Welsh Commission may report that fact to the National Assembly for Wales and make to the Assembly the proposals which it made to the principal council¹⁴.

Provision is made for the procedure on a review of electoral arrangements, structural changes or boundary changes¹⁵.

Where the Welsh Commission has¹⁶ been conducting a review of electoral arrangements on which it has a power or duty to formulate proposals to, or submit a report to, the National Assembly for Wales¹⁷, and the Commission is of the opinion that it is in a position to submit to the Assembly a report on the review or any part of it or any of the recommendations, the Commission must submit a report to the Assembly on the review or that part or those recommendations, together with the proposals the Commission has formulated thereon, or, as the case may be, a notification that it has no proposals to put forward thereon¹⁸. The National Assembly for Wales may if it thinks fit by order give effect to any proposals made to it by the Welsh Commission, either as submitted to it or with modifications¹⁹.

1 For the meaning of 'principal council' see LOCAL GOVERNMENT vol 69 (2009) PARA 23.

2 For the meaning of 'Wales' see PARA 13 note 1 ante.

3 'Electoral arrangements', in relation to a community council or a common community council, means the number of councillors, the question whether the community or any community, as the case may be, should or should not be or continue to be divided into wards for the purpose of the election of councillors, the number and boundaries of any such wards, the number of councillors to be elected for any such ward or, in the case of a common community council, for each community, and the name of any such ward: Local Government Act 1972 s 78(1)(b).

Bodies considering the electoral arrangements for the purposes of Pt IV (ss 53-78) (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 77 et seq) must so far as is reasonably practicable comply with the rules set out in s 78, Sch 11 (as amended): see s 78(2) (amended by the Education Reform Act 1988 s 237(1), Sch 12 Pt II para 42; the Local Government Act 1992 s 27(1), Sch 3 para 18; and the Local Government (Wales) Act 1994 s 66(5), Sch 15 paras 1, 22). As to the rules to be observed in relation to electoral arrangements for a community see the Local Government Act 1972 Sch 11 para 4 (as amended); and PARA 99 post.

4 As to communities see LOCAL GOVERNMENT vol 69 (2009) PARA 41 et seq.

5 For the meaning of 'substantive change' for these purposes see LOCAL GOVERNMENT vol 69 (2009) PARA 78.

6 Local Government Act 1972 s 57(4) (amended by the Local Government (Wales) Act 1994 Sch 15 paras 1, 10). Reviews for the purpose of making proposals for a substantive change of electoral arrangements may not be conducted under the Local Government Act 1972 s 55 (as amended) (review of local government areas in Wales: see LOCAL GOVERNMENT vol 69 (2009) PARAS 79-80) or s 56 (as amended) (power of National Assembly for Wales to direct holding of reviews: see LOCAL GOVERNMENT vol 69 (2009) PARA 81): see s 57(1). Principal councils must also keep under review polling districts and places: see PARA 348 et seq post.

7 For the meaning of 'local government elector' see LOCAL GOVERNMENT vol 69 (2009) PARA 127.

8 Local Government Act 1972 s 57(4) (as amended: see note 6 supra).

9 Ibid s 57(4) (as amended: see note 6 supra).

10 As to the Local Government Boundary Commission for Wales see PARA 71 ante.

11 Local Government Act 1972 s 57(5) (amended by the Local Government (Wales) Act 1994 Sch 15 paras 1, 10).

12 Local Government Act 1972 s 57(5) (as amended: see note 11 supra).

13 Ibid s 57(6) (amended by the Local Government (Wales) Act 1994 Sch 15 paras 1, 10).

14 Local Government Act 1972 s 57(7) (amended by the Local Government (Wales) Act 1994 Sch 15 paras 1, 10).

15 See LOCAL GOVERNMENT vol 69 (2009) PARA 85.

16 Ie in accordance with the Local Government Act 1972 s 57 (as amended) (see the text and notes 1-14 supra).

17 Ibid s 58(1)(b).

18 Ibid s 58(1).

19 Ibid s 58(2). An order giving effect to any such proposals may not be made until after the expiry of six weeks from the day on which those proposals were submitted to the National Assembly for Wales: s 58(2) proviso. See further LOCAL GOVERNMENT 69 (2009) PARA 86.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/(ii) Review of Local Government Electoral Areas/B. WALES/99. Statutory rules to be observed in considering electoral arrangements in Wales.

99. Statutory rules to be observed in considering electoral arrangements in Wales.

In considering the electoral arrangements¹ for any local government area in Wales², the National Assembly for Wales³ and the Local Government Boundary Commission for Wales⁴ (or, as the case may be, a Welsh principal council⁵) must comply, so far as is reasonably practicable, with the rules set out below⁶.

In the consideration of the electoral arrangements for elections of councillors for principal areas⁷ in Wales⁸ and having regard to any change in the number or distribution of the local government electors⁹ of the principal area likely to take place within the period of five years immediately following the consideration¹⁰:

- 98 (1) the number of local government electors must be, as nearly as may be, the same in every electoral division¹¹ of the principal area¹²;
- 99 (2) every ward of a community¹³ having a community council (whether separate or common) must lie wholly within a single electoral division¹⁴; and
- 100 (3) every community which is not divided into community wards must lie wholly within a single electoral division¹⁵.

In the consideration of the electoral arrangements for a community having a community council (whether separate or common)¹⁶:

- 101 (a) in considering whether any such community is to be divided into community wards, regard must be had to the questions whether: (i) the number or distribution of the local government electors for the community is such as to make a single election of community councillors impracticable or inconvenient¹⁷; and (ii) it is desirable that any area or areas of the community should be separately represented on the community council¹⁸; and
- 102 (b) where it is decided to divide any such community into community wards, in considering the size and boundaries of the wards and in fixing the number of community councillors to be elected for each ward, regard must be had to¹⁹: (i) any change in the number or distribution of the local government electors of the community which is likely to take place within the period of five years immediately following the consideration²⁰; (ii) the desirability of fixing boundaries which are and will remain easily identifiable²¹; and (iii) any local ties which will be broken by the fixing of any particular boundaries²²;
- 103 (c) where it is decided not to divide the community into community wards, in fixing the number of councillors to be elected for each community, regard must be had to the number and distribution of the local government electors of the community and any change in either which is likely to take place within the period of five years immediately following the fixing of the number of community councillors²³.

1 For the meaning of 'electoral arrangements' see PARA 97 note 3 ante.

2 le for the purposes of the Local Government Act 1972 Pt IV (ss 53-78) (as amended) (see PARAS 97-98 ante). For the meaning of 'local government area' in relation to Wales see LOCAL GOVERNMENT vol 69 (2009) PARA 22. For the meaning of 'Wales' see PARA 13 note 1 ante.

3 The Local Government Act 1972 refers to the Secretary of State, but certain functions of the Secretary of State, so far as exercisable in relation to Wales, have been transferred to the National Assembly for Wales: see LOCAL GOVERNMENT vol 69 (2009) PARA 97.

4 As to the Local Government Boundary Commission for Wales see PARA 71 ante.

5 le where a Welsh principal council considers the electoral arrangements for a community having a community council (see PARA 98 ante). For the meaning of 'principal council' see LOCAL GOVERNMENT vol 69 (2009) PARA 23.

6 See the Local Government Act 1972 s 78(2); and PARAS 97-98 ante. The rules referred to in the text are those set out in s 78, Sch 11 (as amended) (see the text and notes 7-23 infra).

7 As to the election of councillors see PARA 204 et seq post; and LOCAL GOVERNMENT vol 69 (2009) PARA 126 et seq. For the meaning of 'principal area' see LOCAL GOVERNMENT vol 69 (2009) PARA 37.

8 Local Government Act 1972 Sch 11 para 1A(1) (Sch 11 para 1A added by the Local Government (Wales) Act 1994 s 7(3)). For the meaning of 'Wales' see PARA 13 note 1 ante. Subject to any direction under the Local Government Act 1972 Sch 11 para 1A(3) (as added), the Welsh Commission must, when considering the arrangements for elections of councillors for any principal area in Wales, provide for there to be a single member for each electoral division: Sch 11 para 1A(2) (as so added). The National Assembly for Wales may give a direction to the Welsh Commission requiring it to consider the desirability of providing for multi-member electoral divisions for the area to which the direction relates (which may be the whole or a specified part of a principal area in Wales) (Sch 11 para 1A(3) (as so added)); and for these purposes, an electoral division is a multi-member division if the arrangements made for the elections of councillors provide for a specified number of councillors (greater than one) to be elected for that division (Sch 11 para 1A(4) (as so added)).

Subject to the Local Government Act 1972 Sch 11 para 1A(5) (as added) (see the text and notes 9-15 infra), in considering the electoral arrangements referred to in Sch 11 para 1A(1) (as added), regard must be had also to the desirability of fixing boundaries which are and will remain easily identifiable and any local ties which would be broken by the fixing of any particular boundary: Sch 11 para 1A(6) (as so added).

9 For the meaning of 'local government electors' see LOCAL GOVERNMENT vol 69 (2009) PARA 127.

10 Local Government Act 1972 Sch 11 para 1A(5) (as added: see note 8 supra).

11 As to the establishment of electoral areas for the purpose of local government elections see PARA 73 ante.

12 Local Government Act 1972 Sch 11 para 1A(5)(a) (as added: see note 8 supra). This is subject to the rule that where there are one or more multi-member divisions, the ratio of the number of local government electors to the number of councillors to be elected must be, as nearly as may be, the same in every electoral division in the principal area (including any that are not multi-member divisions): Sch 11 para 1A(5)(b) (as so added).

13 As to communities see LOCAL GOVERNMENT vol 69 (2009) PARA 41 et seq.

14 Local Government Act 1972 Sch 11 para 1A(5)(c) (as added: see note 8 supra).

15 Ibid Sch 11 para 1A(5)(d) (as added: see note 8 supra).

16 Ibid Sch 11 para 4(1) (amended by the Local Government (Wales) Act 1994 s 7(4)).

17 Local Government Act 1972 Sch 11 para 4(2)(a).

18 Ibid Sch 11 para 4(2)(b).

19 Ibid Sch 11 para 4(3).

20 Ibid Sch 11 para 4(3)(a).

21 Ibid Sch 11 para 4(3)(b).

22 Ibid Sch 11 para 4(3)(c).

23 Ibid Sch 11 para 4(4).

UPDATE

99 Statutory rules to be observed in considering electoral arrangements in Wales

NOTE 16--Local Government Act 1972 Sch 11 para 4(1) further amended: Local Democracy, Economic Development and Construction Act 2009 Sch 7 Pt 3.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/ (iii) Review of National Assembly for Wales Electoral Regions/A. REVIEW BY THE BOUNDARY COMMISSION FOR WALES/100. Reports of the Boundary Commission for Wales.

(iii) Review of National Assembly for Wales Electoral Regions

A. REVIEW BY THE BOUNDARY COMMISSION FOR WALES

100. Reports of the Boundary Commission for Wales.

Until a day to be appointed, the following provisions have effect¹.

When the Boundary Commission for Wales² provisionally determines³ to recommend the making of alterations affecting any parliamentary constituencies⁴, it must consider whether any alteration either in the Assembly electoral regions⁵ or in the allocation of seats to the Assembly electoral regions⁶ is required in order to give effect to the statutory rules set out in relation to Assembly electoral regions⁷.

Where the Commission submits to the National Assembly for Wales⁸ a report recommending alterations in parliamentary constituencies either as a result of a mandatory periodical review⁹ or in exercise of the Commission's discretion to submit such a report¹⁰, the report must show any alteration in the Assembly electoral regions¹¹ or in the allocation of seats to the Assembly electoral regions¹² which the Commission recommends in order to give effect to the statutory rules set out in relation to Assembly electoral regions¹³. If, in the opinion of the Commission, no alteration is required for that purpose, it must state that in the report¹⁴; but if the report recommends any alteration in any Assembly electoral regions, it must state the name (in English and in Welsh) by which the Commission recommends that the Assembly electoral regions (as proposed to be altered) should be known¹⁵. The Commission must send a copy of the report to the Assembly¹⁶.

An Order in Council under the Parliamentary Constituencies Act 1986 for giving effect, with or without modifications, to the recommendations contained in a report of the Boundary Commission for Wales¹⁷ may specify different dates for its coming into force for the purposes of elections to the House of Commons and for the purposes of the return of Assembly members¹⁸.

1 As from a day to be appointed under the Political Parties, Elections and Referendums Act 2000 s 163(2), the Government of Wales Act 1998 2(2), Sch 1 para 4 is substituted and Sch 1 paras 7, 9 are amended by the Political Parties, Elections and Referendums Act 2000 s 16(2), Sch 3 Pt II to reflect the fact that the functions of the Boundary Commission for Wales with respect to keeping under review, and reporting on, representation in the National Assembly for Wales is to be transferred to the Boundary Committee for Wales. At the date at which this volume states the law, no such day had been appointed.

Immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS), the provisions of the Government of Wales Act 1998 are repealed and those of the Government of Wales Act 2006 come into force: see s 161(1), (4), (5). As to the provisions with respect to keeping under review, and reporting on, representation in the National Assembly for Wales that operate under the Government of Wales Act 2006 see PARA 103 et seq post.

2 As to the constitution of the Boundary Commissions see PARA 67 et seq ante.

3 Ie in pursuance of the Parliamentary Constituencies Act 1986 (see PARA 97 ante).

4 For the meaning of 'constituency' for these purposes see PARA 9 ante.

5 Government of Wales Act 1998 Sch 1 para 4(a). As to the establishment of Assembly electoral regions see PARA 75 ante. See note 1 supra.

6 Ibid Sch 1 para 4(b). See note 1 supra.

7 Ibid Sch 1 para 4. The rules referred to in the text are those set out in Sch 1 para 8: see PARA 101 post. See note 1 supra.

8 As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

9 Government of Wales Act 1998 Sch 1 para 7(1)(a). The text refers to a report submitted under the Parliamentary Constituencies Act 1986 s 3(1) (see PARA 77 ante). See note 1 supra.

10 Government of Wales Act 1998 Sch 1 para 7(1)(b). The text refers to a report submitted under the Parliamentary Constituencies Act 1986 s 3(3) (see PARA 84 ante). See note 1 supra.

11 Government of Wales Act 1998 Sch 1 para 7(2)(a). See note 1 supra.

12 Ibid Sch 1 para 7(2)(b). See note 1 supra.

13 Ibid Sch 1 para 7(2). See note 1 supra. As to the rules referred to in the text see note 7 supra.

14 Ibid Sch 1 para 7(3). See note 1 supra.

15 Ibid Sch 1 para 7(4). See note 1 supra.

16 Ibid Sch 1 para 7(5). See note 1 supra.

17 See PARA 97 ante.

18 Government of Wales Act 1998 Sch 1 para 9(1). The coming into force of an Order in Council under the Parliamentary Constituencies Act 1986 does not affect the operation of the Government of Wales Act 1998 s 8 (vacancy in seat of an Assembly member returned for an Assembly constituency: see PARA 221 post) or s 9 (vacancy in seat of an Assembly member returned for an Assembly electoral region: see PARA 222 post), or the constitution of the Assembly, at any time before the next ordinary election: Sch 1 para 9(2). See note 1 supra.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/ (iii) Review of National Assembly for Wales Electoral Regions/A. REVIEW BY THE BOUNDARY COMMISSION FOR WALES/101. Statutory rules to be observed regarding Welsh Assembly electoral regions.

101. Statutory rules to be observed regarding Welsh Assembly electoral regions.

Until a day to be appointed, the following provisions have effect¹.

The statutory rules regarding Assembly electoral regions² to which the Boundary Commission for Wales³ must have regard when provisionally determining to recommend the making of alterations affecting any parliamentary constituencies⁴, or when making a report recommending alterations in parliamentary constituencies either as a result of a mandatory periodical review or in exercise of the Commission's discretion to submit such a report⁵, are as follows⁶:

- 104 (1) each Assembly constituency must be wholly included in one Assembly electoral region⁷;
- 105 (2) the regional electorate⁸ for an Assembly electoral region must be as near the regional electorate for each other Assembly electoral region as is reasonably practicable, having regard (where appropriate) to special geographical considerations⁹;
- 106 (3) the total number of Assembly seats for the Assembly electoral regions must be either one-half of the total number of the Assembly constituencies¹⁰ or (if that total number is not exactly divisible by two) one-half of the number produced by adding one to that total number¹¹;
- 107 (4) the number of Assembly seats for an Assembly electoral region must be either one-fifth of the total number of Assembly seats for the electoral Assembly regions¹² or (if that total number is not exactly divisible by five) either one-fifth of the highest number which is less than that total number and exactly divisible by five or the number produced by adding one to one-fifth of that highest number¹³.

1 As from a day to be appointed under the Political Parties, Elections and Referendums Act 2000 s 163(2), the Government of Wales Act 1998 2(2), Sch 1 paras 8, 10 are amended by the Political Parties, Elections and Referendums Act 2000 s 16(2), Sch 3 Pt II to reflect the fact that the functions of the Boundary Commission for Wales with respect to keeping under review, and reporting on, representation in the National Assembly for Wales is to be transferred to the Boundary Committee for Wales. At the date at which this volume states the law, no such day had been appointed.

Immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS), the provisions of the Government of Wales Act 1998 are repealed and those of the Government of Wales Act 2006 come into force: see s 161(1), (4), (5). As to the provisions with respect to keeping under review, and reporting on, representation in the National Assembly for Wales that operate under the Government of Wales Act 2006 see PARA 103 et seq post.

2 As to electoral regions established for the purposes of elections to the National Assembly for Wales see PARA 75 ante.

3 As to the constitution of the Boundary Commissions see PARA 67 et seq ante.

4 Ie under the Government of Wales Act 1998 Sch 1 para 4 (see PARA 100 ante). See note 1 supra.

5 Ie under ibid Sch 1 para 7(2) (see PARA 100 ante). See note 1 supra.

6 Ibid Sch 1 para 8(1). See note 1 supra.

7 Ibid Sch 1 para 8(1) r 1. See note 1 supra.

8 For the purposes of any report of the Boundary Commission, the 'regional electorate for an Assembly electoral region' is the number of persons who, on the enumeration date, are registered in the register of local government electors at addresses within any of the Assembly constituencies included in the Assembly electoral region (ibid Sch 1 para 10(1)); and the 'enumeration date' means the date on which notice that the Commission intended to consider making the report was published in accordance with the Parliamentary Constituencies Act 1986 s 5(1) (see PARA 77 ante) (Government of Wales Act 1998 Sch 1 para 10(2)). See note 1 supra.

9 Ibid Sch 1 para 8(1) r 2. See note 1 supra.

10 Ibid Sch 1 para 8(1) r 3(a). See note 1 supra.

11 Ibid Sch 1 para 8(1) r 3(b). See note 1 supra.

12 Ibid Sch 1 para 8(1) r 4(a). See note 1 supra.

13 Ibid Sch 1 para 8(1) r 4(b). See note 1 supra.

If the total number of Assembly seats for the electoral Assembly regions is not exactly divisible by five, the Boundary Commission must calculate the difference between:

25 (1) the total number of seats for the Assembly electoral regions (Sch 1 para 8(2)(a)); and

26 (2) the highest number which is less than that total number and exactly divisible by five (Sch 1 para 8(2)(b)),

and that is the number of residual seats to be allocated by the Commission (Sch 1 para 8(2)). The Commission must not allocate more than one residual seat to an Assembly electoral region (Sch 1 para 8(3)); and must divide the regional electorate for each Assembly electoral region by the aggregate of: (a) the number of Assembly constituencies in the Assembly electoral region (Sch 1 para 8(4)(a)); and (b) one-fifth of the highest number which is less than the total number of seats for the electoral Assembly regions and exactly divisible by five (Sch 1 para 8(4)(b)). In allocating the residual seat or seats to an Assembly electoral region or Assembly electoral regions, the Commission must have regard to the desirability of allocating the residual seat or seats to the Assembly electoral region or regions for which that calculation produces the highest number or numbers: Sch 1 para 8(4).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/ (iii) Review of National Assembly for Wales Electoral Regions/A. REVIEW BY THE BOUNDARY COMMISSION FOR WALES/102. Procedure relating to reviews and proposed recommendations.

102. Procedure relating to reviews and proposed recommendations.

Until a day to be appointed, the following provisions have effect¹.

Where the Boundary Commission for Wales² has provisionally determined, after the required consideration³, to make recommendations affecting any Assembly electoral region, it must publish a notice in at least one newspaper circulating in the Assembly electoral region⁴, stating: (1) the effect of the proposed recommendations⁵; (2) except where the Commission proposes to recommend that no alteration affecting the Assembly electoral region be made, that a copy of the proposed recommendations is open to inspection at one or more specified places within each Assembly constituency included in the Assembly electoral region⁶; and (3) that representations with respect to the proposed recommendations may be made to the Commission within one month after the publication of the notice⁷. The Commission must take into consideration any representations duly made in accordance with any such notice⁸. Where the Commission revises any proposed recommendations after publishing a notice of them, the Commission must comply again with the provisions⁹ in relation to the revised proposed recommendations, as if no earlier notice had been published¹⁰.

The Commission may, if it thinks fit, cause a local inquiry to be held in respect of an Assembly electoral region or regions¹¹. Where, on the publication of a notice of a proposed recommendation of the Commission for an alteration affecting any Assembly electoral regions¹², the Commission receives any representation objecting to the proposed recommendation from an interested local authority¹³ (the area of which is wholly or partly included in the Assembly electoral regions affected by the proposed recommendation¹⁴), or from a body of electors¹⁵ numbering 500 or more, the Commission may not make the recommendation unless: (a) a local inquiry has been held in respect of those Assembly electoral regions since the publication of the notice¹⁶; or (b) a local inquiry was held in respect of those Assembly electoral regions before the publication of the notice and the Commission, after considering the matters discussed at that inquiry, the nature of the representations received on the publication of the notice and any other relevant circumstances, is of opinion that a further local inquiry would not be justified¹⁷.

1 As from a day to be appointed under the Political Parties, Elections and Referendums Act 2000 s 163(2), the Government of Wales Act 1998 2(2), Sch 1 paras 5, 6 are amended by the Political Parties, Elections and Referendums Act 2000 s 16(2), Sch 3 Pt II to reflect the fact that the functions of the Boundary Commission for Wales with respect to keeping under review, and reporting on, representation in the National Assembly for Wales is to be transferred to the Boundary Committee for Wales. At the date at which this volume states the law, no such day had been appointed.

Immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS), the provisions of the Government of Wales Act 1998 are repealed and those of the Government of Wales Act 2006 come into force: see s 161(1), (4), (5). As to the provisions with respect to keeping under review, and reporting on, representation in the National Assembly for Wales that operate under the Government of Wales Act 2006 see PARA 103 et seq post.

2 As to the constitution of the Boundary Commissions see PARA 67 et seq ante.

3 Ie the consideration required by the Government of Wales Act 1998 Sch 1 para 4 (see PARA 100 ante).

4 Ibid Sch 1 para 5(1). The Commission is not required to comply with Sch 1 para 5(1) if the proposed recommendations are only for an alteration in the number of Assembly seats for the Assembly electoral region

and the proposed total number of Assembly seats for the Assembly electoral regions is exactly divisible by five: Sch 1 para 5(5). Where the proposed total number of Assembly seats for the Assembly electoral regions is not exactly divisible by five, a recommendation for an alteration in the number of Assembly seats for any Assembly electoral region must be taken, for the purposes of Sch 1 para 5 and Sch 1 para 6 (see the text and notes 11-17 infra), to be one which also affects all the other Assembly electoral regions: Sch 1 para 5(6). As to electoral regions established for the purposes of elections to the National Assembly for Wales see PARA 75 ante. See note 1 supra.

5 Ibid Sch 1 para 5(2)(a). See note 1 supra.

6 Ibid Sch 1 para 5(2)(b). See note 1 supra.

7 Ibid Sch 1 para 5(2)(c). See note 1 supra.

8 Ibid Sch 1 para 5(3). See note 1 supra.

9 Ibid Sch 1 para 5(1) (see the text and notes 2-4 supra).

10 Ibid Sch 1 para 5(4). The Commission is not required to comply with Sch 1 para 5(4) if the revised proposed recommendations are only for an alteration in the number of Assembly seats for the Assembly electoral region and the revised proposed total number of Assembly seats for the Assembly electoral regions is exactly divisible by five: Sch 1 para 5(5). Where the revised proposed total number of Assembly seats for the Assembly electoral regions is not exactly divisible by five, a recommendation for an alteration in the number of Assembly seats for any Assembly electoral region must be taken, for the purposes of Sch 1 para 5 and Sch 1 para 6 (see the text and notes 11-17 infra), to be one which also affects all the other Assembly electoral regions: Sch 1 para 5(6). See note 1 supra.

11 Ibid Sch 1 para 6(1). The Local Government Act 1972 s 250(2), (3) (as amended) (which relates to the attendance of witnesses at inquiries: see LOCAL GOVERNMENT vol 69 (2009) PARA 105) applies in relation to any local inquiry which the Boundary Commission for Wales may cause to be held in pursuance of the Government of Wales Act 1998 Sch 1 para 6: Sch 1 para 6(5). See note 1 supra.

12 Ibid Sch 1 para 5(1) (see the text and notes 2-4 supra).

13 Ibid Sch 1 para 6(4). As to the council of a county or county borough in Wales see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq.

14 Ibid Sch 1 para 6(4).

15 For these purposes, 'elector' means a person who, at the time when the representations are made, is registered in the register of local government electors at an address within any of the Assembly constituencies included in any of those Assembly electoral regions: ibid Sch 1 para 6(4). See note 1 supra. As to the registration of local government electors see PARA 128 et seq post.

16 Ibid Sch 1 para 6(2). See note 1 supra.

17 Ibid Sch 1 para 6(3). See note 1 supra.

UPDATE

102 Procedure relating to reviews and proposed recommendations

NOTES--Certain functions under provisions mentioned in this paragraph are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3, see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/ (iii) Review of National Assembly for Wales Electoral Regions/B. REVIEW BY THE ELECTORAL COMMISSION AND BOUNDARY COMMITTEE FOR WALES/103. Reports of the Electoral Commission and Boundary Committee for Wales.

B. REVIEW BY THE ELECTORAL COMMISSION AND BOUNDARY COMMITTEE FOR WALES

103. Reports of the Electoral Commission and Boundary Committee for Wales.

As from the appointed day, the following provisions have effect¹.

Where the Electoral Commission² intends to consider making a report³ with respect to Wales or any area comprised in Wales⁴ and, accordingly, the Boundary Committee for Wales⁵ is required to submit a report to the Commission⁶ containing the recommendations⁷ which the Committee proposes should be included in the Commission's report⁸, the following provisions apply⁹.

If the Committee provisionally determines proposed recommendations which it is minded to include in a report to the Commission¹⁰, and which would involve any alterations in any parliamentary constituencies¹¹ in Wales¹², the Committee must consider the issue of whether any alteration either in the Assembly electoral regions¹³ or in the allocation of seats to the Assembly electoral regions¹⁴ is required in order to give effect to the statutory rules set out in relation to Assembly electoral regions¹⁵. Any such report of the Committee must contain, in addition, the recommendations which, in the light of: (1) the required consideration of the Assembly electoral region issue¹⁶; (2) any representations duly made¹⁷ with respect to the recommendations¹⁸; and (3) the findings of any inquiry held¹⁹ in respect of the Assembly electoral regions affected by the recommendations²⁰, the Committee proposes should be included²¹ in the Commission's report²².

Where the Commission submits to the Secretary of State²³ a report recommending alterations in parliamentary constituencies in Wales as a result of a mandatory periodical review²⁴ or in exercise of the Commission's discretion to submit such a report which relates to any constituency or constituencies in Wales²⁵, the report must show any alteration in the Assembly electoral regions²⁶ or in the allocation of seats to the Assembly electoral regions²⁷ which the Commission recommends in order to give effect to the statutory rules set out in relation to Assembly electoral regions²⁸. If, in the opinion of the Commission, no alteration is required for that purpose, it must state that in the report²⁹; but if the report recommends any alteration in any Assembly electoral regions, it must state the name (in English and in Welsh) by which the Commission recommends that the Assembly electoral regions (as proposed to be altered) should be known³⁰. The Commission must lay a copy of the report before the Assembly³¹.

An Order in Council under the Parliamentary Constituencies Act 1986 for giving effect to the recommendations contained in a report of the Commission³² may specify different dates for its coming into force for the purposes of elections to the House of Commons and for the purposes of the return of Assembly members³³.

1 The provisions of the Government of Wales Act 2006 come into force immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the system that operates under the Government of Wales Act 1998 until that date see PARA 100 et seq ante.

2 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

3 le a report under the Parliamentary Constituencies Act 1986 s 3 (prospectively amended) (see PARA 84 ante).

4 Government of Wales Act 2006 s 2(5), Sch 1 para 1(2)(a).

5 le the Committee of that name established by the Electoral Commission under the Political Parties, Elections and Referendums Act 2000 s 14 (see PARA 60 ante); Government of Wales Act 2006 Sch 1 para 1(3). See note 1 supra.

6 le under the Parliamentary Constituencies Act 1986 s 3A(2) (prospectively added) (see PARA 85 ante).

7 For these purposes, 'recommendations' includes (unless the context otherwise requires) a recommendation that no alteration is required: Government of Wales Act 2006 Sch 1 para 12. The Parliamentary Constituencies Act 1986 s 3A(3) (prospectively added) (see PARA 85 ante) applies with any necessary modifications in relation to the Committee's proposed recommendations under the Government of Wales Act 2006 Sch 1 para 5(1) (see the text and notes 16-22 infra) as it applies in relation to any proposed recommendations of a Boundary Committee under the Parliamentary Constituencies Act 1986 s 3A(2) (prospectively added) (see PARA 85 ante); Government of Wales Act 2006 Sch 1 para 6(1). See note 1 supra.

8 Ibid Sch 1 para 1(2)(b).

9 Ibid Sch 1 para 1(2). The provisions referred to in the text are those of Sch 1. In the Parliamentary Constituencies Act 1986 s 3A(4) (prospectively added) (see PARA 85 ante), the first reference to the Parliamentary Constituencies Act 1986 includes a reference to the Government of Wales Act 2006 Sch 1, and the reference to the rules as mentioned there includes a reference to the rules set out in Sch 1 para 9 (see PARA 104 post): Sch 1 para 7.

10 Ibid Sch 1 para 2(1)(a). As to the report mentioned in the text see the Parliamentary Constituencies Act 1986 s 3A(2) (prospectively added); and PARA 85 ante. See also notes 1, 7 supra.

11 For the meaning of 'constituency' for these purposes see PARA 9 ante.

12 Government of Wales Act 2006 Sch 1 para 2(1)(b). For the meaning of 'Wales' see PARA 13 note 1 ante.

13 Ibid Sch 1 para 2(2)(a). See note 1 supra. As to electoral regions established for the purposes of elections to the National Assembly for Wales see PARA 75 ante.

14 Ibid Sch 1 para 2(2)(b). See note 1 supra.

15 Ibid Sch 1 para 2(2). The rules referred to in the text are those set out in Sch 1 para 9 (see PARA 104 post). For these purposes, the issue mentioned in the text is referred to as the 'Assembly electoral region issue': Sch 1 para 2(3). See note 1 supra.

16 Ibid Sch 1 para 5(1)(a). See note 1 supra.

17 le in accordance with any notice published under ibid Sch 1 para 3 (see PARA 105 post).

18 Ibid Sch 1 para 5(1)(b). See note 1 supra.

19 le under ibid Sch 1 para 4 (see PARA 105 post).

20 Ibid Sch 1 para 5(1)(c). See note 1 supra.

21 le in pursuance of ibid Sch 1 para 8 (see the text and notes 23-31 infra). See note 1 supra.

22 Ibid Sch 1 para 5(1). The text refers to the Electoral Commission's 'section 3 report', being the report of the Commission under the Parliamentary Constituencies Act 1986 s 3 (prospectively amended) (see PARA 84 ante) for the purposes of which the Committee's proposed recommendations would be made: Government of Wales Act 2006 Sch 1 para 5(2). See note 1 supra.

23 Ibid Sch 1 para 8(1). See note 1 supra. As to the Secretary of State see PARA 2 ante.

24 Ibid Sch 1 para 8(1)(a). The text refers to a report submitted under the Parliamentary Constituencies Act 1986 s 3(1) (prospectively amended) (see PARA 84 ante). See note 1 supra.

25 Government of Wales Act 2006 Sch 1 para 8(1)(b). The text refers to a report submitted under the Parliamentary Constituencies Act 1986 s 3(3) (prospectively amended) (see PARA 84 ante). See note 1 supra.

26 Government of Wales Act 2006 Sch 1 para 8(2)(a). See note 1 supra.

27 Ibid Sch 1 para 8(2)(b). See note 1 supra.

28 Ibid Sch 1 para 8(2). See note 1 supra. As to the rules referred to in the text see note 15 supra.

29 Ibid Sch 1 para 8(3). See note 1 supra.

30 Ibid Sch 1 para 8(4) See note 1 supra.

31 Ibid Sch 1 para 8(5). See note 1 supra.

32 As to procedure see PARA 105 post.

33 Government of Wales Act 2006 Sch 1 para 10(1). The coming into force of an Order in Council under the Parliamentary Constituencies Act 1986 does not affect the operation of the Government of Wales Act 2006 s 10 (vacancy in seat of an Assembly member returned for an Assembly constituency: see PARA 221 post) or s 11 (vacancy in seat of an Assembly member returned for an Assembly electoral region: see PARA 222 post), or the constitution of the Assembly, at any time before the next general election: Sch 1 para 10(2). See note 1 supra.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/ (iii) Review of National Assembly for Wales Electoral Regions/B. REVIEW BY THE ELECTORAL COMMISSION AND BOUNDARY COMMITTEE FOR WALES/104. Statutory rules regarding Welsh Assembly electoral regions.

104. Statutory rules regarding Welsh Assembly electoral regions.

As from the appointed day, the following provisions have effect¹.

The statutory rules regarding Assembly electoral regions² to which the relevant bodies³ must have regard when provisionally determining to recommend the making of alterations affecting any parliamentary constituencies⁴, or when making a report recommending alterations in parliamentary constituencies either as a result of a mandatory periodical review or in exercise of the Boundary Committee's discretion to submit such a report⁵, are as follows⁶:

- 108 (1) each Assembly constituency must be wholly included in one Assembly electoral region⁷;
- 109 (2) the regional electorate for an Assembly electoral region⁸ must be as near the regional electorate for each other Assembly electoral region as is reasonably practicable, having regard (where appropriate) to special geographical considerations⁹;
- 110 (3) the total number of Assembly seats for the Assembly electoral regions must be either one-half of the total number of the Assembly constituencies¹⁰ or (if that total number is not exactly divisible by two) one-half of the number produced by adding one to that total number¹¹;
- 111 (4) the number of Assembly seats for an Assembly electoral region must be either one-fifth of the total number of Assembly seats for the electoral Assembly regions¹² or (if that total number is not exactly divisible by five) either one-fifth of the highest number which is less than that total number and exactly divisible by five or the number produced by adding one to one-fifth of that highest number¹³.

1 The provisions of the Government of Wales Act 2006 come into force immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS); see the Government of Wales Act 2006 s 161(1), (4), (5). As to the system that operates under the Government of Wales Act 1998 until that date see PARA 100 et seq ante.

2 As to electoral regions established for the purposes of elections to the National Assembly for Wales see PARA 75 ante.

3 I.e. the Electoral Commission or (as the case may be) the Boundary Committee for Wales. As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante; and as to the Boundary Committee for Wales see PARA 103 note 5 ante.

4 I.e. under the Government of Wales Act 2006 s 2(5), Sch 1 para 2 (see PARA 103 ante). See note 1 supra.

5 I.e. under ibid Sch 1 para 8(2) (see PARA 103 ante).

6 Ibid Sch 1 para 9(1). See note 1 supra.

7 Ibid Sch 1 para 9(1) r 1. See note 1 supra.

8 For the purposes of any report of the Electoral Commission, the 'regional electorate for an Assembly electoral region' is the number of persons who, on the enumeration date, are registered in the register of local government electors at addresses within any of the Assembly constituencies included in the Assembly electoral region (ibid Sch 1 para 11(1)); and the 'enumeration date' means the date on which notice that the Electoral

Commission intended to consider making the report was published in accordance with the Parliamentary Constituencies Act 1986 s 5(1) (prospectively substituted) (see PARA 84 ante) (Government of Wales Act 2006 Sch 1 para 11(2)). The provisions of Sch 1 para 11(1), (2) also apply for construing references to the regional electorate for an Assembly electoral region in relation to any report of the Boundary Committee for Wales made for the purposes of any such report of the Electoral Commission: Sch 1 para 11(3). See note 1 supra.

9 Ibid Sch 1 para 9(1) r 2. See note 1 supra.

10 Ibid Sch 1 para 9(1) r 3(a). See note 1 supra.

11 Ibid Sch 1 para 9(1) r 3(b). See note 1 supra.

12 Ibid Sch 1 para 9(1) r 4(a). See note 1 supra.

13 Ibid Sch 1 para 9(1) r 4(b). If the total number of Assembly seats for the electoral Assembly regions is not exactly divisible by five, the Electoral Commission or (as the case may be) the Boundary Committee for Wales must calculate the difference between:

27 (1) the total number of seats for the Assembly electoral regions (Sch 1 para 9(2)(a)); and

28 (2) the highest number which is less than that total number and exactly divisible by five (Sch 1 para 9(2)(b)),

and that difference is the number of residual seats to be allocated (Sch 1 para 9(3)). No more than one residual seat may be allocated to an Assembly electoral region (Sch 1 para 9(4)); and the regional electorate for each Assembly electoral region must be divided by the aggregate of: (a) the number of Assembly constituencies in the Assembly electoral region (Sch 1 para 9(5)(a)); and (b) one-fifth of the highest number which is less than the total number of seats for the electoral Assembly regions and exactly divisible by five (Sch 1 para 9(5)(b)). In allocating the residual seat or seats to an Assembly electoral region or regions, regard must be had to the desirability of allocating the residual seat or seats to the Assembly electoral region or regions for which that calculation produces the highest number or numbers: Sch 1 para 9(6). See note 1 supra.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/ (iii) Review of National Assembly for Wales Electoral Regions/B. REVIEW BY THE ELECTORAL COMMISSION AND BOUNDARY COMMITTEE FOR WALES/105. Procedure relating to reviews and proposed recommendations.

105. Procedure relating to reviews and proposed recommendations.

As from the appointed day, the following provisions have effect¹.

Where the Boundary Committee for Wales², having considered the Assembly electoral region issue³, has provisionally determined to propose recommendations⁴ affecting any Assembly electoral region, it must publish a notice in at least one newspaper circulating in the Assembly electoral region⁵, stating: (1) the effect of the proposed recommendations⁶; (2) except where their effect is that no alteration affecting the Assembly electoral region be made, that a copy of the proposed recommendations is open to inspection at one or more specified places within each Assembly constituency included in the Assembly electoral region⁷; and (3) that representations with respect to the proposed recommendations may be made to Committee within one month after the publication of the notice⁸. The Committee must take into consideration any representations duly made in accordance with any such notice⁹. Where the Committee revises any proposed recommendations after publishing a notice of them, the Committee must comply again with the provisions¹⁰ in relation to the revised proposed recommendations, as if no earlier notice had been published¹¹.

The Committee may¹², if it thinks fit, cause a local inquiry to be held in respect of an Assembly electoral region or regions¹³. Where, on the publication of a notice of a proposed recommendation of the Committee for an alteration affecting any Assembly electoral regions¹⁴, the Committee receives any representation objecting to the proposed recommendation¹⁵ either from an interested local authority¹⁶ (the area of which is wholly or partly included in the Assembly electoral regions affected by the proposed recommendation¹⁷) or from a body of electors¹⁸ numbering 500 or more¹⁹, the Committee may not proceed with the proposed recommendation unless: (a) a local inquiry has been held in respect of those Assembly electoral regions since the publication of the notice²⁰; or (b) a local inquiry was held in respect of those Assembly electoral regions before the publication of the notice and the Committee, having regard to the matters discussed at that previous inquiry, the nature of the representations received on the publication of the notice and any other relevant circumstances, is of the opinion that a further local inquiry would not be justified²¹. Where the Committee has caused a local inquiry to be so held, the Committee must take into consideration the findings of the inquiry²². The Electoral Commission must have regard to the findings of the inquiry in respect of the Assembly electoral regions affected by the recommendations²³ or where, in the case of an Assembly electoral region in respect of which the inquiry was held, the Commission is minded to exercise any of its powers²⁴ to modify or reject the recommendations in relation to part only of the region, the Commission must have regard to the findings of the inquiry so far as relating to that part of the region²⁵.

1 The provisions of the Government of Wales Act 2006 come into force immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the system that operates under the Government of Wales Act 1998 until that date see PARA 100 et seq ante.

2 As to the Boundary Committee for Wales see PARA 103 note 5 ante.

3 le the consideration required by the Government of Wales Act 2006 s 2(5), Sch 1 para 2 (see PARA 103 ante). As to the meaning of 'Assembly electoral region issue' see PARA 103 note 15 ante. As to electoral regions established for the purposes of elections to the National Assembly for Wales see PARA 75 ante.

4 As to the meaning of 'recommendations' for these purposes see PARA 103 note 7 ante.

5 Government of Wales Act 2006 Sch 1 para 3(1). The Boundary Committee is not required to comply with Sch 1 para 3(1) if the proposed recommendations are only for an alteration in the number of Assembly seats for the Assembly electoral region and the proposed total number of Assembly seats for the Assembly electoral regions is exactly divisible by five: Sch 1 para 3(5). Where the proposed total number of Assembly seats for the Assembly electoral regions is not exactly divisible by five, a recommendation for an alteration in the number of Assembly seats for any Assembly electoral region must be taken, for the purposes of Sch 1 para 3 and Sch 1 para 4 (see the text and notes 12-22 infra), to be one which also affects all the other Assembly electoral regions: Sch 1 para 3(6).

Where the Electoral Commission is minded to exercise any of the powers conferred by the Parliamentary Constituencies Act 1986 s 3A(3)(b), (c) (prospectively added) (see PARA 85 ante) in relation to the Committee's proposed recommendations under the Government of Wales Act 2006 Sch 1 para 5(1) (see PARA 103 ante) (Sch 1 para 6(2)), it must have regard to any representations duly made with respect to the recommendations in accordance with any notice published under Sch 1 para 3 or (where it is minded to exercise any of those powers in relation to part only of the Assembly electoral region) any representations so made with respect to the recommendations so far as relating to that part of the region: Sch 1 para 6(3). Where the Boundary Committee's proposed recommendations under Sch 1 para 5(1) have been modified by the Electoral Commission under the Parliamentary Constituencies Act 1986 s 3A(3)(b) (prospectively added), the Boundary Committee must publish in at least one newspaper circulating in the Assembly electoral region a notice stating the effect of those recommendations as so modified: Government of Wales Act 2006 Sch 1 para 6(5). See note 1 supra. As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

6 Ibid Sch 1 para 3(2)(a). See note 1 supra.

7 Ibid Sch 1 para 3(2)(b). See note 1 supra.

8 Ibid Sch 1 para 3(2)(c). See note 1 supra.

9 Ibid Sch 1 para 3(3). See note 1 supra.

10 le ibid Sch 1 para 3(1)-(3) (see the text and notes 2-9 supra).

11 Ibid Sch 1 para 3(4). The Boundary Committee is not required to comply with Sch 1 para 3(4) if the revised proposed recommendations are only for an alteration in the number of Assembly seats for the Assembly electoral region and the revised proposed total number of Assembly seats for the Assembly electoral regions is exactly divisible by five: Sch 1 para 3(5). Where the revised proposed total number of Assembly seats for the Assembly electoral regions is not exactly divisible by five, a recommendation for an alteration in the number of Assembly seats for any Assembly electoral region must be taken, for the purposes of Sch 1 para 3 and Sch 1 para 4 (see the text and notes 12-22 infra), to be one which also affects all the other Assembly electoral regions: Sch 1 para 3(6). See note 1 supra.

12 le for the purposes of ibid Sch 1.

13 Ibid Sch 1 para 4(1). The Local Government Act 1972 s 250(2), (3) (as amended) (which relates to the attendance of witnesses at inquiries: see LOCAL GOVERNMENT vol 69 (2009) PARA 105) applies in relation to any local inquiry which the Boundary Committee for Wales may cause to be held in pursuance of the Government of Wales Act 2006 Sch 1 para 4: Sch 1 para 4(6). See note 1 supra.

14 le under ibid Sch 1 para 3(1) (see the text and notes 2-5 supra).

15 Ibid Sch 1 para 4(2). See note 1 supra.

16 le the council of a county or county borough: ibid Sch 1 para 4(7). See note 1 supra. As to the council of a county or county borough in Wales see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq.

17 Ibid Sch 1 para 4(2)(a), (7). See note 1 supra.

18 For these purposes, 'elector' means a person who, at the time when the representations are made, is registered in the register of local government electors at an address within any of the Assembly constituencies included in any of those Assembly electoral regions: ibid Sch 1 para 4(7). See note 1 supra. As to the registration of local government electors see PARA 128 et seq post.

19 Ibid Sch 1 para 4(2)(b). See note 1 supra.

20 Ibid Sch 1 para 4(3). See note 1 supra.

21 Ibid Sch 1 para 4(4). See note 1 supra.

22 Ibid Sch 1 para 4(5). See note 1 supra.

23 Ibid Sch 1 para 6(4)(a). See note 1 supra.

24 Ie the powers conferred by the Parliamentary Constituencies Act 1986 s 3A(3)(b), (c) (prospectively added) (see PARA 85 ante).

25 Government of Wales Act 2006 Sch 1 para 6(4)(b). See note 1 supra.

UPDATE

105 Procedure relating to reviews and proposed recommendations

NOTES--Certain functions under provisions mentioned in this paragraph are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3, see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/(iv) Review of European Parliamentary Electoral Regions/106. Recommendations by Electoral Commission as to the distribution of United Kingdom MEPs.

(iv) Review of European Parliamentary Electoral Regions

106. Recommendations by Electoral Commission as to the distribution of United Kingdom MEPs.

The Secretary of State¹ may by notice require the Electoral Commission² to make a recommendation³ to him as to the distribution between the electoral regions of⁴: (1) a total number of members of the European Parliament ('MEPs')⁵ specified in the notice⁶; or (2) if the notice specifies more than one total number of MEPs, each of the total numbers so specified⁷. The power to give such a notice is exercisable with a view to the implementation of any change or anticipated change under Community law⁸ in the total number of MEPs to be elected for the United Kingdom⁹. The Electoral Commission must comply with such a notice within the period specified therein¹⁰; and in determining what recommendation to make for the distribution of any total number of MEPs, the Electoral Commission must ensure that: (a) each electoral region is allocated at least three MEPs¹¹; and (b) the ratio of electors¹² to MEPs is as nearly as possible the same in each electoral region¹³.

1 As to the Secretary of State see PARA 2 ante.

2 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

3 A recommendation under the European Parliament (Representation) Act 2003 s 3 (as amended) must be published by the Electoral Commission and laid before Parliament by the Secretary of State and ceases to have effect at the end of the period of one year beginning with the day on which it is made: s 3(5).

4 Ibid s 3(1) (amended by the Secretary of State for Constitutional Affairs Order 2003, SI 2003/1887, art 9, Sch 2 para 15(1)(a)). For the meaning of 'United Kingdom' see PARA 13 note 1 ante; and for the meaning of 'electoral region' for these purposes see PARA 76 note 3 ante.

5 For these purposes, 'MEP' means a member of the European Parliament: European Parliament (Representation) Act 2003 s 27(1). As to MEPs see PARA 13 ante.

6 Ibid s 3(1)(a).

7 Ibid s 3(1)(b).

8 For the purposes of ibid Pt 1 (ss 1-8) (as amended), 'change under Community law', in relation to a change in the number of MEPs to be elected for the United Kingdom, means a change made by: (1) a treaty provision that is part of the Community Treaties (European Parliament (Representation) Act 2003 s 2(1)(a)); or any provision of a European Council Decision, or of any other instrument, made under a treaty provision that is part of the Community Treaties (European Parliament (Representation) Act 2003 s 2(1)(b)). A reference to a treaty provision being part of the Community Treaties is to it being, or being included in provisions which are, specified in the European Communities Act 1972 s 1(2) (as amended) by virtue of an amendment made by an Act, whether passed before or after the European Parliament (Representation) Act 2003 (s 2(2)); and 'treaty' includes any international agreement (however described) and a protocol or annex to a treaty or other international agreement (s 2(3)).

9 Ibid s 3(2).

10 Ibid s 3(3).

11 Ibid s 3(4)(a).

12 For the purposes of *ibid* s 3(4), an 'elector', in relation to an electoral region, is a person whose name appears on the relevant day in (or in any part of) a relevant register which relates to the region: s 4(1). 'Relevant day' means 1 December preceding the day on which the notice under s 3 (as amended) is given; and 'relevant register' has the same meaning as in the European Parliamentary Elections Act 2002 s 1A, Sch 1A (as added and amended) (periodic reviews: see PARA 107 note 6 post): European Parliament (Representation) Act 2003 s 4(2).

13 *Ibid* s 3(4)(b).

In calculating the total number of electors for any electoral region: (1) persons who are registered but have not attained the age of 18 are to be counted as electors (s 4(3)(a)); (2) a citizen of the European Union (not being a Commonwealth citizen or a citizen of the Republic of Ireland) who is registered only for the purposes of local government elections is to be disregarded (s 4(3)(b)); and (3) the Electoral Commission may assume that each relevant register is accurate and that names appearing more than once on registers (or parts of registers) which relate to an electoral region are the names of different electors (s 4(3)(c)). As to the registration of electors generally see PARA 128 *et seq* post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/(iv) Review of European Parliamentary Electoral Regions/107. Periodic reviews by the Electoral Commission of the distribution of MEPs between the electoral regions.

107. Periodic reviews by the Electoral Commission of the distribution of MEPs between the electoral regions.

As soon as possible after 1 May in a pre-election year¹, the Electoral Commission² must carry out a review (the 'periodic review') of the distribution of members of the European Parliament ('MEPs');³ between the electoral regions⁴, and report its conclusions to the Secretary of State⁵. In carrying out the periodic review, the Commission must consider whether, assuming that each region is entitled to be allocated at least three MEPs, the ratio of electors⁶ to MEPs is as nearly as possible the same for every electoral region⁷. If the Commission concludes that such a result is not achieved by the current distribution of MEPs, it must include in its report a recommendation specifying a distribution that would achieve that result⁸. The report must be published by the Commission and laid before Parliament by the Secretary of State⁹.

The Commission may not take any step (or further step) in carrying out a periodic review if an order implementing changes in the number of United Kingdom MEPs¹⁰ is made or a suspension notice¹¹ is given to the Commission: (1) within the period of 12 months ending with 1 May in the pre-election year in question¹²; or (2) after the end of that period but before the Commission makes its report¹³, unless and until the duties in relation to carrying out a periodic review revive¹⁴.

1 For these purposes, 'pre-election year' means a year which immediately precedes a year in which a general election of MEPs is to be held; and 'general election of MEPs' means an election required to be held in the United Kingdom by virtue of art 11(2) of the Act annexed to Council Decision 76/787: European Parliamentary Elections Act 2002 s 1A, Sch 1A para 6(1) (added by the European Parliament (Representation) Act 2003 s 7(1), (2), Schedule; definition amended by the European Parliamentary Elections (Common Electoral Principles) Regulations 2004, SI 2004/1374, reg 2(1), (4)). The 'Act annexed to Council Decision 76/787' is the Act concerning the election of the representatives of the European Parliament by direct universal suffrage annexed to ECSC, EEC and Euratom Decision 76/787 (OJ L278, 08.10.76, p 1) (as amended) (the '1976 Act') (see PARA 6 ante); European Parliamentary Elections Act 2002 s 17. For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

2 As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

3 As to MEPs see PARA 13 ante.

4 European Parliamentary Elections Act 2002 Sch 1A para 1(1)(a) (as added: see note 1 supra). As to electoral regions established for the purposes of European parliamentary elections see PARA 76 ante.

5 Ibid Sch 1A para 1(1)(b) (as added: see note 1 supra). As to the Secretary of State see PARA 2 ante.

6 For the purposes of ibid Sch 1A para 1(2) (as added), a person is an 'elector', in relation to an electoral region, if his name appears on 1 May in the pre-election year concerned in (or in any part of) a relevant register which relates to the region: Sch 1A para 6(2) (as added: see note 1 supra). 'Relevant register' means: (1) a register of parliamentary electors (Sch 1A para 6(1)(a) (as so added)); (2) a register of local government electors (Sch 1A para 6(1)(b) (as so added)); (3) a register of peers maintained under the Representation of the People Act 1985 s 3 (as substituted and amended) (extension of European parliamentary franchise to peers resident outside the United Kingdom: see PARA 116 post) (European Parliamentary Elections Act 2002 Sch 1A para 6(1)(c) (as so added)); and (4) a register maintained under the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 5 (citizens of the European Union other than Commonwealth and Republic of Ireland citizens) (see PARA 156 post) (European Parliamentary Elections Act 2002 Sch 1A para 6(1)(d) (as so added)). As to the form and content of the register of parliamentary and local government electors see PARA 160 post.

In calculating the total number of electors for any electoral region: (a) persons who are registered but have not attained the age of 18 are to be counted as electors (Sch 1A para 6(3)(a) (as so added)); (b) a citizen of the European Union (not being a Commonwealth citizen or a citizen of the Republic of Ireland) who is registered only for the purposes of local government elections is to be disregarded (Sch 1A para 6(3)(b) (as so added)); and (c) the Electoral Commission may assume that each relevant register is accurate and that names appearing more than once on registers (or parts of registers) which relate to an electoral region are the names of different electors (Sch 1A para 6(3)(c) (as so added)). For these purposes, 'citizen of the European Union' is to be determined in accordance with the Treaty Establishing the European Community (Rome, 25 March 1957; TS 1 (1973); Cmnd 5179) art 17 (formerly art 8 and renumbered by virtue of the Treaty of Amsterdam: see *Treaty Citation (No 2) (Note)* [1999] All ER (EC) 646, ECJ), which states that every person holding the nationality of a member state is a citizen of the Union: European Parliamentary Elections Act 2002 s 17.

7 Ibid Sch 1A para 1(2) (as added: see note 1 supra).

8 Ibid Sch 1A para 1(3) (as added: see note 1 supra).

9 Ibid Sch 1A para 1(4) (as added: see note 1 supra).

10 Ie an order under the European Parliament (Representation) Act 2003 s 5 (as amended) (a '2003 Act order') (see PARA 109 post), which takes effect in relation to the next general election of MEPs after it is made: European Parliamentary Elections Act 2002 Sch 1A para 2(3) (as added: see note 1 supra).

11 Ie a notice stating that the Secretary of State considers it likely that a 2003 Act order will be made before the next general election of MEPs: ibid European Parliamentary Elections Act 2002 Sch 1A para 2(3) (as added: see note 1 supra).

12 Ibid Sch 1A para 2(1)(a) (as added: see note 1 supra).

13 Ibid Sch 1A para 2(1)(b) (as added: see note 1 supra).

14 Ibid Sch 1A para 2(1) (as added: see note 1 supra). The duties under Sch 1A para 1 (as added) revive if the Secretary of State withdraws a suspension notice more than nine months before the date of the poll for the next general election of MEPs: Sch 1A para 2(2) (as so added). Such a revival is subject again to Sch 1A para 2(2) (as added): see Sch 1A para 2(2) (as so added). As to the date of the poll at a European parliamentary election see PARA 229 post.

UPDATE

107 Periodic reviews by the Electoral Commission of the distribution of MEPs between the electoral regions

NOTE 1--By virtue of art 97, the ECSC Treaty has now expired as from 24 July 2002.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/(iv) Review of European Parliamentary Electoral Regions/108. Implementation of Electoral Commission recommendation following periodic review.

108. Implementation of Electoral Commission recommendation following periodic review.

Where a recommendation specifying a revised distribution of members of the European Parliament ('MEPs') is made to the Secretary of State¹ following a periodic review², the Secretary of State must lay before Parliament a draft of an order giving effect to the recommendation by amending any of the numbers specified in the European Parliamentary Elections Act 2002³ and, if the draft is approved by resolution of each House, make an order in the terms of the draft⁴. The Secretary of State must consult the Electoral Commission before laying such an order before Parliament⁵.

The Secretary of State may not take any step (or further step) in laying an order⁶ if an order implementing changes in the number of United Kingdom MEPs⁷ is made before he would otherwise have taken it⁸. Subject to that, the Secretary of State is not required to take any such step (or such further step) if and so long as he is of the opinion that it is likely that an order implementing changes in the number of United Kingdom MEPs will be made before the next general election of MEPs⁹. However, if he ceases to be of that opinion, the Secretary of State may not make an order¹⁰ on or after the relevant day¹¹; and he is not required to take any other step in laying an order¹² if he does not consider that it will be practicable to make an order¹³ before the relevant day¹⁴.

1 As to the Secretary of State see PARA 2 ante.

2 I.e. under the European Parliamentary Elections Act 2002 s 1A, Sch 1A para 1(3) (as added) (see PARA 107 ante).

3 Ibid Sch 1A para 3(1)(a) (Sch 1A added by the European Parliament (Representation) Act 2003 s 7(2), Schedule). The text refers to the numbers specified in the European Parliamentary Elections Act 2002 s 1(3) (as substituted) (see PARA 76 ante).

If a motion for the approval of a draft of an order under Sch 1A para 3 (as added) is rejected by either House or withdrawn by leave of the House, the Secretary of State may, after consulting the Electoral Commission, alter the draft order and lay it before Parliament for approval: Sch 1A para 4(1) (as so added). However, the Secretary of State may not, without the consent of the Commission, alter a draft order so as to propose a distribution of MEPs other than that recommended under Sch 1A para 1(3) (as added) (see PARA 107 ante): Sch 1A para 4(2) (as so added). The Commission may not give its consent under Sch 1A para 4(2) (as added) unless it is satisfied that the distribution of MEPs could have been recommended under Sch 1A para 1(3) (as added): Sch 1A para 4(3) (as so added). If an altered draft order is approved by both Houses, the Secretary of State must make an order under Sch 1A para 3 (as added) in the terms of the altered draft: Sch 1A para 4(4) (as so added). Schedule 1A para 4 (as added) has effect subject to Sch 1A para 5 (see the text and notes 6-14 infra): Sch 1A para 4(5) (as so added). As to the establishment and constitution of the Electoral Commission see PARA 31 et seq ante.

4 Ibid Sch 1A para 3(1)(b) (as added: see note 3 supra). Such an order may make consequential, transitional or saving provision (Sch 1A para 3(2) (as so added)); and such provision may modify any enactment (Sch 1A para 3(3) (as so added)). As to the making of orders under the European Parliamentary Elections Act 2002 generally see PARA 13 note 12 ante.

5 Ibid Sch 1A para 3(4) (as added: see note 3 supra). Schedule 1A para 3 (as added) has effect subject to Sch 1A para 4 (as added) (see note 3 supra) and Sch 1A para 5 (as added) (see the text and notes 6-14 infra): Sch 1A para 3(5) (as so added).

6 le any step or further step under *ibid* Sch 1A paras 3, 4 (as added) (see the text and notes 1-5 *supra*).

7 le a '2003 Act order' (as to which see PARA 107 note 10 *ante*). For the meaning of 'United Kingdom' see PARA 13 note 1 *ante*.

8 European Parliamentary Elections Act 2002 Sch 1A para 5(1) (as added: see note 3 *supra*).

9 *Ibid* Sch 1A para 5(2) (as added: see note 3 *supra*). For the meaning of 'general election of MEPs' see PARA 107 note 1 *ante*.

10 le an order under *ibid* Sch 1A para 3 (as added) (see the text and notes 1-5 *supra*).

11 *Ibid* Sch 1A para 5(3)(a) (as added: see note 3 *supra*). For this purpose, the 'relevant day' means the first day of the period of four months ending with the day on which the poll for the next general election of MEPs is to be held: Sch 1A para 5(4) (as so added).

12 le any step or further step under *ibid* Sch 1A paras 3, 4 (see the text and notes 1-5 *supra*).

13 le an order under *ibid* Sch 1A para 3 (as added) (see the text and notes 1-5 *supra*).

14 *Ibid* Sch 1A para 5(3)(b) (as added: see note 3 *supra*).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/3. ESTABLISHMENT AND REVIEW OF ELECTORAL BOUNDARIES/(2) THE REVIEW OF ELECTORAL BOUNDARIES/(iv) Review of European Parliamentary Electoral Regions/109. Order giving effect to a change under Community law in the number of MEPs to be elected for the United Kingdom.

109. Order giving effect to a change under Community law in the number of MEPs to be elected for the United Kingdom.

The Secretary of State¹ may by order² give effect to a change under Community law³ in the number of members of the European Parliament ('MEPs') to be elected for the United Kingdom⁴ by amending⁵: (1) the figure in the European Parliamentary Elections Act 2002⁶ specifying the total number of MEPs to be elected for the United Kingdom⁷; and (2) any of the figures⁸ specifying the numbers of MEPs to be elected in the electoral regions⁹. The distribution of MEPs resulting from the provision made under head (2) above must¹⁰ be the distribution proposed in a recommendation of the Electoral Commission¹¹ which is effective on the day on which the order is made¹².

An order making an amendment to the number of MEPs and electoral regions¹³ may be made before the provision making the relevant change¹⁴ has entered into force¹⁵. If the relevant change is made by a provision of a treaty, an order making such an amendment may also be made before that provision has become part of the Community Treaties and, if the treaty requires ratification, before it is ratified by the United Kingdom¹⁶. However, no such amendment¹⁷ may be made so as to come into force¹⁸: (a) if the relevant change is made by any provision of a European Council Decision, or of any other instrument, made under a treaty provision that is part of the Community Treaties¹⁹, before that provision has entered into force²⁰; and (b) if the relevant change is made by a treaty provision, before that provision has both entered into force and become part of the Community Treaties²¹.

The Secretary of State must consult the Electoral Commission before making such an order giving effect to a change under Community law in the number of MEPs to be elected for the United Kingdom²².

1 As to the Secretary of State see PARA 2 ante.

2 The power to make an order under the European Parliament (Representation) Act 2003 s 5 (as amended) is exercisable by statutory instrument: s 6(1), (2). Such an order may make consequential, transitional or saving provision (s 6(3)); and such provision may modify any enactment (s 6(4)). For these purposes, 'enactment' means a provision of an Act (whether passed before or after the European Parliament (Representation) Act 2003, which was passed on 8 May 2003), including a provision modified by the European Parliament (Representation) Act 2003, or a provision of subordinate legislation (whenever made): s 27(2). This definition is extended for certain purposes in relation to the Gibraltar franchise: see s 27(3).

If a motion for the approval of a draft order is rejected by either House or withdrawn by leave of the House the Secretary of State may, after consulting the Electoral Commission, alter the draft order: s 6(6) (s 6(6), (7) amended by the Secretary of State for Constitutional Affairs Order 2003, SI 2003/1887, art 9, Sch 2 para 15(1) (a)). However, the Secretary of State may not, without the consent of the Electoral Commission, alter any amendments to the European Parliamentary Elections Act 2002 s 1(3) (as substituted) (see PARA 76 ante) contained in the draft order: European Parliament (Representation) Act 2003 s 6(7) (as so amended). The Electoral Commission may not give its consent under s 6(7) (as amended) unless it is satisfied that the distribution of members of the European Parliament ('MEPs') proposed by the altered draft order could have been recommended under s 3 (see PARA 106 ante): s 6(8). A statutory instrument containing an order that is not subject to approval in draft under s 6(5) (see note 15 infra) is subject to annulment in pursuance of a resolution of either House of Parliament: s 6(9).

3 For the meaning of 'change under Community law' see PARA 106 note 8 ante.

4 For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

5 European Parliament (Representation) Act 2003 s 5(1) (amended by the Secretary of State for Constitutional Affairs Order 2003, SI 2003/1887, art 9, Sch 2 para 15(1)(a)).

6 Ie the European Parliamentary Elections Act 2002 s 1(1) (as substituted and amended) (see PARA 76 ante).

7 European Parliament (Representation) Act 2003 s 5(1)(a). As to the order so made see the European Parliament (Number of MEPs) (United Kingdom and Gibraltar) Order 2004, SI 2004/1245, which implemented a change in the number of MEPs to be elected for the United Kingdom following the Treaty signed at Athens on 16 April 2003 concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union (OJ L236, 23.9.2003, p 17).

8 Ie in the European Parliamentary Elections Act 2002 s 1(3) (as substituted) (see PARA 76 ante).

9 European Parliament (Representation) Act 2003 s 5(1)(b). See note 7 supra. As to electoral regions established for the purposes of European parliamentary elections see PARA 76 ante.

10 Ie subject to ibid s 6(6)-(8) (as amended) (see note 2 supra).

11 Ie under ibid s 3 (as amended) (see PARA 106 ante).

12 Ibid s 5(2).

13 Ie under the European Parliamentary Elections Act 2002 s 1 (as substituted and amended) (see PARA 76 ante).

14 For the purposes of the European Parliament (Representation) Act 2003 s 5(3)-(5) (see the text and notes 15-21 infra), the 'relevant change', in relation to an order under s 5 (as amended) amending the European Parliamentary Elections Act 2002 s 1 (as substituted and amended) (see PARA 76 ante), means the change under Community law being implemented by the order: European Parliament (Representation) Act 2003 s 5(6).

15 Ibid s 5(3). However, such an order may not be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament: s 6(5).

16 Ibid s 5(4).

17 Ie an amendment to the European Parliamentary Elections Act 2002 s 1 (as substituted and amended) (see PARA 76 ante).

18 European Parliament (Representation) Act 2003 s 5(5).

19 Ie by a provision mentioned in ibid s 2(1)(b) (see PARA 106 note 8 ante).

20 Ibid s 5(5)(a).

21 Ibid s 5(5)(b).

22 Ibid s 5(7) (amended by the Secretary of State for Constitutional Affairs Order 2003, SI 2003/1887, art 9, Sch 2 para 15(1)(a)).

UPDATE

109 Order giving effect to a change under Community law in the number of MEPs to be elected for the United Kingdom

NOTE 7--SI 2004/1245 replaced by the European Parliament (Number of MEPs and Distribution between Electoral Regions) (United Kingdom and Gibraltar) Order 2008, SI 2008/1954.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(1) THE RIGHT TO VOTE/(i) Entitlement to Vote in Elections/A. PARLIAMENTARY AND LOCAL GOVERNMENT ELECTIONS/110. Entitlement to vote as parliamentary elector.

4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS

(1) THE RIGHT TO VOTE

(i) Entitlement to Vote in Elections

A. PARLIAMENTARY AND LOCAL GOVERNMENT ELECTIONS

110. Entitlement to vote as parliamentary elector.

A person¹ is entitled to vote² as an elector at a parliamentary election³ in any constituency⁴ if on the date of the poll⁵ he is⁶:

- 112 (1) registered in the register of parliamentary electors for that constituency⁷;
- 113 (2) not subject to any legal incapacity⁸ to vote (age apart)⁹;
- 114 (3) either a Commonwealth citizen¹⁰ or a citizen of the Republic of Ireland¹¹; and
- 115 (4) of voting age¹².

Different qualifications apply in respect of British citizens overseas¹³.

A person is not so entitled to vote as an elector more than once¹⁴ in the same constituency at any parliamentary election¹⁵ or in more than one constituency at a general election¹⁶.

1 Under the Interpretation Act 1978, 'person' includes a body of persons corporate or unincorporate: ss 5, 22(1), 23(1), Sch 1, Sch 2 para 4(1)(a). For the purposes of the Representation of the People Act 1983 (without prejudice to the provisions of the Interpretation Act 1978 and unless the context otherwise requires), 'person' includes an association corporate or unincorporate: Representation of the People Act 1983 s 202(1). For these purposes, the context does otherwise require and a company is not a person entitled to vote: see *Wills v Tozer* (1904) 53 WR 74.

2 'Voter' means a person voting at an election and includes a person voting as proxy and, except in the parliamentary elections rules, and the rules under the Representation of the People Act 1983 s 36 (as amended) (see PARA 388 post), a person voting by proxy; and 'vote' (whether noun or verb) must be construed accordingly, except that in those rules any reference to an elector voting or an elector's vote must include a reference to an elector voting by proxy or an elector's vote given by proxy: s 202(1). For the purposes of the Representation of the People Act 1983, 'elector', in relation to an election, means any person who has for the time being an entry on the register to be used at that election, but does not include those shown in the register (or, in the case of a person who has an anonymous entry in the register, in the record of anonymous entries) as below voting age on the day fixed for the poll: s 202(1) (definition amended by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 2, 13(1), (3)). 'Voting age', in the context of parliamentary elections, means 18 years or over: Representation of the People Act 1983 s 1(1)(d) (s 1 substituted by the Representation of the People Act 2000 s 1(1)). For the purposes of the Representation of the People Acts, a person is deemed not to have attained a given age until the commencement of the relevant anniversary of the day of his birth: Representation of the People Act 1983 s 202(2). For the meaning of 'the Representation of the People Acts' see PARA 3 note 1 ante; for the meaning of 'election' for these purposes see PARA 3 note 1 ante; for the meaning of 'anonymous entry' in relation to a register of electors see PARA 174 post; and for the meaning of 'parliamentary elections rules' see PARA 388 note 2 post. As to the form and content of registers of electors and the record of anonymous entries see PARA 160 et seq post; and as to applications to vote by proxy see PARA 372 et seq post.

3 For the meaning of 'parliamentary election' see PARA 9 ante.

4 For the meaning of 'constituency' for these purposes see PARA 9 ante.

5 As to the date of the poll at a parliamentary general election or by-election see PARA 202 post.

6 Representation of the People Act 1983 s 1(1) (as substituted: see note 2 supra).

7 Ibid s 1(1)(a) (as substituted: see note 2 supra).

8 'Legal incapacity' includes (in addition, where applicable, to any incapacity by virtue of any subsisting provision of the common law) any disqualification imposed by the Representation of the People Act 1983 or any other Act: s 202(1) (amended by the Electoral Administration Act 2006 s 73(1), (2)). As to the common law rule which formerly provided that a person was subject to a legal incapacity to vote by reason of his mental state see PARA 122 post; and as to legal incapacities to vote see also PARA 123 et seq post. At common law, a peer of Parliament was also legally incapable of voting at a parliamentary election, even though his name may have been placed upon the register without objection: see *Earl Beauchamp v Madresfield* (1872) LR 8 CP 245; 4 Co Inst 2, 15; *Marquis of Bristol v Beck* (1907) 96 LT 55; *Pembroke Boroughs Case* (1901) 5 O'M & H 135 at 142; *Petersfield Case, Stowe v Jolliffe* (1874) LR 9 CP 734 at 750 per Lord Coleridge CJ; *Droitwich Case, Viscount Southwell's Case* (1835) Kn & Omb 44 at 65. See also *Bedford Borough Case, Marquis of Tavistock's Case* (1833) Cockb & Rowe 37 at 95, Per & Kn 112 at 146, explained in *Re Parliamentary Election for Bristol South East* [1964] 2 QB 257 at 281-282, sub nom *Re Bristol South East Parliamentary Election* [1961] 3 All ER 354 at 366-367, DC, per Gorman J. However, by virtue of the House of Lords Act 1999 s 3, the holder of a hereditary peerage is not disqualified by virtue of that peerage (unless excepted under ss 1, 2) for voting at elections to the House of Commons: see PARLIAMENT vol 78 (2010) PARA 897.

9 Representation of the People Act 1983 s 1(1)(b) (as substituted: see note 2 supra).

10 As to who are Commonwealth citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 11.

11 Representation of the People Act 1983 s 1(1)(c) (as substituted: see note 2 supra). As to who are citizens of the Republic of Ireland see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 12.

12 Ibid s 1(1)(d) (as substituted: see note 2 supra).

13 See PARA 111 post.

14 The restrictions on voting more than once do not affect the right of an elector to vote by proxy at any relevant election, subject to the rules regarding proxy voting being met in each case: see PARA 372 et seq post.

15 Representation of the People Act 1983 s 1(2)(a) (as substituted: see note 2 supra).

16 Ibid s 1(2)(b) (as substituted: see note 2 supra). As to parliamentary general elections see PARA 196 et seq post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(1) THE RIGHT TO VOTE/(i) Entitlement to Vote in Elections/A. PARLIAMENTARY AND LOCAL GOVERNMENT ELECTIONS/111. Extension of parliamentary franchise to British citizens overseas.

111. Extension of parliamentary franchise to British citizens overseas.

A person¹ is entitled to vote² as an elector³ at a parliamentary election⁴ in any constituency⁵ if:

- 116 (1) he qualifies as an overseas elector in respect of that constituency on the relevant date⁶;
- 117 (2) on that date and on the date of the poll⁷ he is not subject to any legal incapacity to vote⁸ and is a British citizen⁹; and
- 118 (3) on the date of the poll he is registered in a register of parliamentary electors¹⁰ for that constituency¹¹.

A person qualifies as an overseas elector in respect of a constituency on the relevant date¹² if on that date he is not resident in the United Kingdom¹³ and he satisfies one of the following sets of conditions¹⁴. The first set of conditions is that:

- 119 (a) the person was included in a register of parliamentary electors in respect of an address at a place¹⁵ that is situated within the constituency concerned¹⁶;
- 120 (b) that entry in the register was made on the basis that he was resident¹⁷ or to be treated for the purposes of registration as resident at that address¹⁸;
- 121 (c) that entry in the register was in force at any time falling within the period of 15 years ending immediately before the relevant date¹⁹; and
- 122 (d) subsequent to that entry ceasing to have effect, no entry was made in any register of parliamentary electors on the basis that he was resident, or to be treated for the purposes of registration as resident, at any other address²⁰.

The second set of conditions is that:

- 123 (i) the person was last resident in the United Kingdom within the period of 15 years ending immediately before the relevant date²¹;
- 124 (ii) he was by reason only of his age incapable of being included in any register of parliamentary electors in force on the last day on which he was resident in the United Kingdom²²; and
- 125 (iii) the address at which he was resident on that day was at a place that is situated within the constituency concerned and a parent or guardian of his was included, in respect of that address, in a register of parliamentary electors or a register of local government electors in force on that day²³.

The restrictions on the registration of such persons are described elsewhere in this title²⁴.

¹ The Representation of the People Act 1985 s 1 (as substituted and amended) has effect as if contained in the Representation of the People Act 1983 Pt I (ss 1-66A) (as amended): Representation of the People Act 1985 s 27(2). Accordingly, as to the meaning of 'person' see PARA 110 note 1 ante.

² For the meaning of 'vote' see PARA 110 note 2 ante; definition applied by virtue of ibid s 27(2) (see note 1 supra).

3 For the meaning of 'elector' see PARA 110 note 2 ante; definition applied by virtue of *ibid* s 27(2) (see note 1 *supra*).

4 For the meaning of 'parliamentary election' see PARA 9 ante.

5 *Ie* without prejudice to the qualification set out in the Representation of the People Act 1983 s 1 (as substituted) (see PARA 110 ante). For the meaning of 'constituency' for these purposes see PARA 9 ante.

6 Representation of the People Act 1985 s 1(1)(a) (s 1 substituted by the Representation of the People Act 2000 s 8, Sch 2 paras 1, 2). The reference in the text to the 'relevant date' is to the date on which a person makes a declaration under and in accordance with the Representation of the People Act 1985 s 2 (as substituted) (an 'overseas elector's declaration') (see PARA 129 post).

7 As to the date of the poll at a parliamentary general election or by-election see PARA 202 post.

8 Representation of the People Act 1985 s 1(1)(b)(i) (as substituted: see note 6 *supra*). As to the meaning of 'legal incapacity (to vote)' for these purposes see PARA 110 note 8 ante; definition applied by virtue of s 27(2) (see note 1 *supra*). However, the reference in s 1(1) (as substituted) to a person being subject to a legal incapacity to vote on the relevant date does not include a reference to his being under the age of 18 on that date: s 1(5) (as so substituted). As to voting age for parliamentary elections see PARA 110 note 2 ante.

9 *Ibid* s 1(1)(b)(ii) (as substituted: see note 6 *supra*). As to who are British citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 8 et seq. As to the entitlement under which Commonwealth citizens and citizens of the Republic of Ireland are entitled to vote see PARA 110 ante.

10 As to registration as an elector see PARA 128 et seq post.

11 Representation of the People Act 1985 s 1(1)(c) (as substituted: see note 6 *supra*).

12 *Ie* for the purposes of the Representation of the People Act 1983 and the Representation of the People Act 1985: s 1(2) (as substituted: see note 6 *supra*), s 27(1).

13 *Ibid* s 1(2)(a) (as substituted: see note 6 *supra*). For the purposes of s 1 (as substituted and amended), where a person is registered in a register of parliamentary electors for any constituency or part of a constituency in pursuance of an overseas elector's declaration (see note 6 *supra*), it is conclusively presumed that he was not resident in the United Kingdom on the relevant date: s 2(7) (substituted by the Representation of the People Act 2000 Sch 2 paras 1, 3). For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

14 Representation of the People Act 1985 s 1(2)(b) (as substituted: see note 6 *supra*).

In the case of the holder of a hereditary peerage to whom the House of Lords Act 1999 s 3(1) applies (see PARA 110 note 8 ante; and PARLIAMENT vol 78 (2010) PARA 897), any reference in the Representation of the People Act 1985 s 1(3) (as substituted) (see heads (a)-(d) in the text) or s 1(4)(b) (as substituted) (see head (ii) in the text) to a register of parliamentary electors includes any register of local government electors in Great Britain which was required to be published on any date not later than 15 February 2000: Holders of Hereditary Peerages (Overseas Electors) (Transitional Provisions) Order 2001, SI 2001/84, art 2. A peer had the right to be registered in the register of local government electors under the Representation of the People Act 1983 s 15 (as amended): see PARA 141 post. For the meaning of 'Great Britain' see PARA 13 note 1 ante.

15 The provision is so worded that the entitlement arises even if the premises in respect of which the person was registered are subsequently destroyed. A person might be included in respect of an address even if the address itself is not shown in the register of electors because the person's name only is included (as to which see PARA 160 post).

16 Representation of the People Act 1985 s 1(3)(a) (as substituted: see note 6 *supra*). See note 14 *supra*.

17 As to residence see PARA 132 et seq post; provisions applied by virtue of *ibid* s 27(2) (see note 1 *supra*).

18 *Ibid* s 1(3)(b) (as substituted: see note 6 *supra*). See note 14 *supra*.

19 *Ibid* s 1(3)(c) (as substituted (see note 6 *supra*); and amended by the Political Parties, Elections and Referendums Act 2000 s 141(a)). See note 14 *supra*.

20 Representation of the People Act 1985 s 1(3)(d) (as substituted: see note 6 *supra*). An electoral registration officer may have mistakenly included the person in the register as resident at an address even though that person was not resident (or treated for the purposes of registration as resident) there on the qualifying date to which the register relates. See note 14 *supra*.

21 Ibid s 1(4)(a) (as substituted (see note 6 supra); and amended by the Political Parties, Elections and Referendums Act 2000 s 141(a)).

22 Representation of the People Act 1985 s 1(4)(b) (as substituted: see note 6 supra). See note 14 supra.

23 Ibid s 1(4)(c) (as substituted: see note 6 supra).

24 See PARA 129 et seq post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(1) THE RIGHT TO VOTE/(i) Entitlement to Vote in Elections/A. PARLIAMENTARY AND LOCAL GOVERNMENT ELECTIONS/112. Entitlement to vote as local government elector.

112. Entitlement to vote as local government elector.

A person¹ is entitled to vote² as an elector³ at a local government election⁴ in any electoral area⁵ if, on the date of the poll⁶, he⁷:

- 126 (1) is registered in the register of local government electors for that area⁸;
- 127 (2) is not subject to any legal incapacity⁹ to vote (age apart)¹⁰;
- 128 (3) is a Commonwealth citizen¹¹, a citizen of the Republic of Ireland¹², or a relevant citizen of the Union¹³; and
- 129 (4) is of voting age¹⁴.

However, a person is not so entitled to vote as an elector more than once¹⁵ in the same electoral area at any local government election¹⁶ or in more than one electoral area at an ordinary election¹⁷ for a local government area which is not a single electoral area¹⁸.

1 As to the meaning of 'person' see PARA 110 note 1 ante.

2 For the meaning of 'vote' see PARA 110 note 2 ante.

3 For the meaning of 'elector' see PARA 110 note 2 ante.

4 For the meaning of 'local government election' see PARA 10 ante. Local government electors are entitled to vote at a parish or community meeting or at a poll consequent thereon: see PARA 121 post. Elections of the Mayor of London and the members of the London Assembly are treated as local government elections for the purposes of the Representation of the People Acts: see PARA 10 ante; and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 88 et seq. As to the entitlement to vote in local authority mayoral elections see PARA 113 post.

5 For the meaning of 'electoral area' see PARA 10 ante.

6 As to the date of the poll at local government elections (including elections to fill vacancies) see PARAS 213-216 post.

7 Representation of the People Act 1983 s 2(1) (s 2 substituted by the Representation of the People Act 2000 s 1(1)).

8 Representation of the People Act 1983 s 2(1)(a) (as substituted: see note 7 supra). For the meaning of 'local government area' see PARA 18 note 2 ante. As to the registers of electors see PARA 160 et seq post.

9 As to the meaning of 'legal incapacity' for these purposes see PARA 110 note 8 ante.

10 Representation of the People Act 1983 s 2(1)(b) (as substituted: see note 7 supra). As to voting age see head (4) in the text.

11 As to who are Commonwealth citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 11.

12 As to who are citizens of the Republic of Ireland see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 12.

13 Representation of the People Act 1983 s 2(1)(c) (as substituted: see note 7 supra). 'Citizen of the Union' must be construed in accordance with the Treaty Establishing the European Community (Rome, 25 March 1957; TS 1 (1973); Cmnd 5179) art 17 (formerly art 8 and renumbered by virtue of the Treaty of Amsterdam: see

Treaty Citation (No 2) (Note) [1999] All ER (EC) 646, ECJ), which states that every person holding the nationality of a member state is a citizen of the Union; and 'relevant citizen of the Union' means such a citizen who is not a Commonwealth citizen or a citizen of the Republic of Ireland: Representation of the People Act 1983 s 202(1) (definition added by the Local Government Elections (Changes to the Franchise and Qualification of Members) Regulations 1995, SI 1995/1948, reg 4(2)).

14 Representation of the People Act 1983 s 2(1)(d) (as substituted: see note 7 supra). 'Voting age', for the purposes of local government elections, means 18 years or over: s 2(1)(d) (as so substituted). A person entitled to vote is, subject to restrictions, entitled to be registered: see PARA 127 post.

15 The restrictions on voting more than once do not affect the right of an elector to vote by proxy at any relevant election, subject to the rules regarding proxy voting being met in each case: see PARA 372 et seq post.

16 Representation of the People Act 1983 s 2(2)(a) (as substituted: see note 7 supra).

17 As to ordinary local government elections see PARA 204 et seq post.

18 Representation of the People Act 1983 s 2(2)(b) (as substituted: see note 7 supra).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(1) THE RIGHT TO VOTE/(i) Entitlement to Vote in Elections/A. PARLIAMENTARY AND LOCAL GOVERNMENT ELECTIONS/113. Entitlement to vote for the return of an elected local authority mayor or executive member.

113. Entitlement to vote for the return of an elected local authority mayor or executive member.

The persons entitled to vote as electors at an election for the return of an elected mayor¹ or elected executive member² are those who on the day of the poll: (1) would be entitled to vote as electors at an election of councillors³ for an electoral area⁴ which is situated within the area of the local authority concerned⁵; and (2) are registered in the register of local government electors⁶ at an address within the authority's area⁷.

However, a person is not so entitled as an elector to cast more than one first preference vote, or more than one second preference vote⁸, at an election for the return of an elected mayor⁹.

1 As to the return of an elected mayor for a local authority see PARA 205 et seq post; and LOCAL GOVERNMENT vol 69 (2009) PARA 320 et seq. Elections of the Mayor of London and the members of the London Assembly are treated as local government elections for the purposes of the Representation of the People Acts: see PARA 10 ante; and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 88 et seq.

2 As to provision made for the return of elected executive members see LOCAL GOVERNMENT vol 69 (2009) PARA 320. At the date at which this volume states the law, no regulations had been made in relation to elections for the return of elected executive members.

3 As to the election of councillors generally see LOCAL GOVERNMENT vol 69 (2009) PARA 126 et seq.

4 For the meaning of 'electoral area' see PARA 10 ante; definition applied by the Local Government Act 2000 s 48(1). As to the entitlement to vote as a local government elector in any electoral area see PARA 112 ante.

5 Ibid s 43(1)(a); and see LOCAL GOVERNMENT vol 69 (2009) PARA 321. For the meaning of 'local authority' for these purposes see LOCAL GOVERNMENT vol 69 (2009) PARA 23.

6 As to the registers of electors see PARA 160 et seq post.

7 Local Government Act 2000 s 43(1)(b); and see LOCAL GOVERNMENT vol 69 (2009) PARA 321.

8 As to preference votes in an election for the return of an elected mayor see PARA 346 post; and LOCAL GOVERNMENT vol 69 (2009) PARA 322.

9 Local Government Act 2000 s 43(2); and see LOCAL GOVERNMENT vol 69 (2009) PARA 321.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(1) THE RIGHT TO VOTE/(i) Entitlement to Vote in Elections/B. ELECTIONS TO THE NATIONAL ASSEMBLY FOR WALES/114. Entitlement to vote at an election of Welsh Assembly members.

B. ELECTIONS TO THE NATIONAL ASSEMBLY FOR WALES

114. Entitlement to vote at an election of Welsh Assembly members.

The persons entitled to vote at an election of Assembly members¹ (or of an Assembly member) in an Assembly constituency² are those who on the day of the poll³ would be entitled to vote as electors at a local government election⁴ in an electoral area⁵ wholly or partly included in the Assembly constituency⁶, and are registered in the register of local government electors⁷ at an address within the Assembly constituency⁸.

However, a person is not entitled as an elector at an election of Assembly members: (1) to cast more than one constituency vote⁹, or more than one electoral region vote¹⁰, in the same Assembly constituency at any ordinary general election¹¹; (2) to vote in more than one Assembly constituency at any such election¹²; or (3) to cast more than one vote in an election held¹³ to fill a vacancy for the seat of an Assembly member returned for an Assembly constituency¹⁴.

1 For the meaning of 'Assembly member' see PARA 12 ante.

2 As to Assembly constituencies see PARA 75 ante.

3 As to the poll at an election of Assembly members see PARA 220 et seq post.

4 As to the entitlement to vote as an elector at a local government election see PARA 112 ante.

5 For the meaning of 'electoral area' in relation to local government elections see PARA 10 ante.

6 Government of Wales Act 2006 s 12(1)(a). The provisions of the Government of Wales Act 2006 come into force immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes until that date see the Government of Wales Act 1998 s 10(1)(a).

7 As to the registers of electors see PARA 160 et seq post.

8 Government of Wales Act 2006 s 12(1)(b). As to the date at which this provision takes effect see note 6 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 10(1)(b).

9 For the meaning of 'constituency vote' for this purpose see PARA 369 post.

10 For the meaning of 'electoral region vote' for this purpose see PARA 369 post.

11 Government of Wales Act 2006 s 12(2)(a). As to the date at which this provision takes effect see note 6 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 10(2)(a). As to ordinary Assembly elections see PARA 220 et seq post.

12 Government of Wales Act 2006 s 12(2)(b). As to the date at which this provision takes effect see note 6 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 10(2)(b).

13 Ie under the Government of Wales Act 2006 s 10 or the Government of Wales Act 1998 s 8, as the case may be: see PARA 221 post.

14 Government of Wales Act 2006 s 12(2)(c). As to the date at which this provision takes effect see note 6 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 10(2)(c).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(1) THE RIGHT TO VOTE/(i) Entitlement to Vote in Elections/C. EUROPEAN PARLIAMENTARY ELECTIONS/115. Entitlement to vote as European parliamentary elector.

C. EUROPEAN PARLIAMENTARY ELECTIONS

115. Entitlement to vote as European parliamentary elector.

A person is entitled to vote as an elector at an election to the European Parliament¹ in an electoral region² if he is within any of the following categories³, namely if:

- 130 (1) on the day of the poll⁴, he would be entitled to vote as an elector at a parliamentary election⁵ in a parliamentary constituency⁶ wholly or partly comprised in the electoral region⁷, and: (a) the address in respect of which he is registered in the relevant register of parliamentary electors⁸ is within the electoral region⁹; or (b) his registration in the relevant register of parliamentary electors results from an overseas elector's declaration¹⁰ which specifies an address within the electoral region¹¹;
- 131 (2) he is a peer who on the day of the poll would be entitled to vote at a local government election¹² in an electoral area¹³ wholly or partly comprised in the electoral region¹⁴, and the address in respect of which he is registered in the relevant register of local government electors is within the electoral region¹⁵;
- 132 (3) he is entitled to vote in the electoral region by virtue of the provision made which extends the franchise for European parliamentary elections to peers resident outside the United Kingdom¹⁶; or
- 133 (4) he is entitled to vote in the electoral region by virtue of the provision made for relevant citizens of the European Union¹⁷ (other than Commonwealth citizens¹⁸ and citizens of the Republic of Ireland¹⁹) to vote as European Parliamentary electors²⁰.

1 As to elections to the European Parliament generally see PARA 13 et seq ante. An elector who votes more than once at an election to the European Parliament commits an offence: see PARA 703 post.

2 As to electoral regions constituted for the purposes of European parliamentary elections see PARA 76 ante.

The entitlement to vote under the European Parliamentary Elections Act 2002 s 8 (as amended) does not apply to voting in Gibraltar: s 8(8) (added by the European Parliament (Representation) Act 2003 s 15(3)). Further provision as to the Gibraltar franchise for European parliamentary elections is made by the European Parliament (Representation) Act 2003 ss 14-15, 17-18. As to Gibraltar see further PARA 76 note 3 ante.

3 European Parliamentary Elections Act 2002 s 8(1). This provision has effect subject to any provision of regulations made under the European Parliamentary Elections Act 2002 which provides for alterations made after a specified date in a register of electors to be disregarded: s 8(6). As to the making of regulations under the European Parliamentary Elections Act 2002 generally see PARA 13 note 12 ante.

4 As to the poll at a European parliamentary election see PARA 224 et seq post.

5 As to the entitlement to vote as an elector at a parliamentary election see PARA 110 et seq ante.

6 For the meaning of 'constituency' for these purposes see PARA 9 ante.

7 European Parliamentary Elections Act 2002 s 8(2).

8 As to the registers of electors see PARA 160 et seq post.

9 European Parliamentary Elections Act 2002 s 8(2)(a).

10 As to overseas electors' declarations see note 11 *infra*; and PARA 129 *et seq post*.

11 European Parliamentary Elections Act 2002 s 8(2)(b). An overseas elector's declaration must specify the address in the United Kingdom in respect of which the declarant was registered as an elector: see the Representation of the People Act 1985 s 2(4) (as substituted); and PARA 147 *post*. For the purposes of the European Parliamentary Elections Regulations 2004, SI 2004/293, 'overseas elector' means a person falling within the European Parliamentary Elections Act 2002 s 8(2), by virtue of s 8(2)(b); and 'overseas elector's declaration' has the meaning given by the Representation of the People Act 1985 s 2 (as substituted and amended) (see PARA 147 *post*): European Parliamentary Elections Regulations 2004, SI 2004/293, reg 2(1).

12 For these purposes, 'local government election' includes a municipal election in the City of London (that is, an election to the office of mayor, alderman, common councilman or sheriff and also the election of any officer elected by the mayor, aldermen and liverymen in common hall): European Parliamentary Elections Act 2002 s 8(7). As to municipal elections in the City of London see PARA 30 *ante*.

13 As to the entitlement to vote at a local government election in an electoral area see PARA 112 *ante*.

14 European Parliamentary Elections Act 2002 s 8(3)(a).

15 *Ibid* s 8(3)(b).

16 *Ibid* s 8(4). For the meaning of 'United Kingdom' see PARA 13 note 1 *ante*. The text refers to provision made under the Representation of the People Act 1985 s 3 (as substituted and amended) (extension of European parliamentary franchise to peers resident outside the United Kingdom: see PARA 116 *post*). For the purposes of the European Parliamentary Elections Regulations 2004, SI 2004/293, 'European parliamentary overseas elector' means a person falling within the European Parliamentary Elections Act 2002 s 8(4); and 'European parliamentary overseas elector's declaration' means a declaration made in pursuance of regulations made under the Representation of the People Act 1985 s 3 (as substituted and amended) (as to which see PARA 116 *post*): European Parliamentary Elections Regulations 2004, SI 2004/293, reg 2(1).

17 For the meaning of 'citizen of the Union' see PARA 107 note 6 *ante*.

18 As to who are Commonwealth citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 11.

19 As to who are citizens of the Republic of Ireland see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 12.

20 European Parliamentary Elections Act 2002 s 8(5). The text refers to provision made under the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184 (as amended), implementing EC Council Directive 93/109 of 6 December 1993 (OJ L329, 30.12.93, p 34), which lays down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the European Union residing in a member state of which they are not nationals. As to EC Council Directive 93/109 see further PARA 6 note 8 *ante*; as to the provision made for relevant citizens of the European Union to register and to vote as European parliamentary electors see PARA 117 *post*; and as to the provision made for relevant citizens of the European Union to stand as candidates at European parliamentary elections see PARA 236 *post*.

UPDATE

115 Entitlement to vote as European parliamentary elector

NOTES 11, 16--SI 2004/293 reg 2(1) substituted: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(1) THE RIGHT TO VOTE/(i) Entitlement to Vote in Elections/C. EUROPEAN PARLIAMENTARY ELECTIONS/116. Extension of European parliamentary franchise to peers resident outside the United Kingdom.

116. Extension of European parliamentary franchise to peers resident outside the United Kingdom.

A person¹ is entitled² to vote³ as an elector⁴ at a European parliamentary election⁵ in any electoral region⁶ if:

- 134 (1) he qualifies in respect of that region on the relevant date⁷;
- 135 (2) on that date and on the day appointed for the election⁸ he is not subject to any legal incapacity to vote⁹ and is a British citizen¹⁰; and
- 136 (3) on the day so appointed he is registered in the electoral region¹¹.

A peer so qualifies in respect of an electoral region on the relevant date¹² if on that date he is not resident in the United Kingdom¹³ and he satisfies one of the following sets of conditions¹⁴. The first set of conditions is that:

- 137 (a) the peer was included in a register of local government electors in respect of an address at a place¹⁵ that is situated within the electoral region concerned¹⁶;
- 138 (b) that entry in the register was made on the basis that he was resident¹⁷, or to be treated for the purposes of registration as resident, at that address¹⁸;
- 139 (c) that entry in the register was in force at any time falling within the period of 15 years ending immediately before the relevant date¹⁹; and
- 140 (d) subsequent to that entry ceasing to have effect, no entry was made in any register of local government electors on the basis that he was resident, or to be treated for the purposes of registration as resident, at any other address²⁰.

The second set of conditions is that:

- 141 (i) the peer was last resident in the United Kingdom within the period of 15 years ending immediately before the relevant date²¹;
- 142 (ii) he was by reason only of his age incapable of being included in any register of local government electors in force on the last day on which he was resident in the United Kingdom²²; and
- 143 (iii) the address at which he was resident on that day was at a place that is situated within the electoral region concerned and a parent or guardian of his was included, in respect of that address, in a register of parliamentary electors or a register of local government electors in force on that day²³.

The restrictions on the registration of such persons are described elsewhere in this title²⁴.

1 The Representation of the People Act 1985 s 3 (as substituted and amended) has effect as if contained in the Representation of the People Act 1983 Pt I (ss 1-66A) (as amended): Representation of the People Act 1985 s 27(2). Accordingly, as to the meaning of 'person' see PARA 110 note 1 ante.

2 le by virtue of *ibid* s 3 (as substituted and amended) and without prejudice to the qualification set out in the European Parliamentary Elections Act 2002 s 8 (as amended) (see PARA 115 ante).

3 For the meaning of 'vote' see PARA 110 note 2 ante; definition applied by virtue of the Representation of the People Act 1985 s 27(2) (see note 1 supra).

4 For the meaning of 'elector' see PARA 110 note 2 ante; definition applied by virtue of ibid s 27(2) (see note 1 supra).

5 For the meaning of 'European parliamentary election' for these purposes see PARA 21 note 2 ante.

6 As to electoral regions established for the purpose of European parliamentary elections see PARA 76 ante.

7 Representation of the People Act 1985 s 3(1)(a) (s 3 substituted by the Representation of the People Act 2000 s 8, Sch 2 paras 1, 4). The relevant date referred to in the text is the date on which a person makes a declaration under and in accordance with regulations under the Representation of the People Act 1985 s 3 (as substituted and amended): s 3(1)(a) (as so substituted).

Regulations under s 3 (as substituted and amended) may:

- 29 (1) provide for a person seeking registration under s 3 (as substituted and amended) to make a declaration for the purpose, being a declaration of the prescribed facts and containing the prescribed information (s 3(5)(a) (as so substituted));
- 30 (2) require such declarations to be attested and provide for the charging of fees in respect of their attestation (s 3(5)(b) (as so substituted));
- 31 (3) make provision for and in connection with the cancellation of such declarations (s 3(5)(c) (as so substituted));
- 32 (4) provide for the registration, subject to prescribed exceptions and on satisfying prescribed conditions, of those peers who (apart from the requirements of registration) may be entitled by virtue of s 3 (as substituted and amended) to vote as electors at European parliamentary elections (s 3(6)(a) (as so substituted));
- 33 (5) apply with such modifications or exceptions as may be prescribed any provision in respect of the registration of parliamentary or local government electors made by or under the Representation of the People Act 1983 or the Representation of the People Act 1985 (s 3(6)(b) (as so substituted), s 27(1)).

Such regulations must require each registration officer to prepare and publish, in respect of any year for which any peers are to be registered under s 3 (as substituted and amended), a register of the peers so registered; and any such register must so far as practicable be combined with the registers of parliamentary electors and of local government electors, the entries of peers registered under s 3 (as substituted and amended) being marked to indicate that fact: s 3(7) (as so substituted; and amended by the Electoral Administration Act 2006 s 10(2), Sch 1 para 17(1), (3)). As to persons who have an anonymous entry in a register see note 16 infra. For the meaning of 'registration officer' see PARA 154 post; definition applied by virtue of the Representation of the People Act 1985 s 27(2) (see note 1 supra). As to the registration of parliamentary or local government electors see PARA 127 et seq post; and as to the registers of electors see PARA 160 et seq post. For these purposes, references to the register of local government elections include a reference to a register of electors prepared for the purposes of municipal elections in the City of London (ie, elections to the office of mayor, alderman, common councilman or sheriff and also elections of officers elected by the mayor, aldermen and liverymen in common hall): s 3(8)(c) (as so substituted). As to elections in the City of London see PARA 30 ante.

'Prescribed' means prescribed by regulations: Representation of the People Act 1983 s 202(1); definition applied by virtue of the Representation of the People Act 1985 s 27(2) (see note 1 supra). As to the regulations made under s 3 (as substituted and amended) see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13 and Sch 4, which apply with modifications specified provisions for the registration of European parliamentary overseas electors. For these purposes, the Representation of the People Act 1983 s 4(5) (as substituted) (attainers: see PARA 128 post), s 9 (as substituted and amended) (register of electors: see PARA 160 post), s 13 (as substituted) (publication of registers: see PARA 164 post), ss 13A-13B (as added and amended) (alteration of registers: see PARA 175 post), s 50 (effect of misdescription: see PARA 159 post), s 52 (as amended) (discharge of registration duties: see PARA 156 post), s 54 (as amended) (payment of expenses of registration: see PARA 158 post), s 56 (as amended) (registration appeals: see PARA 189 post), s 63 (as substituted and amended) (breach of official duty: see PARA 740 post) and the Representation of the People Act 1985 s 2 (as substituted) (registration of British citizens overseas: see PARA 129 post), s 12 (offences as to declarations etc: see PARA 738 post) must, subject to any modifications and exceptions specified in relation to those provisions in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(4), Sch 4, apply for the purposes of the registration of peers who (subject to the requirement of registration) are entitled to vote at a European parliamentary election as they apply for the purpose of the registration of parliamentary electors: reg 13(4). Unless the context otherwise requires, in the provisions applied by Sch 4: (a)

any reference to an overseas elector's declaration must be construed as a reference to a European parliamentary overseas elector's declaration; (b) any reference to a constituency must be construed as a reference to an electoral region; (c) any reference to a register of parliamentary electors must be construed as a reference to a register kept under the Representation of the People Act 1985 s 3 (as substituted and amended) and any reference to the register of local government electors must be disregarded; and (d) any reference to a provision which is also applied by the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Sch 4 must be construed as a reference to such a provision as so applied: reg 13(5). Regulations 3, 5-8, 11 (general, interpretation and miscellaneous), regs 18-22 (as amended) (overseas electors' declarations: see PARAS 147-151 post) and regs 23-25, 27-32, 36(2), 38-43, 45 (as amended) (registration: see PARA 160 et seq post) also apply, by virtue of reg 13(6), (7), to a European parliamentary overseas elector's declaration and registration in pursuance of it as they apply to an overseas elector's declaration and registration in pursuance of it: reg 13(6). For the purposes set out in reg 13(6), those regulations, unless the context otherwise requires, have effect as if: (i) any reference to a parliamentary elector were a reference to a peer entitled to vote at a European parliamentary election under the Representation of the People Act 1985 s 3 (as substituted and amended); (ii) any reference to an overseas elector were a reference to a European parliamentary overseas elector; (iii) any reference to an overseas elector's declaration were a reference to a European parliamentary overseas elector's declaration; and (iv) any reference to a provision which is applied by the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Sch 4 were a reference to that provision as so applied: reg 13(7). For these purposes, unless the context otherwise requires, 'European parliamentary overseas elector' means a peer who has made a European parliamentary overseas elector's declaration and is registered or is entitled to be registered in pursuance of it; and 'European parliamentary overseas elector's declaration' means a declaration made in pursuance of the Representation of the People Act 1985 s 2 (as substituted) as applied by the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13 and Sch 4.

8 As to the poll at a European parliamentary election see PARA 229 et seq post.

9 Representation of the People Act 1985 s 3(1)(b)(i) (as substituted: see note 7 supra). For these purposes, 'legal incapacity' has the same meaning in relation to Great Britain as it has in the Representation of the People Act 1983 for the purposes of local government elections (see PARA 110 note 8 ante), but the reference in the Representation of the People Act 1985 s 3(1)(b) (as substituted) to a person being subject to a legal incapacity to vote on the relevant date does not include a reference to his being below the age of 18 on that date: s 3(8) (a) (as so substituted). For the meaning of 'Great Britain' see PARA 13 note 1 ante. For the meaning of 'local government election' see PARA 10 ante; definition applied by virtue of s 27(2) (see note 1 supra). As to voting age for local government elections see PARA 112 note 14 ante.

10 Ibid s 3(1)(b)(ii) (as substituted: see note 7 supra). As to who are British citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 8 et seq.

11 Ibid s 3(1)(c) (as substituted: see note 7 supra).

12 Ie for the purposes of head (1) in the text: ibid s 3(2) (as substituted: see note 7 supra), s 27(1).

13 Ibid s 3(2)(a) (as substituted: see note 7 supra). For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

14 Ibid s 3(2)(b) (as substituted: see note 7 supra). The rules as to the qualification of a peer under s 3 (as substituted and amended) are the same as those for a person to qualify as an overseas elector under s 1 (as substituted and amended) (see PARA 111 ante), but with the substitution of references to the register of local government electors for references to the register of parliamentary electors.

15 The provision is so worded that the entitlement arises even if the premises in respect of which the person was registered are subsequently destroyed. A person might be included in respect of an address even if the address itself is not shown in the register of electors because the person's name only is included (see PARA 160 post).

16 Representation of the People Act 1985 s 3(3)(a) (as substituted: see note 7 supra). For the purposes of s 3(3)(a) (as substituted) and s 3(4)(c) (as substituted) (see head (iii) in the text), a person who has an anonymous entry in a register of parliamentary electors or local government electors is not to be regarded as being included in that register: s 3(4A) (added by the Electoral Administration Act 2006 Sch 1 para 17(1), (2)). For the meaning of 'anonymous entry' in relation to a register of electors see PARA 174 post.

17 As to residence see PARA 132 et seq post; provisions applied by virtue of the Representation of the People Act 1985 s 27(2) (see note 1 supra).

18 Ibid s 3(3)(b) (as substituted: see note 7 supra).

19 Ibid s 3(3)(c) (as substituted (see note 7 supra); and amended by the Political Parties, Elections and Referendums Act 2000 s 141(b)).

20 Representation of the People Act 1985 s 3(3)(d) (as substituted: see note 7 supra). An electoral registration officer may have mistakenly included the person in the register as resident at an address even though that person was not resident (or treated for the purposes of registration as resident) there on the qualifying date to which the register relates.

21 Ibid s 3(4)(a) (as substituted (see note 7 supra); and amended by the Political Parties, Elections and Referendums Act 2000 s 141(b)).

22 Representation of the People Act 1985 s 3(4)(b) (as substituted: see note 7 supra).

23 Ibid s 3(4)(c) (as substituted: see note 7 supra). As to persons who have an anonymous entry in a register see note 16 supra.

24 See PARA 125 et seq post.

UPDATE

116 Extension of European parliamentary franchise to peers resident outside the United Kingdom

NOTE 7--SI 2001/341 reg 13, Sch 4 amended; Sch 4A (application with modifications of specified provisions of SI 2001/341 for registration of European parliamentary overseas electors) added: SI 2009/725.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(1) THE RIGHT TO VOTE/(i) Entitlement to Vote in Elections/C. EUROPEAN PARLIAMENTARY ELECTIONS/117. Entitlement of relevant citizens of the European Union to vote as European parliamentary electors.

117. Entitlement of relevant citizens of the European Union to vote as European parliamentary electors.

A person is entitled to vote as an elector at a European parliamentary election¹ in an electoral region² if on the date of the poll³ he:

- 144 (1) is registered in the region in the register of relevant citizens of the Union⁴ entitled to vote at European parliamentary elections⁵;
- 145 (2) is not subject to any legal incapacity⁶ to vote (age apart)⁷;
- 146 (3) is a relevant citizen of the Union⁸; and
- 147 (4) is of voting age⁹.

However, a person is not so entitled to vote as an elector more than once in the same electoral region at any European parliamentary election¹⁰, or in more than one electoral region at a European parliamentary general election¹¹.

The restrictions on the registration of such persons are described elsewhere in this title¹².

1 Ie by virtue of the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184 (as amended) and without prejudice to the qualifications set out in the European Parliamentary Elections Act 2002 s 8 (as amended) (see PARA 115 ante) and the Representation of the People Act 1985 s 3 (as substituted and amended) (extension of European parliamentary franchise to peers resident outside the United Kingdom: see PARA 116 ante). As to European parliamentary elections generally see PARA 13 et seq ante.

2 As to electoral regions established for the purpose of European parliamentary elections see PARA 76 ante.

3 As to the date of the poll at a European parliamentary election see PARA 229 post.

4 For these purposes, 'citizen of the Union' is to be determined in accordance with the Treaty Establishing the European Community (Rome, 25 March 1957; TS 1 (1973); Cmnd 5179) art 17 (formerly art 8 and renumbered by virtue of the Treaty of Amsterdam: see *Treaty Citation (No 2) (Note)* [1999] All ER (EC) 646, ECJ), which states that every person holding the nationality of a member state is a citizen of the Union; and 'relevant citizen of the Union' means such a citizen who is not a Commonwealth citizen or citizen of the Republic of Ireland: European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 1(2). As to who are Commonwealth citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 11; and as to who are citizens of the Republic of Ireland see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 12.

5 Ibid reg 3(1)(a). The text refers to the register maintained under reg 5(2) (see PARA 156 post). The register must, so far as practicable, be combined with the registers of parliamentary and local government electors and with any register of peers kept under the Representation of the People Act 1985 s 3 (as substituted and amended) (extension of European parliamentary franchise to peers resident outside the United Kingdom: see PARA 116 ante), the names of the persons so registered being marked to indicate that fact: see PARA 160 post.

For the purposes of the registration of relevant citizens of the Union as European parliamentary electors, the Representation of the People Act 1983 s 5 (as substituted) (general residence requirement: see PARA 132 post), s 6 (as amended) (deemed residence for merchant seamen: see PARA 133 post), s 7 (as substituted and amended) (deemed residence for persons in mental hospitals who are not detained offenders or on remand: see PARA 134 post), s 7A (as added and amended) (deemed residence for persons on remand: see PARA 135 post), ss 7B-7C (as added and amended) (residence deemed by way of declaration of local connection: see PARAS 136-139 post), s 9 (as substituted and amended) (register of electors: see PARA 160 post), s 13 (as substituted) (publication of registers: see PARA 164 post), ss 13A-13B (as added and amended) (alteration of registers: see

PARA 175 post), s 50 (effect of misdescription: see PARA 159 post), s 52 (as amended) (discharge of registration duties: see PARA 156 post), s 54 (as amended) (payment of expenses of registration: see PARA 158 post), s 56 (as amended) (registration appeals: see PARA 189 post), s 62 (as substituted and amended) (offences as to declarations: see PARA 738 post), s 63 (as substituted and amended) (breach of official duty: see PARA 740 post), s 202 (as amended) (general provisions as to interpretation) and the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 3, 5-8, 11 (general, interpretation and miscellaneous) and regs 24, 27-32, 36, 38-41 (as amended) (registration: see PARA 160 et seq post) apply as they apply for the purposes of the registration of parliamentary and local government electors, subject to any modification and exceptions specified in relation to those provisions in the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule, and, unless the context otherwise requires, in the provisions so applied: (1) any reference to a parliamentary elector is a reference to a European parliamentary elector; (2) any reference to a register is to the register maintained under reg 5(2) (see PARA 156 post); (3) any reference to a constituency is a reference to an electoral region; and (4) any reference in such a provision to another provision which is so applied, is to that provision as so applied: reg 9.

For the purpose of extending the rights of citizens and nationals of accession states who (subject to the requirements of registration) may vote at local government and European parliamentary elections, reg 9 is applied with modifications: see the Local and European Parliamentary Elections (Registration of Citizens of Accession States) Regulations 2003, SI 2003/1557, reg 6, Sch 1 para 6.

6 For these purposes, 'legal incapacity' has the same meaning in relation to European parliamentary elections as it has in the Representation of the People Act 1983 in relation to parliamentary elections (see PARA 110 note 8 ante): European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 3(3).

7 Ibid reg 3(1)(b).

8 Ibid reg 3(1)(c).

9 Ibid reg 3(1)(d). For these purposes, 'voting age' is 18 years or over: reg 3(1)(d).

10 Ibid reg 3(2)(a).

11 Ibid reg 3(2)(b).

12 See PARA 131 et seq post.

UPDATE

117 Entitlement of relevant citizens of the European Union to vote as European parliamentary electors

NOTE 5--SI 2001/1184 reg 9 amended, Schedule substituted: SI 2009/726.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(1) THE RIGHT TO VOTE/ (ii) Entitlement to Vote in Referendums and Polls/118. Persons entitled to vote in a referendum under the Political Parties, Elections and Referendums Act 2000.

(ii) Entitlement to Vote in Referendums and Polls

118. Persons entitled to vote in a referendum under the Political Parties, Elections and Referendums Act 2000.

The framework for referendums to which the Political Parties, Elections and Referendums Act 2000 applies does not make provision for entitlement to vote in any individual referendum¹. Any such provision must be made by the further legislation that is required to provide for the holding of any particular referendum within the framework².

¹ See the Political Parties, Elections and Referendums Act 2000 Pt VII (ss 101-129) (as amended); and PARA 519 et seq post.

² For example, the Regional Assemblies (Preparations) Act 2003 s 4 specifies that a person is entitled to vote in a referendum held in a region (or in a county area of a region) if on the date of the referendum he is entitled to vote at the election of councillors for any electoral area in the region (or county area). See further PARA 547 et seq post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(1) THE RIGHT TO VOTE/ (ii) Entitlement to Vote in Referendums and Polls/119. Persons entitled to vote in a local authority referendum under the Local Government Act 2000.

119. Persons entitled to vote in a local authority referendum under the Local Government Act 2000.

The persons entitled to vote in a referendum held by a local authority¹ are those who on the day of the referendum: (1) would be entitled to vote as electors at an election of councillors² for an electoral area³ which is situated within the authority's area⁴; and (2) are registered in the register of local government electors⁵ at an address within the authority's area⁶.

1 le a referendum held under the Local Government Act 2000 s 27 or by virtue of regulations or an order made under any provision of Pt II (ss 10-48) (as amended) (see PARA 15 et seq ante; and LOCAL GOVERNMENT vol 69 (2009) PARA 314 et seq). For the meaning of 'local authority' for these purposes see LOCAL GOVERNMENT vol 69 (2009) PARA 23.

2 As to entitlement to vote at local government elections see PARA 112 ante. As to the election of councillors generally see LOCAL GOVERNMENT vol 69 (2009) PARA 126 et seq.

3 For the meaning of 'electoral area' see PARA 10 ante; definition applied by the Local Government Act 2000 s 48(1).

4 Ibid s 45(4)(a).

5 For the meaning of 'local government elector' for these purposes see LOCAL GOVERNMENT vol 69 (2009) PARA 127; definition applied by ibid s 48(1). As to the registers of electors see PARA 160 et seq post.

6 Ibid s 45(4)(b).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(1) THE RIGHT TO VOTE/ (ii) Entitlement to Vote in Referendums and Polls/120. Persons entitled to vote in a poll held to ascertain views about whether or how any of the functions of the Welsh Ministers should be exercised.

120. Persons entitled to vote in a poll held to ascertain views about whether or how any of the functions of the Welsh Ministers should be exercised.

The persons entitled to vote in a poll for the purpose of ascertaining views about whether or how any of the functions of the Welsh Ministers should be exercised¹ are those who: (1) would be entitled to vote as electors at a local government election² in an electoral area³ wholly or partly included in the area in which the poll is held⁴; and (2) are registered in the register of local government electors⁵ at an address within the area in which the poll is held⁶.

1 In a poll held under the Government of Wales Act 1998 s 36 (see PARA 554 et seq post). The provisions of the Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes after that date see the Government of Wales Act 2006 s 64; and PARA 554 et seq post. As to the Welsh Ministers see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

2 As to entitlement to vote at local government elections see PARA 112 ante.

3 For the meaning of 'electoral area' see PARA 10 ante.

4 Government of Wales Act 2006 s 64(2)(a). As to the date at which this provision takes effect see note 1 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 36(2)(a).

5 As to the registers of electors see PARA 160 et seq post.

6 Government of Wales Act 2006 s 64(2)(b). As to the date at which this provision takes effect see note 1 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 36(2)(b).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(1) THE RIGHT TO VOTE/ (ii) Entitlement to Vote in Referendums and Polls/121. Persons entitled to vote in poll consequent on parish or community meeting.

121. Persons entitled to vote in poll consequent on parish or community meeting.

A poll consequent on a parish or community meeting² is a poll of those entitled to attend the meeting as local government electors².

1 As to parish and community meetings generally see LOCAL GOVERNMENT vol 69 (2009) PARA 635 et seq.

2 Local Government Act 1972 s 99 (amended by the Local Government Act 1985 s 84, Sch 14 para 14; the Police and Magistrates' Courts Act 1994 s 43, Sch 4 Pt I para 8; the Police Act 1996 s 103, Sch 7 para 1(2)(h); and the Greater London Authority Act 1999 s 325, Sch 27 para 26); Local Government Act 1972 Sch 12 Pt III para 18(5) (amended by the Representation of the People Act 1983 s 206, Sch 8 para 14); Local Government Act 1972 Sch 12 Pt V para 34(5) (amended by the Local Government (Wales) Act 1994 s 66(5), Sch 15 para 62). As to the entitlement to vote at local government elections see PARA 112 ante.

UPDATE

121 Persons entitled to vote in poll consequent on parish or community meeting

NOTE 2--Local Government Act 1972 s 99 further amended: Local Democracy, Economic Development and Construction Act 2009 Sch 6 para 17.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(1) THE RIGHT TO VOTE/ (iii) Restrictions on Entitlement to Vote/A. DISFRANCHISEMENT OF CERTAIN PARLIAMENTARY AND LOCAL GOVERNMENT ELECTORS/122. Disfranchisement of serving prisoners and detained offenders.

(iii) Restrictions on Entitlement to Vote

A. DISFRANCHISEMENT OF CERTAIN PARLIAMENTARY AND LOCAL GOVERNMENT ELECTORS

122. Disfranchisement of serving prisoners and detained offenders.

Under the Representation of the People Act 1983, during the time that a convicted person¹ is detained in a penal institution² in pursuance of his sentence³ or unlawfully at large when he would otherwise be so detained, he is legally incapable of voting at any parliamentary⁴ or local government election⁵. However, the European Court of Human Rights has found this restriction, constituting an absolute bar on voting by any serving prisoner in any circumstances, to offend against the principle of proportionality⁶.

A person in respect of whom a court has made certain hospital orders or directions on grounds of mental health or insanity⁷, during the time that he is detained at any place in pursuance of such an order or direction⁸ or is unlawfully at large when he would otherwise be so detained⁹, is also legally incapable of voting at any parliamentary or local government election¹⁰.

Any rule of the common law which provided that a person is subject to a legal incapacity to vote by reason only of his mental state¹¹ no longer applies¹².

1 'Convicted person' means any person found guilty of an offence (whether under the law of the United Kingdom or not), including a person found guilty by a court-martial under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957 (see ARMED FORCES vol 2(2) (Reissue) PARA 448 et seq) or by a standing civilian court established under the Armed Forces Act 1976 (see ARMED FORCES vol 2(2) (Reissue) PARA 520 et seq), but not including a person dealt with by committal or other summary process for contempt of court (see CONTEMPT OF COURT): Representation of the People Act 1983 s 3(2)(a). For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

2 'Penal institution' means an institution to which the Prison Act 1952 applies (see PRISONS vol 36(2) (Reissue) PARA 501 et seq): Representation of the People Act 1983 s 3(2)(b).

3 For these purposes, a person detained for default in complying with his sentence is not treated as detained in pursuance of the sentence, whether or not the sentence provided for detention in the event of default, but a person detained by virtue of a conditional pardon in respect of an offence is treated as detained in pursuance of his sentence: *ibid* s 3(2)(c).

4 For the meaning of 'parliamentary election' see PARA 9 ante.

5 Representation of the People Act 1983 s 3(1) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 1). It is immaterial for the purposes of this provision whether a conviction or sentence was before or after the passing of the Representation of the People Act 1983 (ie 8 February 1983): s 3(3). For the meaning of 'local government election' see PARA 10 ante. As to the registration to vote of persons remanded in custody see PARA 135 post.

6 See Application 74025/01 *Hirst v United Kingdom (No 2)* (2004) 38 EHRR 825, (2004) 16 BHRC 409, (2004) Times, 8 April, ECtHR; on appeal (2005) 19 BHRC 546, (2005) Times, 10 October, [2005] All ER (D) 59 (Oct), ECtHR (Grand Chamber) (the principle of proportionality required a discernible and sufficient link to be made between the sanction of disenfranchisement and the conduct and circumstances of the individual). In particular, the Representation of the People Act 1983 s 3 (as amended) was found to contravene the Convention for the

Protection of Human Rights and Fundamental Freedoms (Rome, 4 November 1950; TS 71 (1953); Cmd 8969), First Protocol (Paris, 20 March 1952; Cmd 9221) art 3. See PARA 7 ante.

7 The Representation of the People Act 1983 s 3A (as added and amended) applies, as respects England and Wales, to: (1) any person in respect of whom an order has been made under the Mental Health Act 1983 s 37 (as amended) (powers of courts to order hospital admission or guardianship: see MENTAL HEALTH vol 30(2) (Reissue) PARA 491), s 38 (as amended) (interim hospital orders: see MENTAL HEALTH vol 30(2) (Reissue) PARAS 491, 494), s 44 (committal to hospital for restriction order: see MENTAL HEALTH vol 30(2) (Reissue) PARA 498) or s 51(5) (hospital order in person's absence and without conviction: see MENTAL HEALTH vol 30(2) (Reissue) PARA 539) or a direction has been given under s 45A (as added and amended) (power of higher courts to direct hospital admission: see MENTAL HEALTH vol 30(2) (Reissue) PARA 490), s 46 (repealed) or s 47 (as amended) (removal to hospital of persons serving sentences of imprisonment: see MENTAL HEALTH vol 30(2) (Reissue) PARA 535); (2) any person in respect of whom an order has been made under the Criminal Procedure (Insanity) Act 1964 s 5(2)(a) (as substituted) (hospital orders where persons not guilty by reason of insanity or unfit to plead: see MENTAL HEALTH vol 30(2) (Reissue) PARA 499); and (3) any person in respect of whom the Court of Appeal has made an order under the Criminal Appeal Act 1968 s 6(2)(a) (as substituted) or s 14(2)(a) (as substituted) (hospital orders where findings of insanity or of unfitness to plead substituted: see MENTAL HEALTH vol 30(2) (Reissue) PARA 500): Representation of the People Act 1983 s 3A(2) (s 3A added by the Representation of the People Act 2000 s 2). The Representation of the People Act 1983 s 3A (as added and amended) also applies to any person in respect of whom a hospital order has been made by virtue of the Army Act 1955 s 116A (as added), the Air Force Act 1955 s 116A (as added) or the Naval Discipline Act 1957 s 63A (as added) (powers to deal with person unfit to stand trial or not guilty by reason of insanity), or the Courts-Martial (Appeals) Act 1968 s 16 (as substituted) (substitution of finding of insanity or findings of unfitness to stand trial etc) or s 23 (as substituted) (substitution of findings of unfitness to stand trial) (see MENTAL HEALTH vol 30(2) (Reissue) PARA 499): Representation of the People Act 1983 s 3A(5) (as so added; and substituted by the Domestic Violence, Crime and Victims Act 2004 s 58(1), Sch 10 para 17). As to the application of the Representation of the People Act 1983 s 3A (as added and amended) to Scotland see s 3A(3) (as so added; and amended in relation to England and Wales by the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005, SI 2005/2078, art 15, Sch 1 para 1(1), (2) and in relation to Scotland by the Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Enactments) Order 2005, SSI 2005/465, art 2, Sch 1 para 12(1), (2)); and as to its application as respects Northern Ireland see the Representation of the People Act 1983 s 3A(4) (as so added). Any reference in s 3A (as added and amended) to a person in respect of whom any order or direction falling within s 3A(2)-(4) (as added and amended) has been made or given includes a reference to a person in respect of whom any such order or direction is, by virtue of any enactment, to be treated as having been made or given in connection with his transfer to a place in the part of the United Kingdom mentioned in s 3A(2)-(4) (as added and amended): s 3A(6) (as so added). Any reference in any of s 3A(2)-(4) (as added and amended) to a provision of any Act or order includes a reference to any earlier provision (whether of that Act or order as originally enacted or made or as previously amended, or otherwise) to the like effect: s 3A(7) (as so added).

8 Ibid s 3A(1)(a) (as added: see note 7 supra).

9 Ibid s 3A(1)(b) (as added: see note 7 supra).

10 Ibid s 3A(1) (as added: see note 7 supra). As to the registration to vote of patients in mental hospitals who are not detained offenders or on remand see PARA 134 post.

11 See eg *Bedford County Case*, *Burgess' Case* (1785) 2 Lud EC 381 at 567 (where an objection to the vote of an idiot was made but not proved); and see also *Oakhampton Case*, *Robins' Case* (1791) 1 Fras 69 at 162; *Bridgewater Case*, *Tucker's Case* (1803) 1 Peck 101 at 108 (which both related to the capacity of persons suffering from severe mental illness being able to vote in a lucid interval).

12 Electoral Administration Act 2006 s 73(1).

UPDATE

122 Disfranchisement of serving prisoners and detained offenders

NOTE 1--Representation of the People Act 1983 s 3(2)(a) amended: Armed Forces Act 2006 Sch 16 para 95.

NOTE 6--See also *R (on the application of Chester) v Secretary of State for Justice* [2009] All ER (D) 279 (Oct).

NOTE 7--Representation of the People Act 1983 s 3A(5) further substituted: Armed Forces Act 2006 Sch 16 para 96.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(1) THE RIGHT TO VOTE/ (iii) Restrictions on Entitlement to Vote/B. INCAPACITIES IMPOSED ON ELECTORS FOR OFFENCES/123. Incapacity imposed for offences against electoral law during parliamentary or local government election.

B. INCAPACITIES IMPOSED ON ELECTORS FOR OFFENCES

123. Incapacity imposed for offences against electoral law during parliamentary or local government election.

A candidate at a parliamentary or local government election¹ or other person² reported by an election court³ personally guilty of a corrupt or illegal practice or convicted of such a practice⁴ is, during the relevant period⁵, incapable of being registered as an elector⁶ or voting⁷ at any parliamentary election⁸ in the United Kingdom⁹ or at any local government election¹⁰ in Great Britain¹¹.

1 As to candidacy at a parliamentary or local government election see PARA 231 et seq post.

2 As to the meaning of 'person' see PARA 110 note 1 ante.

3 For the meaning of 'election court' for these purposes see PARA 759 note 14 post.

4 The incapacity imposed by the Representation of the People Act 1983 s 160(4)(a)(i) (as substituted) or by s 173(1)(a)(i) (as substituted) (see the text and notes 5-11 infra) applies only to a candidate or other person reported personally guilty, or convicted, of a corrupt practice under s 60 (personation: see PARA 733 post) or of an illegal practice under s 61 (as amended) (other voting offences: see PARA 703 post): see s 160(4A) (as added), s 173(2) (as substituted); and PARA 904 post.

5 For these purposes, the relevant period is the period beginning with the date of the report or conviction (as the case may be) and ending, in the case of a person reported personally guilty, or convicted, of a corrupt practice, five years after that date, or, in the case of a person reported personally guilty, or convicted, of an illegal practice, three years after that date: see the Representation of the People Act 1983 ss 160(5), 173(3) (both as substituted); and PARA 904 post.

6 For the meaning of 'elector' see PARA 110 note 2 ante.

7 For the meaning of 'vote' see PARA 110 note 2 ante.

8 For the meaning of 'parliamentary election' see PARA 9 ante.

9 For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

10 For the meaning of 'local government election' see PARA 10 ante.

11 See the Representation of the People Act 1983 ss 160(4)(a)(i), 173(1)(a)(i) (both as substituted); and PARA 904 post. The incapacity so imposed is subject to mitigation or remission under s 174 (as amended): see PARA 907 post. For the meaning of 'Great Britain' see PARA 13 note 1 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(1) THE RIGHT TO VOTE/ (iii) Restrictions on Entitlement to Vote/B. INCAPACITIES IMPOSED ON ELECTORS FOR OFFENCES/124. Incapacity imposed for offences against electoral law during Welsh Assembly election.

124. Incapacity imposed for offences against electoral law during Welsh Assembly election.

A candidate at an Assembly election¹ or other person reported by an election court² personally guilty of a corrupt practice³ is for five years from the date of the report incapable of being registered as an elector⁴ or voting⁵ at any Assembly election, election to the House of Commons, election to the European Parliament, or election in Great Britain⁶ to any public office⁷. A candidate or other person reported by an election court personally guilty of an illegal practice⁸ is for three years from the date of the report incapable of being registered as an elector or voting at any Assembly election, any parliamentary election, any European parliamentary election⁹ or at any election to a public office held: (1) if the offence was committed in relation to a constituency election¹⁰, for or in the Assembly constituency for which the election was held, any other Assembly constituency in the Assembly electoral region¹¹ in which the first mentioned constituency is situated, the Assembly electoral region in which the first mentioned constituency is situated, or any Assembly constituency or electoral region which includes the whole or any part of the first mentioned constituency as constituted for the purposes of the election (or any other Assembly constituency within that Assembly electoral region)¹²; or (2) if the offence was committed in relation to a regional election¹³, for or in the Assembly electoral region for which the election was held, any Assembly constituency situated in that electoral region, or any Assembly constituency or electoral region which includes the whole or part of the first mentioned electoral region as constituted for the purposes of the election (or any other Assembly constituency in that second mentioned Assembly electoral region)¹⁴.

A person convicted of a corrupt practice is subject to the incapacities imposed in relation to a candidate or other person reported by an election court personally guilty of a corrupt practice¹⁵ as if at the date of the conviction he had been reported personally guilty of that corrupt practice¹⁶. A person convicted of an illegal practice: (a) in relation to a constituency election, is subject to the incapacities imposed under head (1) above¹⁷; or (b) in relation to a regional election, is subject to the incapacities imposed under head (2) above¹⁸, as if at the date of the conviction he had been reported personally guilty of that illegal practice¹⁹.

Persons reported personally guilty of, or convicted of, corrupt or illegal practices at parliamentary elections or local government elections²⁰ or at European parliamentary elections are also subject²¹ to being declared incapable of being registered as an elector or voting at any Assembly election²².

1 For the meaning of 'Assembly election' see PARA 3 note 1 ante. As to candidacy at such elections see PARA 234 post.

2 For the meaning of 'election court' for these purposes see PARA 762 note 6 post. For these purposes, 'person' includes (without prejudice to the provisions of the Interpretation Act 1978: see PARA 110 note 1 ante) an association corporate or unincorporate: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 2(1).

3 The incapacities imposed by *ibid* 109(3)(a) (see the text and notes 4-7 *infra*) apply only to a candidate or other person reported personally guilty of a corrupt practice under art 28 (personation: see PARA 733 post): see art 109(4); and PARA 905 post.

4 For these purposes, 'elector' means any person whose name is for the time being on the register of electors to be used at an Assembly election, but does not include those shown in the register as below voting age on the day fixed for the poll: *ibid* art 2(1). For the meaning of 'Assembly election' for these purposes see PARA 3 note 1 ante. As to the registers of electors see PARA 156 et seq post; and as to the poll at an election of Assembly members see PARA 220 et seq post. Voting age is determined by reference to entitlement to vote as an elector at a local government election, ie 18 years (see PARA 112 note 14 ante).

5 For these purposes, 'voter' means a person voting at an Assembly election and includes a person voting as proxy and, except in *ibid* art 16(1), Sch 5 (as amended) (conduct of Assembly elections and return of Assembly members: see PARA 388 post), a person voting by proxy; and 'vote' (whether noun or verb) must be construed accordingly, except that in Sch 5 (as amended) any reference to an elector voting or an elector's vote must include a reference to an elector voting by proxy or elector's vote given by proxy: art 2(1). As to voting by proxy see PARA 372 et seq post.

6 For the meaning of 'Great Britain' see PARA 13 note 1 ante.

7 See the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 109(3) (a); and PARA 905 post. The incapacity so imposed is subject to mitigation or remission under art 125: see PARA 907 post.

8 The incapacities imposed by *ibid* art 109(5)(a) (see head (1) in the text) or, as the case may be, by art 109(5)(b) (see head (2) in the text) apply only to a candidate or other person reported personally guilty of an illegal practice under art 29 (other voting offences: see PARA 703 post): see art 109(6); and PARA 905 post.

9 'European parliamentary election' has the same meaning as in the Representation of the People Act 1985 s 27(1) (as to which see PARA 21 note 2 ante): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 2(1).

10 For the meaning of 'constituency election' for these purposes see PARA 3 note 1 ante.

11 For the meaning of 'Assembly electoral region' for these purposes see PARA 3 note 1 ante.

12 See the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 109(5) (a); and PARA 905 post. The incapacity so imposed is subject to mitigation or remission under art 125: see PARA 907 post.

13 For the meaning of 'regional election' for these purposes see PARA 3 note 1 ante.

14 See the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 109(5) (b); and PARA 905 post. The incapacity so imposed is subject to mitigation or remission under art 125: see PARA 907 post.

15 Ie the incapacities imposed by *ibid* art 109(3) (see the text and notes 1-7 supra). This is in addition to any punishment imposed otherwise for the same offence but subject to mitigation or remission under art 125 (see PARA 907 post).

16 See *ibid* art 122(1)(a); and PARA 905 post.

17 See *ibid* art 122(1)(b); and PARA 905 post.

18 See *ibid* art 122(1)(b); and PARA 905 post.

19 See *ibid* art 122(1)(b); and PARA 905 post.

20 For the meaning of 'local government election' for these purposes see PARA 17 note 3 ante.

21 Ie in addition to being subject to the incapacities set out in the Representation of the People Act 1983 s 160(4) (as substituted) (see PARA 904 post) or s 173 (as substituted) (see PARA 904 post) or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 107 (see PARA 906 post) (as the case may be). Note that the European Parliamentary Elections Regulations 2004, SI 2004/293, make no provision for incapacity arising from a candidate or other person having been reported by an election court personally guilty of a corrupt practice: see PARA 125 post.

22 See the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, arts 110-111, 123-124; and PARA 905 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(1) THE RIGHT TO VOTE/ (iii) Restrictions on Entitlement to Vote/B. INCAPACITIES IMPOSED ON ELECTORS FOR OFFENCES/125. Incapacity imposed for offences against electoral law during European parliamentary election.

125. Incapacity imposed for offences against electoral law during European parliamentary election.

A candidate at a European parliamentary election¹ or other person² convicted of a corrupt or illegal practice³ is, during the relevant period⁴, incapable of being registered as an elector⁵ or voting⁶ at any parliamentary⁷ or European parliamentary election in the United Kingdom⁸ or at any local government election⁹ in Great Britain¹⁰.

1 As to candidacy at a European parliamentary election see PARA 235 et seq post.

2 For these purposes, 'person' includes (without prejudice to the provisions of the Interpretation Act 1978: see PARA 110 note 1 ante) an association corporate or unincorporate: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 2(1).

3 The incapacity imposed by ibid reg 107(1)(a)(i) applies only to a candidate or other person convicted of a corrupt practice under reg 23 (personation: see PARA 733 post) or of an illegal practice under reg 24 (as amended) (other voting offences: see PARA 703 post): see reg 107(2); and PARA 906 post.

The European Parliamentary Elections Regulations 2004, SI 2004/293, make no provision for incapacity arising from a candidate or other person having been reported by an election court personally guilty of a corrupt practice; cf the equivalent provisions in the Representation of the People Act 1983 (see PARA 123 ante) or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended) (see PARA 124 ante).

4 For these purposes, the relevant period is the period beginning with the date of the conviction and ending, in the case of a person convicted of a corrupt practice, five years after that date or, in the case of a person convicted of an illegal practice, three years after that date: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 107(3); and PARA 906 post.

5 For these purposes, 'elector' in relation to a European parliamentary election, means any person whose name is for the time being on the register of electors, but does not include those shown in the register as below voting age on the day fixed for the poll: ibid reg 2(1). 'Register of electors' means any part of: (1) a register of parliamentary or, in the case of peers, local government electors; (2) a register under the Representation of the People Act 1985 s 3 (as substituted and amended) (peers resident outside the United Kingdom registered as European parliamentary electors: see PARA 116 ante); (3) a register under the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 5 (see PARA 156 post); and (4) the Gibraltar register (see PARA 131 note 2 post), in force within an electoral region at the time of a European parliamentary election in that region: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 2(1). As to the registers of electors see PARA 156 et seq post; as to electoral regions established for the purposes of European parliamentary elections see PARA 76 ante; and as to the poll at such an election see PARA 224 et seq post. 'Voting age' is currently 18 years for all purposes: see PARAS 110 note 2, 112 note 14, 117 note 9 ante.

6 For these purposes, 'voter' means a person voting at a European parliamentary election and includes a person voting as proxy and, except in the European parliamentary elections rules (ie the rules contained in ibid reg 9(1), Sch 1 (as amended): see PARA 388 post), a person voting by proxy; and 'vote' (whether noun or verb) must be construed accordingly, except that in the rules contained in Sch 1 (as amended) any reference to an elector voting or an elector's vote includes a reference to an elector voting by proxy or elector's vote given by proxy: reg 2(1). As to voting by proxy see PARA 372 et seq post.

7 For the meaning of 'parliamentary election' see PARA 9 ante.

8 For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

9 For the meaning of 'local government election' see PARA 10 ante.

10 See the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 107(1)(a)(i); and PARA 906 post. The incapacity so imposed is subject to mitigation or remission under reg 112: see PARA 907 post. For the meaning of 'Great Britain' see PARA 13 note 1 ante.

UPDATE

125 Incapacity imposed for offences against electoral law during European parliamentary election

NOTES 2, 5, 6--SI 2004/293 reg 2(1) substituted: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(1) THE RIGHT TO VOTE/ (iii) Restrictions on Entitlement to Vote/B. INCAPACITIES IMPOSED ON ELECTORS FOR OFFENCES/126. Incapacity of public officials convicted of bribery or corruption.

126. Incapacity of public officials convicted of bribery or corruption.

Every person who is convicted for the second time of the statutory offence of bribery or corruption of or by members, officers or employees of public bodies¹ is liable, at the discretion of the court before which he is convicted, to be adjudged incapable for five years of being registered as an elector or voting at an election of members to serve in Parliament or of members of any public body².

¹ For the meaning of 'public body' in this context see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(1) (2006 Reissue) PARA 529.

² Public Bodies Corrupt Practices Act 1889 ss 2(d), 7 (amended by the Representation of the People Act 1948 s 52(7)). See further CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(1) (2006 Reissue) PARA 529.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(i) In general/127. General provision made as to registration etc.

(2) THE REGISTRATION OF ELECTORS

(i) In general

127. General provision made as to registration etc.

Provision may be made by regulations under the Representation of the People Act 1983¹:

- 148 (1) with respect to the form of the register of electors and of any special lists or records required by the Representation of the People Act 1983 in connection with the register or with any election²;
- 149 (2) with respect to the procedure to be followed in the preparation of the register and the place and manner of its publication³, and the procedure to be followed in the preparation of any such special lists or records, and the time, place and manner of their publication⁴;
- 150 (3) generally with respect to any matters incidental to the provisions of the Representation of the People Act 1983 so far as those provisions relate to the registration of electors or to voting by post or proxy⁵; and
- 151 (4) for the supply of any such record or special list as is mentioned in heads (1) and (2) above to such persons as are prescribed⁶, with respect to any conditions subject to which the supply is made⁷, and making it an offence for a person to fail to comply with any such condition⁸.

For the purposes of elections for the return of members of the National Assembly for Wales, the power to make provision by order as to the conduct of such elections includes, in particular, the power to make provision about the registration of electors and for disregarding alterations in a register of electors⁹. Entitlement to vote in such elections is otherwise dependent upon entries in the relevant register of local government electors made under the Representation of the People Act 1983¹⁰.

For the purposes of European parliamentary elections, special provision is made for the registration of peers resident outside the United Kingdom¹¹ and for the registration of relevant citizens of the European Union who are entitled to vote at such elections¹². Entitlement to vote in such elections is otherwise dependent upon entries in the relevant register made under the Representation of the People Act 1983, that is, the relevant register of parliamentary electors or (if a peer resident in the United Kingdom) the relevant register of local government electors¹³.

¹ Representation of the People Act 1983 s 53(1). As to the making of regulations under the Representation of the People Act 1983 generally see PARA 24 note 16 ante. As to the regulations made under s 53 (as amended) see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended); and the Representation of the People (Form of Canvass) (England and Wales) Regulations 2006, SI 2006/1694.

Without prejudice to the generality of the Representation of the People Act 1983 s 53(1) (as amended), regulations made with respect to the matters mentioned in heads (1)-(3) in the text may contain any such provisions as are mentioned in Sch 2 paras 1-13 (amended by the Representation of the People Act 1985 ss 4, 11, 24, 28, Sch 2 Pt I, Sch 4 para 85, Sch 5; the Representation of the People Act 1989 s 5; the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 68(18); the Data Protection Act 1998 s 74(1), Sch 15 para 7;

the Representation of the People Act 2000 ss 8, 9(1)-(3), 15(1), Sch 1 paras 1, 24(1)-(7), Sch 6 paras 3, 11(1)-(4); and the Electoral Administration Act 2006 ss 10(2), 47, Sch 1 paras 15, 69, 94): Representation of the People Act 1983 s 53(3) (amended by the Representation of the People Act 1985 Sch 4 para 13).

As from a day to be appointed under the Electoral Administration Act 2006 s 77(2), regulations under the Representation of the People Act 1983 s 53(4) (as added) (see head (4) in the text) or Sch 2 paras 10A, 10B (as added), Sch 2 para 11 (as substituted), Sch 2 para 11A (as added and amended) or Sch 2 para 13 (as amended) so far as relating to Sch 2 paras 10A-11A (as added and amended) have effect in relation to a CORE keeper and any information kept by him in pursuance of a CORE scheme as they have effect in relation to an electoral registration officer and any registers he is required to maintain under the Representation of the People Act 1983: see the Electoral Administration Act 2006 s 2(2). At the date at which this volume states the law, no such day had been appointed. A CORE scheme may make such modifications of the regulations mentioned in s 2(2) in their application to a CORE keeper or the information kept by him as the Secretary of State thinks appropriate: s 2(3). As to CORE schemes and CORE keepers see PARA 185 post.

2 Representation of the People Act 1983 s 53(1)(a) (amended by the Representation of the People Act 2000 s 15(2), Sch 1 paras 1, 13(a), Sch 7 Pt I).

3 Representation of the People Act 1983 s 53(1)(b)(i) (s 53(1)(b) substituted by the Representation of the People Act 2000 Sch 1 paras 1, 13(b)).

4 Representation of the People Act 1983 s 53(1)(b)(ii) (as substituted: see note 3 supra).

5 Ibid s 53(1)(c).

6 Ibid s 53(4)(a) (s 53(4) added by the Electoral Administration Act 2006 s 74(1), Sch 1 paras 104, 109).

7 Representation of the People Act 1983 s 53(4)(b) (as added: see note 6 supra).

8 Ibid s 53(4)(c) (as added: see note 6 supra). The offence is to be punishable on summary conviction by a fine not exceeding level 5 on the standard scale: see s 53(4)(c) (as so added). As to the standard scale see PARA 736 note 3 post.

9 See PARA 12 ante. As to the regulations made see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended).

10 See PARA 114 ante.

11 Peers who are resident outside the United Kingdom may be registered under the Representation of the People Act 1985 s 3 (as substituted and amended): see PARA 116 ante. The register must be published and, so far as practicable, combined with the registers of parliamentary electors and of local government electors, the names of the peers so registered being marked to indicate that fact: see PARA 116 note 7 ante.

12 A register of relevant citizens of the Union who are entitled to vote at European parliamentary elections is maintained under the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 4 (see PARA 131 post) and reg 5(2) (see PARA 156 post). For the meaning of 'relevant citizen of the Union' see PARA 117 note 4 ante. The register must, so far as practicable, be combined with the registers of parliamentary electors and of local government electors and with any register of peers kept under the Representation of the People Act 1985 s 3 (as substituted and amended) (see note 12 supra), the names of the persons so registered being marked to indicate that fact: see PARA 160 post.

13 As to the entitlement to vote as European parliamentary elector generally see PARA 115 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(ii) Entitlement to Registration/A. GENERAL ENTITLEMENT/128. Entitlement to be registered as a parliamentary or local government elector.

(ii) Entitlement to Registration

A. GENERAL ENTITLEMENT

128. Entitlement to be registered as a parliamentary or local government elector.

A person¹ is entitled to be registered in the register of parliamentary electors² for any constituency³ or part of a constituency if on the relevant date⁴ he:

- 152 (1) is resident⁵ in the constituency or that part of it⁶;
- 153 (2) is not subject to any legal incapacity⁷ to vote (age apart)⁸;
- 154 (3) is either a qualifying Commonwealth citizen⁹ or a citizen of the Republic of Ireland¹⁰; and
- 155 (4) is of voting age¹¹.

A person is entitled to be registered in the register of local government electors for any electoral area¹² if on the relevant date he:

- 156 (a) is resident in that area¹³;
- 157 (b) is not subject to any legal incapacity to vote (age apart)¹⁴;
- 158 (c) is a qualifying Commonwealth citizen, a citizen of the Republic of Ireland or a relevant citizen of the Union¹⁵; and
- 159 (d) is of voting age¹⁶.

These provisions¹⁷ have effect: (i) subject to any enactment imposing a disqualification for registration as a parliamentary or (as the case may be) local government elector¹⁸ and compliance with any prescribed¹⁹ requirements²⁰; and (ii) (as respects registration as a parliamentary elector) without prejudice to the provisions regarding the registration of British citizens overseas²¹.

A person otherwise qualified is entitled²² to be registered in a register of parliamentary electors or local government electors if he will attain voting age before the end of the period of 12 months beginning with 1 December next following the relevant date²³. However, his entry in the register must give the date on which he will attain that age²⁴ and until the date given in the entry he must not by virtue of the entry be treated as an elector for any purposes other than those of an election the date of the poll for which is the date so given or any later date²⁵.

1 As to the meaning of 'person' see PARA 110 note 1 ante.

2 For the meaning of 'elector' see PARA 110 note 2 ante. As to the registers of electors see PARA 160 et seq post.

3 For the meaning of 'constituency' for these purposes see PARA 9 ante.

4 For these purposes, 'the relevant date', in relation to a person, means: (1) the date on which an application for registration is made or, by virtue of the Representation of the People Act 1983 s 10A(2) (as added) (see PARA

167 post), is treated as having been made, by him; (2) in the case of a person applying for registration in pursuance of a declaration of local connection or a service declaration, the date on which the declaration was made: s 4(6) (s 4 substituted by the Representation of the People Act 2000 s 1(2)). As to declarations of local connection see PARA 136 et seq post; as to service declarations see PARA 140 et seq post; and as to applications for registration see PARA 167 et seq post. The Representation of the People Act 2000 changed the system for the registration of parliamentary and local government electors, removing the requirement for residence on a qualifying date for inclusion in a register of electors which had effect for one year and replacing it with a system of registration under which the registers of electors have continuing effect, subject to amendment ('rolling registration').

5 As to the residence requirement see PARA 132 et seq post.

6 Representation of the People Act 1983 s 4(1)(a) (as substituted: see note 4 supra).

7 As to the meaning of 'legal incapacity' for these purposes see PARA 110 note 8 ante.

8 Representation of the People Act 1983 s 4(1)(b) (as substituted: see note 4 supra).

9 For these purposes, 'qualifying Commonwealth citizen' means a Commonwealth citizen who: (1) is not a person who requires leave under the Immigration Act 1971 to enter or remain in the United Kingdom (see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 86 et seq); or (2) is such a person but for the time being has, or is, by virtue of any enactment, to be treated as having, any description of such leave: Representation of the People Act 1983 s 4(6) (as so substituted). For the meaning of 'United Kingdom' see PARA 13 note 1 ante. As to who are Commonwealth citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 11.

10 Ibid s 4(1)(c) (as substituted: see note 4 supra). As to who are citizens of the Republic of Ireland see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 12.

11 Ibid s 4(1)(d) (as substituted: see note 4 supra). As to voting age for the purposes of parliamentary elections see PARA 110 note 2 ante.

12 For the meaning of 'electoral area' see PARA 10 ante.

13 Representation of the People Act 1983 s 4(3)(a) (as substituted: see note 4 supra).

14 Ibid s 4(3)(b) (as substituted: see note 4 supra).

15 Ibid s 4(3)(c) (as substituted: see note 4 supra). For the meaning of 'relevant citizen of the Union' see PARA 112 note 13 ante.

For the purposes of extending the rights of citizens and nationals of accession states who (subject to the requirements of registration) may vote at local government and European parliamentary elections, s 4(3) (as substituted) is applied with modifications: see the Local and European Parliamentary Elections (Registration of Citizens of Accession States) Regulations 2003, SI 2003/1557, reg 2(1), (2), (3)(a).

16 Representation of the People Act 1983 s 4(3)(d) (as substituted: see note 4 supra).

17 Ie ibid s 4(1)-(3) (as substituted) (see the text and notes 1-16 supra).

18 Ibid s 4(4)(a)(i) (as substituted: see note 4 supra). As to restrictions on the entitlement to vote see PARA 122 et seq ante.

19 For these purposes, 'prescribed' means prescribed by regulations: ibid s 202(1). As to the making of regulations under the Representation of the People Act 1983 generally see PARA 24 note 16 ante. As to the regulations made under s 4 (as substituted) see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt III (regs 23-45) (as amended).

20 Representation of the People Act 1983 s 4(4)(a)(ii) (as substituted: see note 4 supra).

21 Ibid s 4(4)(b) (as substituted: see note 4 supra). The provisions referred to in the text are those contained in the Representation of the People Act 1985 s 2(1) (as substituted) (see PARA 129 post).

22 Ie despite the Representation of the People Act 1983 s 4(1)(d) (as substituted) (see head (4) in the text) or s 4(3)(d) (as substituted) (see head (d) in the text), as the case may be.

23 Ibid s 4(5) (as substituted: see note 4 supra). For the purposes of extending the rights of peers who (subject to the requirement of registration) may vote at European parliamentary elections, s 4(5) (as

substituted) is applied with modifications: see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(4), Sch 4; and PARA 116 note 7 ante.

24 Representation of the People Act 1983 s 4(5)(a) (as substituted: see note 4 supra).

If a person entitled to be registered by virtue of s 4(5) (as substituted) has an anonymous entry in the register, the references in s 4(5)(a) (as substituted) and s 4(5)(b) (as substituted) (see the text and note 25 infra) to his entry in the register are to be read as references to his entry in the record of anonymous entries prepared in pursuance of s 53(1) (as amended), Sch 2 para 8A (as added) (provisions requiring the registration officer to prepare a record of those persons with anonymous entries in the register: see PARA 127 ante); s 4(5A) (added by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 2, 3). For the meaning of 'anonymous entry' in relation to a register of electors see PARA 174 post.

25 Representation of the People Act 1983 s 4(5)(b) (as substituted: see note 4 supra). See note 24 supra. As to the date of the poll at a parliamentary general election or by-election see PARA 202 post; and as to the date of the poll at local government elections (including elections to fill vacancies) see PARAS 213-216 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(ii) Entitlement to Registration/A. GENERAL ENTITLEMENT/129. Entitlement to be registered as an overseas parliamentary elector.

129. Entitlement to be registered as an overseas parliamentary elector.

A person¹ is entitled to be registered in a register of parliamentary electors² in pursuance of a declaration (an 'overseas elector's declaration') made by him³ if: (1) the register is for the constituency⁴ or part of the constituency within which is situated the place in the United Kingdom⁵ specified in the declaration⁶ as having been the address in respect of which he was registered, or at which he was resident⁷, as the case may be⁸; and (2) the registration officer⁹ concerned is satisfied that, on the relevant date¹⁰, he qualifies as an overseas elector in respect of that constituency for which that register is prepared¹¹.

1 The Representation of the People Act 1985 ss 1-12 (as substituted) have effect as if contained in the Representation of the People Act 1983 Pt I (ss 1-66A) (as amended): Representation of the People Act 1985 s 27(2). As to the meaning of 'person' see PARA 110 note 1 ante; definition applied by virtue of s 27(2).

2 For the meaning of 'elector' see PARA 110 note 2 ante; definition applied by virtue of *ibid* s 27(2) (see note 1 *supra*). As to the registers of electors see PARA 160 *et seq post*.

3 *Ie* made under and in accordance with *ibid* s 2 (as substituted). As to the formalities of such a declaration see PARA 147 *post*.

For the purposes of extending the rights of peers who (subject to the requirement of registration) may vote at European parliamentary elections, s 2 (as substituted) is applied with modifications: see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(4), Sch 4; and PARA 116 note 7 *ante*.

4 For the meaning of 'constituency' for these purposes see PARA 9 *ante*.

5 For the meaning of 'United Kingdom' see PARA 13 note 1 *ante*.

6 *Ie* in accordance with the Representation of the People Act 1985 s 2(4) (as substituted) (see PARA 147 *post*).

7 As to the residence requirement see PARA 132 *et seq post*; provisions applied by virtue of *ibid* s 27(2) (see note 1 *supra*).

8 *Ibid* s 2(1)(a) (s 2 substituted by the Representation of the People Act 2000 s 8, Sch 2 paras 1, 3). As to the application and modification of this provision see note 3 *supra*.

9 For the meaning of 'registration officer' see PARA 154 *post*; definition applied by virtue of *ibid* s 27(2) (see note 1 *supra*).

10 For these purposes, 'the relevant date' has the meaning given by *ibid* s 1(1)(a) (as substituted) (see PARA 111 note 6 *ante*): s 2(8) (as substituted: see note 8 *supra*). As to the application and modification of this provision see note 3 *supra*.

11 *Ibid* s 2(1)(b) (as substituted: see note 8 *supra*). As to the application and modification of this provision see note 3 *supra*. As to the expiry or removal of such entries see PARA 187 *post*. For the purposes of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, 'overseas elector' means a person who has made an overseas elector's declaration and is registered or entitled to be registered as a parliamentary elector in pursuance of it: reg 3(1).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(ii) Entitlement to Registration/A. GENERAL ENTITLEMENT/130. Entitlement of peer to be registered as an overseas European parliamentary elector.

130. Entitlement of peer to be registered as an overseas European parliamentary elector.

A peer who, apart from the requirement of registration, is entitled¹ to vote as an elector at a European parliamentary election² in a particular electoral region³ is entitled to be registered in a register⁴ prepared and published by a registration officer⁵.

1 He by virtue of the Representation of the People Act 1985 s 3 (as substituted and amended) (see PARA 116 ante).

2 As to European parliamentary elections generally see PARA 13 et seq ante.

3 As to electoral regions constituted for the purposes of European parliamentary elections see PARA 76 ante.

4 He a register under the Representation of the People Act 1985 s 3 (as substituted and amended) (see PARA 116 ante).

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(1). For the meaning of 'registration officer' see PARA 154 post. The register mentioned in the text must be prepared and published in accordance with reg 13 and the provisions applied by it: reg 13(1). As to the provisions so applied see PARA 116 note 7 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(ii) Entitlement to Registration/A. GENERAL ENTITLEMENT/131. Entitlement of relevant citizen of the European Union to be registered as a European parliamentary elector.

131. Entitlement of relevant citizen of the European Union to be registered as a European parliamentary elector.

A person is entitled to be registered in the register of relevant citizens of the Union¹ entitled to vote at European parliamentary elections² for part of an electoral region³ if on the relevant date⁴:

- 160 (1) he is resident in that part of the region⁵;
- 161 (2) he is not subject to any legal incapacity to vote (age apart)⁶;
- 162 (3) he is a relevant citizen of the Union⁷; and
- 163 (4) he is of voting age⁸,

and the registration officer⁹ has received in respect of him an application and declaration which has been duly made¹⁰. These provisions¹¹ have effect subject to: (a) any enactment¹² imposing a disqualification for registration as a European parliamentary elector¹³; and (b) compliance with the requirements of the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001¹⁴ and any provision applied by the regulations¹⁵.

A person otherwise qualified is¹⁶ entitled to be registered in a register of relevant citizens of the Union entitled to vote at European parliamentary elections¹⁷ if he will attain voting age before the end of the period of 12 months beginning with 1 December next following the relevant date¹⁸. However, his entry in the register must give the date on which he will attain that age¹⁹ and, until the date given in the entry, he must not by virtue of the entry be treated as an elector for any purposes other than those of an election the date of the poll for which is the date so given or any later date²⁰.

1 For the meaning of 'relevant citizen of the Union' see PARA 117 note 4 ante.

2 Ie the register maintained under the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 5(2) (see PARA 156 post). As to the entitlement of relevant citizens of the Union to vote at European parliamentary elections see PARA 117 ante.

A person resident in Gibraltar is, subject to his satisfying the requirements for entitlement to vote in and register for European parliamentary elections, entitled to be registered in the register of European parliamentary electors in Gibraltar ('the Gibraltar register'), which is maintained by the European electoral registration officer for Gibraltar: see the European Parliament (Representation) Act 2003 ss 14, 16-18. As to Gibraltar see further PARA 13 note 2 ante.

3 As to electoral regions constituted for the purposes of European parliamentary elections see PARA 76 ante.

4 For this purpose, 'the relevant date' means the date on which the application and declaration required by the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 6(1), (2) (see PARA 169 post) were made: reg 4(5).

For the purposes of extending the rights of citizens and nationals of accession states who (subject to the requirements of registration) may vote at local government and European parliamentary elections, reg 4 is applied with modifications: see the Local and European Parliamentary Elections (Registration of Citizens of Accession States) Regulations 2003, SI 2003/1557, reg 6, Sch 1 para 2.

5 European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 4(1)(a). As to the application and modification of this provision see note 4 supra.

6 Ibid reg 4(1)(b). As to the application and modification of this provision see note 4 supra.

7 Ibid reg 4(1)(c). As to the application and modification of this provision see note 4 supra.

8 Ibid reg 4(1)(d). As to the application and modification of this provision see note 4 supra. 'Voting age' is currently 18 years for these purposes: see PARA 117 note 9 ante.

9 As to the registration officer see PARA 154 post.

10 European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 4(1). As to the application and modification of this provision see note 4 supra. The text refers to an application and declaration duly made in accordance with reg 6(1), (2) (see PARA 169 post). As to the expiry or removal of entries pursuant to such a declaration see PARA 187 post.

11 Ie reg 4(1) (see the text and notes 1-10 supra).

12 For these purposes, 'enactment' includes any provision of an Act, and any provision of subordinate legislation (within the meaning of the Interpretation Act 1978: see STATUTES vol 44(1) (Reissue) PARA 1232): European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 4(5). As to the application and modification of this provision see note 4 supra.

13 Ibid reg 4(3)(a). As to the application and modification of this provision see note 4 supra.

14 Ie the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184.

15 Ibid reg 4(3)(b). As to the application and modification of this provision see note 4 supra.

16 Ie despite ibid reg 4(1)(d) (see head (4) in the text).

17 Ie a register maintained under ibid reg 5(2) (see PARA 156 post).

18 Ibid reg 4(4). As to the application and modification of this provision see note 4 supra.

19 Ibid reg 4(4)(a). As to the application and modification of this provision see note 4 supra.

20 Ibid reg 4(4)(b). As to the application and modification of this provision see note 4 supra. As to the date of the poll at a European parliamentary election see PARA 229 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(ii) Entitlement to Registration/B. THE RESIDENCE REQUIREMENT/132. Determination of residence for registration as a parliamentary or local government elector.

B. THE RESIDENCE REQUIREMENT

132. Determination of residence for registration as a parliamentary or local government elector.

For the purposes of ascertaining the entitlement of a person¹ to be registered as a parliamentary or local government elector², where the question as to whether a person is resident at a particular address on the relevant date³ falls to be determined⁴, regard must be had, in particular, to the purpose and other circumstances, as well as to the fact, of his presence at, or absence from, the address on that date⁵. For example, where at a particular time a person is staying at any place otherwise than on a permanent basis, he may in all the circumstances be taken to be at that time resident there if he has no home elsewhere, or not resident there if he does have a home elsewhere⁶. At common law, it has been held that a person's residence is by implication that person's home⁷, where at least he has a sleeping apartment⁸ or shares one, although merely sleeping on the premises is not conclusive of residence⁹. A person may reside on premises as a guest¹⁰, or as a trespasser¹¹ or otherwise unlawfully¹². When a person has a country and a town house, it is a mere question of fact whether he has two residences or only one residence¹³. A short-stay visitor is not resident¹⁴. One test of residence that has been applied is whether the person's presence at the address had, on the relevant date, a considerable degree of permanence¹⁵. However, permanence, like most aspects of residence, is a question of fact and degree¹⁶.

A person may be resident at an address even though he is temporarily absent from it¹⁷. His residence will, however, be interrupted if he is unable to return at will without the breach of a legal obligation, subject to the statutory provisions mentioned below¹⁸. For the statutory purpose of determining whether a person is resident in a dwelling¹⁹ on the relevant date²⁰, his residence in the dwelling is not deemed for registration purposes to have been interrupted by reason of his absence in the performance of any duty arising from or incidental to any office, service or employment²¹ held or undertaken by him²² if: (1) he intends to resume actual residence within six months of giving up such residence, and will not be prevented from doing so by the performance of that duty²³; or (2) the dwelling serves as a permanent place of residence (whether for himself or for himself and other persons) and he would be in actual residence there but for his absence in the performance of that duty²⁴. Special provision is made for the registration of persons by way of a declaration of local connection for which an address must be provided by the declarant so that the registration officer concerned or the returning officer may correspond with him (unless he is willing to collect such correspondence periodically from the registration officer's office)²⁵. A person who is detained at any place in legal custody is not, by reason of his presence there, to be treated as resident for the purposes of registration²⁶.

¹ As to the meaning of 'person' see PARA 110 note 1 ante.

² For the purposes of the Representation of the People Act 1983 s 4 (as substituted) (see PARA 128 ante). For the meaning of 'elector' see PARA 110 note 2 ante. As to the registers of electors see PARA 160 et seq post.

³ As to the relevant date for this purpose see PARA 128 note 4 ante. The scheme introduced by the Representation of the People Act 2000, which makes a person's registration dependent upon residence at a

relevant date ('rolling registration'), operates in contrast to the schemes under the Representation of the People Act 1918 (and earlier enactments, all of which are now repealed) whereby a person had to be resident for a qualifying period before he was entitled to be registered or under the Representation of the People Act 1948 (now repealed) which required a person to be resident on a (fixed) qualifying date.

4 Representation of the People Act 1983 s 5(1) (s 5 substituted by the Representation of the People Act 2000 s 3).

For the purposes of relevant citizens of the Union who (subject to the requirement of registration) may vote at European parliamentary elections, the Representation of the People Act 1983 s 5 (as substituted) is applied with modifications: see the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule; and PARA 117 note 5 ante. For the meaning of 'relevant citizen of the Union' see PARA 117 note 4 ante.

5 Representation of the People Act 1983 s 5(2) (as substituted: see note 4 supra). As to the application and modification of this provision see note 4 supra.

6 Ibid s 5(2) (as substituted: see note 4 supra). As to the application and modification of this provision see note 4 supra.

7 *Barlow v Smith* (1892) 9 TLR 57 at 58, DC; *R v Hammond* (1852) 17 QB 772 at 780-783.

8 *Tewkesbury Case, Whithorn v Thomas* (1844) Bar & Arn 259; *R v Exeter Corpn, Wescomb's Case* (1868) LR 4 QB 110; *R v Exeter Corpn, Dipstale's Case* (1868) LR 4 QB 114.

9 *R v Exeter Corpn, Dipstale's Case* (1868) LR 4 QB 114; *Oldham Case, Baxter's Case* (1869) 20 LT 302 at 308.

10 *Bath Case* (1857) Wolfe & D 148; *Horsham Case, Andrews' Case* (1866) 14 LT 274.

11 *Beal v Ford* (1877) 3 CPD 73, DC.

12 *Hipperson v Newbury District Electoral Registration Officer* [1985] QB 1060 at 1075, [1985] 2 All ER 456 at 463, CA, per Sir John Donaldson MR (protesters unlawfully camping outside air force base were entitled to be registered; the submission was rejected that the franchise is affected by the fact that the qualifying residence is illegal or, a fortiori, unlawful).

13 *R v Exeter Corpn, Wescomb's Case* (1868) LR 4 QB 110 at 113 per Blackburn J; *Bond v St George, Hanover Square, Overseers* (1870) LR 6 CP 312.

14 *Fox v Stirk and Bristol Electoral Registration Officer* [1970] 2 QB 463 at 475, [1970] 3 All ER 7 at 12, CA, per Lord Denning MR (obiter). Similarly a guest who stays for the weekend is not resident.

15 *Fox v Stirk and Bristol Electoral Registration Officer* [1970] 2 QB 463 at 475, [1970] 3 All ER 7 at 12, CA, per Lord Denning MR (university students in halls of residence or colleges entitled to be registered as voters).

16 *Hipperson v Newbury District Electoral Registration Officer* [1985] QB 1060 at 1073, [1985] 2 All ER 456 at 462, CA, per Sir John Donaldson MR (protesters who had been camping outside an air force base for a substantial period entitled to be registered notwithstanding that they might, in theory, be required to leave shortly after the qualifying date).

17 *Taylor v St Mary Abbott Overseers* (1870) LR 6 CP 309; *Bond v St George, Hanover Square, Overseers* (1870) LR 6 CP 312; *Ipswich Case, Pisey's Case* (1838) Falc & Fitz 271.

18 *Kidderminster Case, Powell v Guest* (1864) 18 CBNS 72, a case of imprisonment without the option of a fine, in which it was suggested that imprisonment on civil process or for non-payment of a fine would not interrupt the residence. See also *Ford v Pye* (1873) LR 9 CP 269 (exchange of livings); *Durant v Carter* (1873) LR 9 CP 261 (occupation of rectory by locum tenens); *Ford v Drew* (1879) 5 CPD 59 (absence while articulated to a solicitor); *Ford v Hart* (1873) LR 9 CP 273 (absence while on duty in armed forces).

19 'Dwelling' includes any part of a building where that part is occupied separately as a dwelling: Representation of the People Act 1983 s 202(1) (definition substituted, for definition of 'dwelling house', by the Representation of the People Act 2000 s 8, Sch 1 paras 1, 22(a)). See *Thompson v Ward, Ellis v Burch* (1871) LR 6 CP 327; *Stribling v Halse* (1885) 16 QBD 246; *Barnett v Hickmott* [1895] 1 QB 691; *Clutterbuck v Taylor* [1896] 1 QB 395, CA; *M'Quade v Charlton* [1904] 2 IR 383; *Ladd v O'Toole* [1904] 2 IR 389, CA; *M'Daid v Balmer* [1907] 2 IR 345.

20 Ie for the purposes of the Representation of the People Act 1983 s 4 (as substituted) (see PARA 128 ante).

21 For the purposes of *ibid* s 5(3) (as substituted), any temporary period of unemployment is disregarded: s 5(4) (as substituted: see note 4 *supra*). As to the application and modification of this provision see note 4 *supra*.

22 *Ibid* s 5(3) (as substituted) applies in relation to a person's absence by reason of his attendance on a course provided by an educational institution as it applies in relation to a person's absence in the performance of any duty such as is mentioned in s 5(3) (as substituted): s 5(5) (as substituted: see note 4 *supra*). As to the application and modification of this provision see note 4 *supra*.

In relation to a person who: (1) is not such a member of the forces as to entitle him to become a service voter (see PARA 140 *et seq post*); but (2) is, in the performance of his duty as a member of Her Majesty's reserve or auxiliary forces, absent on the relevant date for the purposes of s 4 (as substituted) (see PARA 128 *ante*) from an address at which he has been residing, any question arising under s 5(3) (as substituted) as to whether his residence at that address has been interrupted on the relevant date by his absence in the performance of that duty is to be determined as if the performance of that duty did not prevent his resuming actual residence at any time after that date: s 59(2) (amended by the Representation of the People Act 2000 s 8, Sch 1 paras 1, 16). For these purposes, 'service voter' means a person who has made a service declaration and is registered or entitled to be registered in pursuance of it (see PARA 141 *post*): Representation of the People Act 1983 s 202(1).

23 *Ibid* s 5(3)(a) (as substituted: see note 4 *supra*). As to the application and modification of this provision see note 4 *supra*.

24 *Ibid* s 5(3)(b) (as substituted: see note 4 *supra*). As to the application and modification of this provision see note 4 *supra*. See also *Lister v Edinburgh Electoral Registration Officer* 1963 SLT (Sh Ct) 9 (residence abroad necessitated by applicant's particular employment and could not be avoided without giving up her employment).

25 See PARA 136 *et seq post*.

26 Representation of the People Act 1983 s 5(6) (as substituted: see note 4 *supra*). As to the application and modification of this provision see note 4 *supra*. This is subject to the provisions which help to determine the residence of patients in mental hospitals who are not detained offenders or on remand (see s 7 (as substituted and amended); and PARA 134 *post*) or of persons remanded in custody etc (see s 7A (as added and amended); and PARA 135 *post*).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(ii) Entitlement to Registration/B. THE RESIDENCE REQUIREMENT/133. Residence of merchant seamen may be deemed.

133. Residence of merchant seamen may be deemed.

For the purposes of entitlement to be registered as a parliamentary or local government elector¹, a merchant seaman², at any time when he is not resident³ in the United Kingdom⁴ and would have been resident there but for the nature of his occupation, is entitled to be treated as a resident⁵ at any place at which he would have been resident but for the nature of his occupation⁶, or at any hostel or club providing accommodation for merchant seamen at which he commonly stays in the course of his occupation⁷.

1 le for the purposes of the Representation of the People Act 1983 s 4 (as substituted) (see PARA 128 ante). For the meaning of 'elector' see PARA 110 note 2 ante.

2 For these purposes, 'merchant seaman' means any person not having a service qualification whose employment or the greater part of it is carried out on board seagoing ships, and includes any such person while temporarily without employment: *ibid* s 6. As to the meaning of 'person' see PARA 110 note 1 ante. As to the service qualification see PARA 140 *et seq post*.

For the purposes of relevant citizens of the Union who (subject to the requirement of registration) may vote at European parliamentary elections, s 6 (as amended) is applied with modifications: see the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule; and PARA 117 note 5 ante. For the meaning of 'relevant citizen of the Union' see PARA 117 note 4 ante.

3 As to the general requirements for residence see PARA 132 ante.

4 For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

5 Representation of the People Act 1983 s 6 (amended by the Representation of the People Act 2000 s 8, Sch 1 paras 1, 2). As to the application and modification of this provision see note 2 *supra*.

6 Representation of the People Act 1983 s 6(a). As to the application and modification of this provision see note 2 *supra*.

7 *Ibid* s 6(b). As to the application and modification of this provision see note 2 *supra*.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(ii) Entitlement to Registration/B. THE RESIDENCE REQUIREMENT/134. Residence of patients in mental hospitals who are not detained offenders or on remand may be deemed.

134. Residence of patients in mental hospitals who are not detained offenders or on remand may be deemed.

For the purposes of ascertaining entitlement to be registered as a parliamentary or local government elector¹, a person² who is a patient in a mental hospital³ (whether or not he is liable to be detained there)⁴ but who is not a detained offender⁵ or on remand⁶, must be regarded as resident at the mental hospital in question if the length of the period which he is likely to spend at the hospital is sufficient for him to be regarded as being resident there for the purposes of electoral registration⁷.

1 He for the purposes of the Representation of the People Act 1983 s 4 (as substituted) (see PARA 128 ante). For the meaning of 'elector' see PARA 110 note 2 ante.

2 As to the meaning of 'person' see PARA 110 note 1 ante.

3 For these purposes, 'mental hospital' means any establishment (or part of an establishment) maintained wholly or mainly for the reception and treatment of persons suffering from any form of mental disorder: Representation of the People Act 1983 s 7(6) (s 7 substituted by the Representation of the People Act 2000 s 4). 'Mental disorder', in relation to England or Wales, has the same meaning as in the Mental Health Act 1983 (see MENTAL HEALTH vol 30(2) (Reissue) PARA 402): Representation of the People Act 1983 s 7(6)(a) (as so substituted).

For the purposes of relevant citizens of the Union who (subject to the requirement of registration) may vote at European parliamentary elections, s 7 (as substituted and amended) is applied with modifications: see the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule; and PARA 117 note 5 ante. For the meaning of 'relevant citizen of the Union' see PARA 117 note 4 ante.

4 Representation of the People Act 1983 s 7(1)(a) (as substituted: see note 3 supra). As to the application and modification of this provision see note 3 supra. The text refers to a person who may be a voluntary patient in a mental hospital.

5 He is not a person to whom *ibid* s 3A (as added and amended) (see PARA 122 ante) applies.

6 *Ibid* s 7(1)(b) (as substituted: see note 3 supra). As to the application and modification of this provision see note 3 supra. The text refers to a person to whom s 7A (as added and amended) (see PARA 135 post) applies.

7 *Ibid* s 7(2) (as substituted: see note 3 supra). However, s 7(2) (as substituted) must not be taken as precluding the registration of a person to whom s 7 (as substituted and amended) applies either by virtue of his residence at some place other than the mental hospital in which he is a patient (s 7(5)(a) (as so substituted)) or in pursuance of a declaration of local connection (s 7(5)(b) (as so substituted)). As to the application and modification of this provision see note 3 supra. As to the removal from the register of entries made in pursuance of a deemed residence see PARA 187 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(ii) Entitlement to Registration/B. THE RESIDENCE REQUIREMENT/135. Residence of persons remanded in custody may be deemed.

135. Residence of persons remanded in custody may be deemed.

For the purposes of ascertaining entitlement to be registered as a parliamentary or local government elector¹, a person² who is detained at any place pursuant to a relevant order or direction³ and is so detained otherwise than after⁴ being convicted of any offence⁵, or a finding in criminal proceedings that he did the act or made the omission charged⁶, must be regarded as resident at the place at which he is detained if the length of the period which he is likely to spend at that place is sufficient for him to be regarded as being resident there for the purposes of electoral registration⁷.

1 le for the purposes of the Representation of the People Act 1983 s 4 (as substituted) (see PARA 128 ante). For the meaning of 'elector' see PARA 110 note 2 ante.

2 As to the meaning of 'person' see PARA 110 note 1 ante.

3 le a remand or committal in custody, a remand to a hospital under the Mental Health Act 1983 s 35 (remand for report on accused's mental condition: see MENTAL HEALTH vol 30(2) (Reissue) PARA 489) or s 36 (remand of accused person to hospital for treatment: see MENTAL HEALTH vol 30(2) (Reissue) PARA 489) or a direction for removal to a hospital under s 48 (as amended) (removal to hospital of certain prisoners: see MENTAL HEALTH vol 30(2) (Reissue) PARA 536): Representation of the People Act 1983 s 7A(6) (s 7A added by the Representation of the People Act 2000 s 5).

For the purposes of relevant citizens of the Union who (subject to the requirements of registration) may vote at European parliamentary elections, the Representation of the People Act 1983 s 7A (as added and amended) is applied with modifications: see the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule; and PARA 117 note 5 ante. For the meaning of 'relevant citizen of the Union' see PARA 117 note 4 ante.

4 Representation of the People Act 1983 s 7A(1) (as added: see note 3 supra). As to the application and modification of this provision see note 3 supra.

5 Ibid s 7A(1)(a) (as added: see note 3 supra). As to the application and modification of this provision see note 3 supra.

6 Ibid s 7A(1)(b) (as added: see note 3 supra). As to the application and modification of this provision see note 3 supra.

7 Ibid s 7A(2) (as added: see note 3 supra). However, s 7A(2) (as added) must not be taken as precluding the registration of a person to whom s 7A (as added and amended) applies either by virtue of his residence at some place other than the place at which he is detained (s 7A(5)(a) (as so added)) or in pursuance of a declaration of local connection (s 7A(5)(b) (as so added)). As to the application and modification of these provisions see note 3 supra. As to the disenfranchisement of serving prisoners and detained offenders see PARA 122 ante. As to declarations of local connection see PARA 136 post; and as to the removal from the register of entries made in pursuance of a deemed residence see PARA 187 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(ii) Entitlement to Registration/B. THE RESIDENCE REQUIREMENT/136. Residence deemed by way of declaration of local connection.

136. Residence deemed by way of declaration of local connection.

A declaration of local connection may be made by any person¹ who on the date when he makes such a declaration is:

- 164 (1) a person who is a patient in a mental hospital² (whether or not he is liable to be detained there) but who is not a detained offender or on remand³ and who would not be entitled to be registered by virtue of residence⁴ at any place other than the mental hospital⁵ at which he is a patient⁶; or
- 165 (2) a person who is detained at any place pursuant to a relevant committal, custodial or hospital order or direction⁷ and is so detained otherwise than after being convicted of any offence, or a finding in criminal proceedings that he did the act or made the omission charged⁸ and who would not be entitled to be registered by virtue of residence at any place other than the place at which he is detained⁹; or
- 166 (3) a person who does not fall within head (1) or head (2) above (and is not otherwise in legal custody) and who is not, for the purposes of ascertaining his entitlement to be registered as a parliamentary or local government elector¹⁰, resident at any address in the United Kingdom¹¹ (a 'homeless person')¹².

Such a declaration may be made only by a person to whom head (1), (2) or (3) above applies¹³, but may be made by such a person despite the fact that by reason of his age he is not entitled to vote¹⁴.

A declaration of local connection may be cancelled at any time by the declarant¹⁵.

1 As to the meaning of 'person' see PARA 110 note 1 ante.

2 For the meaning of 'mental hospital' see PARA 134 note 3 ante.

3 I.e. a person to whom the Representation of the People Act 1983 s 7 (as substituted and amended) (see PARA 134 ante) applies.

4 As to the general requirements for residence see PARA 132 ante.

5 I.e. within the meaning of the Representation of the People Act 1983 s 7 (as substituted and amended) (see PARA 134 note 3 ante).

6 Ibid s 7B(2)(a) (s 7B added by the Representation of the People Act 2000 s 6).

7 As to the relevant orders or directions referred to in the text see PARA 135 note 3 ante.

8 I.e. a person to whom the Representation of the People Act 1983 s 7A (as added and amended) (see PARA 135 ante) applies.

9 Ibid s 7B(2)(b) (as added: see note 6 supra). The text refers to the place at which the person in question is detained as mentioned in s 7A(1) (as added) (see PARA 135 ante).

10 I.e. for the purposes of ibid s 4 (as substituted) (see PARA 128 ante). For the meaning of 'elector' see PARA 110 note 2 ante.

- 11 For the meaning of 'United Kingdom' see PARA 13 note 1 ante.
- 12 Representation of the People Act 1983 s 7B(2)(c) (as added: see note 6 supra).
- 13 Ibid s 7B(1)(a) (as added: see note 6 supra). As to offences associated with declarations of local connection see PARA 738 post.
- 14 Ibid s 7B(1)(b) (as added: see note 6 supra). As to entitlement to vote see PARA 110 et seq ante.
- 15 Ibid s 7B(9) (as added: see note 6 supra). A cancellation as mentioned in the text terminates the entitlement to vote in pursuance of a declaration of local connection: see PARA 188 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(ii) Entitlement to Registration/B. THE RESIDENCE REQUIREMENT/137. Formalities associated with declaration of local connection.

137. Formalities associated with declaration of local connection.

A declaration of local connection¹ must state:

- 167 (1) the name of the declarant and either an address to which correspondence for him from either the registration officer² concerned or the returning officer can be delivered³, or that he is willing to collect such correspondence periodically from the registration officer's office⁴;
- 168 (2) the date of the declaration⁵;
- 169 (3) that on the date of the declaration the declarant falls into one of the categories of persons who may make such a declaration⁶, specifying the category in question⁷, and (in the case of a person⁸ whose category is not that of a homeless person) the name and address of the mental hospital⁹ at which he is a patient or (as the case may be) of the place at which he is detained¹⁰;
- 170 (4) the required address¹¹;
- 171 (5) that on the date of the declaration the declarant is a Commonwealth citizen¹² or a citizen of the Republic of Ireland¹³ or (if the declaration is made for the purposes only of local government elections¹⁴) a relevant citizen of the Union¹⁵;
- 172 (6) whether the declarant has on the date of the declaration attained the age of 18 years, and, if he has not, the date of his birth¹⁶.

1 As to who may make a declaration of local connection and the effect of such a declaration see PARA 136 ante.

2 For the meaning of 'registration officer' see PARA 154 post.

3 Representation of the People Act 1983 s 7B(3)(a)(i) (s 7B added by the Representation of the People Act 2000 s 6). As to returning officers see PARA 355 post.

For the purposes of extending the rights of relevant citizens of the Union who (subject to the requirement of registration) may vote at European parliamentary elections, and of citizens and nationals of accession states who (subject to the requirement of registration) may vote at local government and European parliamentary elections, the Representation of the People Act 1983 s 7B (as added) is applied with modifications: see the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule (cited in PARA 117 note 5 ante); and the Local and European Parliamentary Elections (Registration of Citizens of Accession States) Regulations 2003, SI 2003/1557, reg 2(1), (3)(b), (c). For the meaning of 'relevant citizen of the Union' for these purposes see PARA 117 note 4 ante.

4 Representation of the People Act 1983 s 7B(3)(a)(ii) (as added: see note 3 supra). As to the application and modification of this provision see note 3 supra. There is no attestation required for a declaration of local connection, as this might be difficult for eg a homeless person to comply with; cf service or overseas electors declarations.

5 Ibid s 7B(3)(b) (as added: see note 3 supra). As to the application and modification of this provision see note 3 supra.

6 Ie one of the categories of persons to whom ibid s 7B (as added) applies (see PARA 136 ante).

7 Ibid s 7B(3)(c)(i) (as added: see note 3 supra). As to the application and modification of this provision see note 3 supra.

8 le a person falling within *ibid* s 7B(2)(a) (as added) (see PARA 136 ante) or s 7B(2)(b) (as added) (see PARA 136 ante).

9 For the meaning of 'mental hospital' see PARA 134 note 3 ante.

10 Representation of the People Act 1983 s 7B(3)(c)(ii) (as added: see note 3 supra). As to the application and modification of this provision see note 3 supra. The text refers to the place at which the person in question is detained as mentioned in s 7A(1) (as added) (see PARA 135 ante).

11 *Ibid* s 7B(3)(d) (as added: see note 3 supra). For these purposes, the 'required address' is:

- 34 (1) in the case of a person falling within s 7B(2)(a), (b) (as added) (see PARA 136 ante): (a) the address in the United Kingdom where he would be residing if he were not such a patient, or detained, as mentioned in that provision (s 7B(4)(a)(i) (as so added)); or (b) if he cannot give such an address, an address in the United Kingdom at which he has resided (s 7B(4)(a)(ii) (as so added));
- 35 (2) in the case of a homeless person, the address of, or which is nearest to, a place in the United Kingdom where he commonly spends a substantial part of his time (whether during the day or at night) (s 7B(4)(b) (as so added)).

For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

Where a declaration of local connection made by a homeless person is delivered to the registration officer concerned during the period (s 7B(6) (as so added)):

- 36 (i) beginning with the date when a vacancy occurs: (A) in the seat for the parliamentary constituency within which the required address falls (s 7B(6)(a)(i) (as so added)); or (B) in the seat for any National Assembly for Wales constituency within which it falls (s 7B(6)(a)(ii) (as so added)); and
- 37 (ii) ending on the final nomination day, within the meaning of s 13B (as added and amended) (alteration of registers (pending elections): see PARA 175 post), for the parliamentary by-election, or (as the case may be) the election under the Government of Wales Act 1998 s 8 (election to fill a vacancy for the seat of an Assembly member returned for an Assembly constituency: see PARA 221 post), held in respect of that vacancy (Representation of the People Act 1983 s 7B(6)(b) (as so added)),

the declaration must state that, during the period of three months ending on the date of the declaration, the declarant has commonly been spending a substantial part of his time (whether during the day or at night) at, or near, the required address (s 7B(6) (as so added)). As to the application and modification of this provision see note 3 supra. The provisions of the Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). After that date head (ii) supra is to be taken to refer to the Government of Wales Act 2006 s 10: see PARA 221 post.

12 As to who are Commonwealth citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 11.

13 As to who are citizens of the Republic of Ireland see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 12.

14 For the meaning of 'local government election' see PARA 10 ante.

15 Representation of the People Act 1983 s 7B(3)(e) (as added: see note 3 supra). As to the application and modification of this provision see note 3 supra. For the meaning of 'relevant citizen of the Union' for these purposes see PARA 112 note 13 ante.

16 *Ibid* s 7B(3)(f) (as added: see note 3 supra). As to the application and modification of this provision see note 3 supra.

UPDATE

137 Formalities associated with declaration of local connection

NOTE 11--Representation of the People Act 1983 s 7B(6)(b) amended: SI 2007/1388.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(ii) Entitlement to Registration/B. THE RESIDENCE REQUIREMENT/138. Invalid declaration of local connection.

138. Invalid declaration of local connection.

If a person makes a declaration of local connection¹ stating more than one address², or makes more than one declaration of local connection bearing the same date and stating different addresses³, the declaration or declarations are void⁴.

A declaration of local connection is of no effect unless it is received by the registration officer⁵ concerned within the period of three months beginning with the date of the declaration⁶.

1 See PARAS 136-137 ante.

2 Representation of the People Act 1983 s 7B(8)(a) (s 7B added by the Representation of the People Act 2000 s 6). The text refers to the address stated under the Representation of the People Act 1983 s 7B(3)(d) (as added) (see PARA 137 ante).

3 Ibid s 7B(8)(b) (as added: see note 2 supra).

4 Ibid s 7B(8) (as added: see note 2 supra). As to offences associated with declarations of local connection see PARA 738 post.

5 For the meaning of 'registration officer' see PARA 154 post.

6 Representation of the People Act 1983 s 7B(10) (as added: see note 2 supra).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(ii) Entitlement to Registration/B. THE RESIDENCE REQUIREMENT/139. Effect of declaration of local connection.

139. Effect of declaration of local connection.

Where a person's declaration of local connection is in force¹ when he applies for registration², he must be regarded for the purposes of ascertaining his entitlement to be registered as a parliamentary or local government elector³ as resident on the date of the declaration at the address stated in it⁴.

No declaration of local connection is to be specially made by a person for the purposes of local government elections, and any such declaration made for the purposes of parliamentary elections⁵ is to have effect also for the purposes of local government elections⁶. However, a declaration of local connection may be made for the purposes only of local government elections by a person who is as a peer subject to a legal incapacity to vote at parliamentary elections⁷ or by a relevant citizen of the Union⁸ and, where so made, is to be marked to show that it is available for local government elections only, but must in all other respects be the same as other declarations of local connection⁹.

1 As to the formalities associated with a declaration of local connection see PARA 137 ante; and as to the removal from the register of entries made in pursuance of such a declaration see PARA 187 post. As to the registration officer's duty to send reminders to electors registered pursuant to a declaration see PARA 156 post.

2 As to applications for registration see PARA 167 et seq post.

3 le for the purposes of the Representation of the People Act 1983 s 4 (as substituted) (see PARA 128 ante).

4 Ibid s 7C(1)(a) (ss 7B, 7C added by the Representation of the People Act 2000 s 6). The text refers to the address stated in accordance with the Representation of the People Act 1983 s 7B(3)(d) (as added) (see PARA 137 ante). The provisions of s 7C (as added and amended) must not be taken as precluding the registration of a person falling within s 7B(2)(a), (b) (as added) (see PARA 136 ante) in pursuance of an application made by virtue of s 7(2) (as substituted) (see PARA 134 ante) or s 7A(2) (as added) (see PARA 135 ante): s 7C(4) (as so added).

For the purposes of extending the rights of relevant citizens of the Union who (subject to the requirement of registration) may vote at European parliamentary elections, and of citizens and nationals of accession states who (subject to the requirement of registration) may vote at local government and European parliamentary elections, s 7B (as added) and s 7C (as added and amended) are applied with modifications: see the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule (cited in PARA 117 note 5 ante); and the Local and European Parliamentary Elections (Registration of Citizens of Accession States) Regulations 2003, SI 2003/1557, reg 2(1), (3)(b), (c). For the meaning of 'relevant citizen of the Union' see PARA 117 note 4 ante.

5 As to parliamentary elections see PARA 196 et seq post.

6 Representation of the People Act 1983 s 7B(7) (as added: see note 4 supra). As to the application and modification of this provision see note 4 supra.

7 See PARA 110 note 8 ante.

8 Representation of the People Act 1983 s 7B(7)(a) (as added: see note 4 supra). As to the application and modification of this provision see note 4 supra.

9 Ibid s 7B(7)(b) (as added: see note 4 supra). As to the application and modification of this provision see note 4 supra. As to the marking of declarations see PARA 136 et seq ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(ii) Entitlement to Registration/C. SERVICE QUALIFICATION AND SERVICE DECLARATIONS/140. Service qualification.

C. SERVICE QUALIFICATION AND SERVICE DECLARATIONS

140. Service qualification.

For the purposes of the Representation of the People Act 1983, a person¹ has a service qualification who:

- 173 (1) is a member of the forces²;
- 174 (2) (not being such a member) is employed in the service of the Crown in a post outside the United Kingdom of any prescribed class or description³;
- 175 (3) is employed by the British Council⁴ in a post outside the United Kingdom⁵;
- 176 (4) is the spouse or civil partner of a member of the forces⁶;
- 177 (5) is the spouse or civil partner of a person mentioned in head (2) or head (3) above and is residing outside the United Kingdom to be with that person⁷.

Where a person leaves the United Kingdom to take up employment or residence as mentioned in heads (1) to (5) above or returns to the United Kingdom at the end of such employment or residence, the employment or residence is deemed to begin from the time of leaving or to continue until the time of returning, as the case may be⁸.

Statutory guidance must be made available to persons having a service qualification by virtue of heads (1) to (3) above⁹.

¹ As to the meaning of 'person' see PARA 110 note 1 ante.

² Representation of the People Act 1983 s 14(1)(a). For the purposes of Pt I (ss 1-66A) (as amended), 'member of the forces' means a person serving on full pay as a member of any of the naval, military or air forces of the Crown raised in the United Kingdom (s 59(1)(a)), but does not include either a person serving only as a member of a reserve or auxiliary force (except in so far as regulations provide that it includes persons so serving during a period of emergency) or a member of the regular army whose terms of service are such that, except for the purpose of training, he is required to serve only in Northern Ireland (s 59(1)(b) (amended by the Representation of the People Act 1993 s 1)). For the meaning of 'United Kingdom' see PARA 13 note 1 ante. At the date at which this volume states the law, no regulations had been made under the Representation of the People Act 1983 s 59 (as amended). As to the making of regulations under the Representation of the People Act 1983 generally see PARA 24 note 16 ante. As to the position of members of the reserve and auxiliary forces in relation to residence for registration purposes see PARA 132 note 22 ante.

³ Ibid s 14(1)(b). 'Prescribed' means prescribed by regulations: s 202(1). A person falls within the class or description referred to in s 14(1)(b) if he is required to devote his whole working time to the duties of that post and the remuneration of it is paid wholly out of money provided by Parliament: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 14. If a declarant does not fall within reg 14, his declaration should be returned: see PARA 144 post.

⁴ As to the British Council see NATIONAL CULTURAL HERITAGE vol 77 (2010) PARA 966.

⁵ Representation of the People Act 1983 s 14(1)(c).

⁶ Ibid s 14(1)(d) (amended by the Civil Partnership Act 2004 s 261(1), Sch 27 para 80(1), (2)).

⁷ See the Representation of the People Act 1983 s 14(1)(e) (amended by the Civil Partnership Act 2004 Sch 27 para 80(1), (3)).

8 Representation of the People Act 1983 s 14(1).

9 See PARA 146 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(ii) Entitlement to Registration/C. SERVICE QUALIFICATION AND SERVICE DECLARATIONS/141. Service declaration.

141. Service declaration.

A service declaration may be made only by a person who has a service qualification¹, or by a person about to leave the United Kingdom² in such circumstances as to acquire a service qualification³. A service declaration may be made by such a person notwithstanding the fact that by reason of his age he is not yet entitled to vote⁴.

A service declaration may at any time be cancelled by the declarant⁵.

1 Representation of the People Act 1983 s 15(1)(a). As to the persons who have a service qualification see PARA 140 ante. If a service declaration fails to comply with the requirements of s 15 (as amended), it should be returned to the declarant: see PARA 144 post.

For the purposes of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended), and the European Parliamentary Elections Regulations 2004, SI 2004/293, 'service voter' means a person who has made a service declaration under the Representation of the People Act 1983 s 15 (as amended) and is registered or entitled to be registered in pursuance of it: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 2(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 2(1).

2 For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

3 Representation of the People Act 1983 s 15(1)(b). Conditions may be prescribed in respect of a person about to leave the United Kingdom in such circumstances as to acquire a service qualification: s 15(1)(b). 'Prescribed' means prescribed by regulations: s 202(1). At the date at which this volume states the law, no regulations had been made under s 15(1)(b). As to the making of regulations under the Representation of the People Act 1983 generally see PARA 24 note 16 ante. See note 1 supra.

4 Ibid s 15(1). See note 1 supra. As to entitlement to vote see PARA 110 et seq ante.

5 Ibid s 15(7) (amended by the Representation of the People Act 2000 ss 8, 15(2), Sch 1 paras 1, 8(1), (3), Sch 7 Pt I). See note 1 supra. A cancellation as mentioned in the text terminates the entitlement to vote in pursuance of a service declaration: see PARA 188 post.

UPDATE

141 Service declaration

NOTE 1--SI 2004/293 reg 2(1) substituted: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(ii) Entitlement to Registration/C. SERVICE QUALIFICATION AND SERVICE DECLARATIONS/142. Formalities associated with service declarations.

142. Formalities associated with service declarations.

A service declaration¹ must state:

- 178 (1) the date of the declaration²;
- 179 (2) that on that date the declarant is or but for the circumstances entitling him to make the declaration would have been residing in the United Kingdom³;
- 180 (3) the address where the declarant is or (as the case may be) would have been residing in the United Kingdom or, if he cannot give any such address, an address at which he has resided in the United Kingdom⁴;
- 181 (4) that on the date of the declaration the declarant is a Commonwealth citizen⁵ or a citizen of the Republic of Ireland⁶ or a relevant citizen of the Union⁷;
- 182 (5) whether the declarant had on the date of the declaration attained the age of 18 years, and, if he had not, the date of his birth⁸;
- 183 (6) such particulars, if any, of the declarant's identity and service qualification as may be prescribed⁹.

Except where the declarant is a member of the forces or the spouse or civil partner of such a member, a service declaration must be attested in the manner prescribed¹⁰.

1 As to service declarations see PARA 141 ante.

2 Representation of the People Act 1983 s 16(a).

3 Ibid s 16(b) (amended by the Representation of the People Act 2000 ss 8, 15(2), Sch 1 paras 1, 9(a), Sch 7 Pt I). For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

4 Representation of the People Act 1983 s 16(d) (amended by the Representation of the People Act 2000 Sch 1 paras 1, 9(c), Sch 7 Pt I). Examples might assist to explain the variety of possible circumstances envisaged by this provision. A declarant who is, for example, a member of the forces might be serving in the United Kingdom at the time of making the declaration and therefore residing at an address here; or although at that time he is serving abroad, he can give an address at which he will reside on his return to the United Kingdom (notwithstanding that he has possibly not resided there in the past); or he might be able to give an address at which he would have been residing but for his service elsewhere; finally if he has permanently left his previous home in the United Kingdom because of his service with the forces, he must give an address at which he has resided here.

5 As to who are Commonwealth citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 11.

6 As to who are citizens of the Republic of Ireland see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 12.

7 Representation of the People Act 1983 s 16(e) (amended by the Local Government Elections (Changes to the Franchise and Qualification of Members) Regulations 1995, SI 1995/1948, reg 5(2), Sch 2 para 3). For the meaning of 'relevant citizen of the Union' see PARA 112 note 13 ante.

For the purposes of extending the rights of citizens and nationals of accession states who (subject to the requirement of registration) may vote at local government and European parliamentary elections, the Representation of the People Act 1983 s 16(e) (as amended) is applied with modifications: see the Local and

European Parliamentary Elections (Registration of Citizens of Accession States) Regulations 2003, SI 2003/1557, reg 2(1), (3)(e).

8 Representation of the People Act 1983 s 16(f).

9 Ibid s 16(g). 'Prescribed' means prescribed by regulations: s 202(1). Accordingly, in addition to the matters specified in s 16(a)-(f) (as amended) (see heads (1)-(5) in the text), a service declaration must state:

- 38 (1) the declarant's full name and present address, the grounds on which the declarant claims a service declaration, and such of the particulars specified in head (2), (3) or (4) infra as are relevant to the service qualification claimed by the declarant (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 15(1));
- 39 (2) where the declarant claims a service qualification on the grounds that he is a member of the forces (within the meaning of the Representation of the People Act 1983 s 59(1) (as amended): see PARA 140 note 2 ante) or the spouse or civil partner of such a member, the service declaration must state the service (whether naval, military or air forces) in which that member serves, the rank or rating of that member, and the service number of that member, and where that member serves in the military forces, the service declaration must in addition state the regiment or corps in which he serves (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 15(2) (reg 15(2)-(4) amended by SI 2005/2114));
- 40 (3) where the declarant claims a service qualification on the grounds that he is a Crown servant to whom the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 14 applies (see PARA 140 note 3 ante) or the spouse or civil partner of such a servant, the service declaration must state the name of the government department in which that servant works and a description of the post of that servant (reg 15(3) (as so amended));
- 41 (4) where the declarant claims a service qualification on the grounds that he is a British Council employee or the spouse or civil partner of such an employee, the service declaration must state a description of the post of that employee (reg 15(4) (as so amended)).

For these purposes, 'British Council employee' means a person employed by the British Council in a post outside the United Kingdom; and 'Crown servant' means a person who is employed in a post falling within the class or description set out in reg 14 (see PARA 140 note 3 ante): reg 3(1). If a declaration fails to contain the required particulars, it should be returned to the declarant: see PARA 144 post.

10 Representation of the People Act 1983 s 16 (amended by the Civil Partnership Act 2004 s 261(1), Sch 27 para 81). At the date at which this volume states the law, no regulations had been made regarding the manner in which a service declaration must be attested.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(ii) Entitlement to Registration/C. SERVICE QUALIFICATION AND SERVICE DECLARATIONS/143. Transmission of service declaration.

143. Transmission of service declaration.

A service declaration¹ made by a member of the forces or his spouse or civil partner must be transmitted to the appropriate registration officer².

A service declaration by a person who is or will be a Crown servant³ or by his spouse or civil partner must be transmitted by the declarant to the government department under which that person or his spouse is or will be employed or to an officer designated by that department, and transmitted by that department or officer to the appropriate registration officer⁴.

A service declaration by a person who is or will be a British Council employee⁵ or by his spouse or civil partner must be transmitted by the declarant to the British Council and transmitted by the British Council to the appropriate registration officer⁶.

Where the registration officer is satisfied that the declaration is duly made out, he is required so to notify the declarant⁷.

1 As to the making of service declarations see PARAS 141-142 ante.

2 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 16(1) (reg 16(1)-(3) amended by the Civil Partnership Act 2004 (Amendments to Subordinate Legislation) Order 2005, SI 2005/2114, art 2(8), Sch 8 para 1(1), (3)). For these purposes, 'appropriate registration officer' means the registration officer for the area within which is situated the address specified in the declaration in accordance with the Representation of the People Act 1983 s 16(d) (as amended) (see PARA 142 ante): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 16(4). For the meaning of 'registration officer' see PARA 154 note 1 post. Where a declaration is transmitted too late for the declarant's name to be included in the electors' lists, it is treated as a claim to be registered: see PARA 167 post.

3 See PARA 140 note 3 ante. For the meaning of 'Crown servant' see PARA 142 note 9 ante.

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 16(2) (as amended: see note 2 supra). If the declaration is sent direct to the registration officer by the declarant, it should be returned to the declarant: see PARA 144 post.

5 For the meaning of 'British Council employee' see PARA 142 note 9 ante.

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 16(3) (as amended: see note 2 supra). If the declaration is sent direct to the registration officer by the declarant, it should be returned to the declarant: see PARA 144 post.

7 Ibid reg 17(1).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(ii) Entitlement to Registration/C. SERVICE QUALIFICATION AND SERVICE DECLARATIONS/144. Invalid declarations.

144. Invalid declarations.

A service declaration¹ is of no effect unless it is received by the registration officer² concerned within the period of three months beginning with the date of the declaration³.

If a person makes a service declaration declaring to more than one address⁴ or makes more than one service declaration bearing the same date and declaring to different addresses⁵, the declaration or declarations are void⁶.

Where the registration officer rejects an application for registration⁷ in pursuance of a service declaration because it either does not contain the required particulars⁸ or because it does not comply with the requirements as to the service qualification⁹, the making of service declarations¹⁰, the qualification for Crown servants¹¹, or the transmission of such declarations¹², he must return the declaration to the declarant setting out his reasons for so doing¹³.

1 As to the making and transmission of service declarations see PARAS 141-143 ante.

2 For the meaning of 'registration officer' see PARA 154 post.

3 Representation of the People Act 1983 s 15(8) (added by the Representation of the People Act 2000 s 8, Sch 1 paras 1, 8(1), (4)). As to stating the date of the declaration see PARA 142 ante.

4 Representation of the People Act 1983 s 15(6)(a). The text refers to the address specified in the declaration in accordance with s 16(d) (as amended) (see PARA 142 ante).

5 Ibid s 15(6)(b). See note 4 supra.

6 Ibid s 15(6). As to offences associated with declarations of local connection see PARA 738 post.

7 As to applications for registration see PARA 167 et seq post.

8 Ie the particulars required in the Representation of the People Act 1983 s 16(a)-(f) (as amended) (see PARA 142 ante) and the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 15 (as amended) (see PARA 142 note 9 ante).

9 Ie the requirements of the Representation of the People Act 1983 s 14 (as amended) (see PARA 140 ante).

10 Ie the requirements of ibid s 15 (as amended) (see PARA 141 ante).

11 Ie the requirements of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 14 (see PARA 140 note 3 ante). For the meaning of 'Crown servant' see PARA 142 note 9 ante.

12 Ie the requirements of ibid reg 16 (see PARA 143 ante).

13 Ibid reg 17(2).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(ii) Entitlement to Registration/C. SERVICE QUALIFICATION AND SERVICE DECLARATIONS/145. Effect of service declaration.

145. Effect of service declaration.

Where a person's service declaration¹ is in force when he applies for registration², he must be regarded for the purposes of ascertaining his entitlement to be registered as a parliamentary or local government elector³ as resident on the date of the declaration at the address specified in it⁴ and, until the contrary is proved, as being a Commonwealth citizen⁵ or a citizen of the Republic of Ireland⁶ or a relevant citizen of the Union⁷ of the age appearing from the declaration⁸ and as not being subject to any legal incapacity⁹ except as so appearing¹⁰. Where a service declaration appearing to be properly made out¹¹ and (where required) attested is transmitted to the registration officer in the proper manner¹², then until the contrary is proved the declarant must be treated for the purposes of registration as having had from the date of the declaration, or such later date, if any, as appears from it¹³, and as continuing to have, a service qualification¹⁴.

A service declaration made for the purpose of parliamentary elections has effect also for the purpose of local government elections¹⁵. No service declaration may be specially made for the purpose of local government elections¹⁶, except by a peer who is subject to a legal incapacity to vote at parliamentary elections or by a relevant citizen of the Union¹⁷; in such a case, the declaration must be marked to show that it is available for local government elections only but must in other respects be the same as other service declarations¹⁸.

1 As to the making and transmission of service declarations see PARAS 141-143 ante.

2 As to applications for registration see PARA 167 et seq post.

3 Ie for the purposes of the Representation of the People Act 1983 s 4 (as substituted) (see PARA 128 ante).

4 Ibid s 17(1)(a) (s 17(1) substituted by the Representation of the People Act 2000 s 8, Sch 1 paras 1, 10). The text refers to the address specified in the declaration in accordance with the Representation of the People Act 1983 s 16(d) (as amended) (see PARA 142 ante).

For the purposes of extending the rights of citizens and nationals of accession states who (subject to the requirement of registration) may vote at local government and European parliamentary elections, s 15(5) (as amended) (see the text and notes 15-18 infra) and s 17(1) (as substituted) are applied with modifications: see the Local and European Parliamentary Elections (Registration of Citizens of Accession States) Regulations 2003, SI 2003/1557, reg 2(1), (3)(d), (f).

5 As to who are Commonwealth citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 11.

6 As to who are citizens of the Republic of Ireland see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 12.

7 For the meaning of 'relevant citizen of the Union' see PARA 112 note 13 ante.

8 If the declarant has not attained the age of 18 years, he must state his date of birth: see PARA 142 ante.

9 For the meaning of 'legal incapacity' for these purposes see PARA 110 note 8 ante.

10 Representation of the People Act 1983 s 17(1)(c) (as substituted: see note 4 supra). As to the application and modification of this provision see note 4 supra.

- 11 As to invalid declarations see PARA 144 ante.
- 12 As to the prescribed manner of transmission of a service declaration see PARA 143 ante.
- 13 This applies where the declarant has not attained the age of 18 years when making the declaration: see PARA 142 ante.
- 14 Representation of the People Act 1983 s 17(2).
- 15 Ibid s 15(5). As to the application and modification of this provision see note 4 supra.
- 16 Ibid s 15(5). As to the application and modification of this provision see note 4 supra.
- 17 Ibid s 15(5)(a) (amended by the Local Government Elections (Changes to the Franchise and Qualification of Members) Regulations 1995, SI 1995/1948, reg 5(2), Sch 2 para 4). As to the application and modification of this provision see note 4 supra.
- 18 Representation of the People Act 1983 s 15(5)(b). As to the application and modification of this provision see note 4 supra.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(ii) Entitlement to Registration/C. SERVICE QUALIFICATION AND SERVICE DECLARATIONS/146. Guidance for service voters.

146. Guidance for service voters.

Until a day to be appointed¹, arrangements must be made by the appropriate government department² for securing that (so far as circumstances permit) every person having a service qualification either as a member of the forces³ or on account of being employed in the service of the Crown⁴ has an effective opportunity of exercising from time to time as occasion may require the rights conferred on him in relation to the making and cancellation of service declarations⁵ and of appointments of a proxy⁶ and in relation to voting by post⁷. The appropriate government department must also arrange for him to receive instructions as to the effect of the Representation of the People Act 1983 and any regulations made under it, and such other assistance as may reasonably suffice in connection with the exercise by that person and any spouse or civil partner of that person of any rights conferred on them by the Act in relation to the making and cancellation of service declarations and of appointments of a proxy and in relation to voting by post⁸.

As from a day to be appointed⁹, arrangements must be made by the appropriate government department¹⁰ for securing that every person having a service qualification either as a member of the forces¹¹ or on account of being employed in the service of the Crown¹² has (so far as circumstances permit) an effective opportunity of exercising from time to time as occasion may require the rights conferred on him by the Representation of the People Act 1983 in relation to: (1) registration in a register of electors (and in particular in relation to the making and cancellation of service declarations)¹³; (2) the making and cancellation of appointments of a proxy¹⁴; and (3) voting in person, by post or by proxy¹⁵. Arrangements must be made by the appropriate government department for securing that every such person receives such instructions as to the effect of the Representation of the People Act 1983 and any regulations made under it, and such other assistance, as may be reasonably sufficient in connection with the exercise by that person and any spouse or civil partner of that person of any rights conferred on them as mentioned in heads (1) to (3) above¹⁶. The Ministry of Defence must maintain, in relation to each member of the forces who provides information relating to his registration as an elector, a record of such information¹⁷ and must make arrangements to enable each member of the forces to update annually the information so recorded¹⁸.

In relation to British Council employees¹⁹ and their spouses and partners, the British Council has obligations with regard to the making of arrangements, corresponding to those imposed on the appropriate government department²⁰.

1 As from a day to be appointed under the Electoral Administration Act 2006 s 77(2), the Representation of the People Act 1983 s 59(3) (as amended) is substituted, and s 59(3A)-(3D) is added, by the Electoral Administration Act 2006 s 13(2). At the date at which this volume states the law, no such day had been appointed.

2 'Appropriate government department', in relation to members of the forces, means the Ministry of Defence and, in relation to any other person, means the government department under which he is employed in the employment giving the service qualification: Representation of the People Act 1983 s 59(3). For the meaning of 'member of the forces' see PARA 140 note 2 ante. See note 1 supra.

3 Ie by virtue of *ibid* s 14(1)(a) (see PARA 140 ante).

4 Ie by virtue of *ibid* s 14(1)(b) (see PARA 140 ante).

5 As to the making and cancellation of service declarations see PARA 141 ante.

6 As to the appointment of proxies see PARA 379 et seq post.

7 Representation of the People Act 1983 s 59(3)(a). See note 1 supra. As to applications to vote by post see PARA 372 et seq post.

8 Ibid s 59(3)(b) (amended by the Civil Partnership Act 2004 s 261(1), Sch 27 para 82). See note 1 supra.

9 See note 1 supra.

10 As from a day to be appointed under the Electoral Administration Act 2006 s 77(2), the Representation of the People Act 1983 s 59(3) is substituted so as to provide that, for the purposes of s 59(3) (prospectively substituted) and s 59(3A) (prospectively added), 'appropriate government department' means, in relation to members of the forces, the Ministry of Defence and, in relation to any other person, means the government department under which he is employed in the employment giving the service qualification: s 59(3B) (prospectively added: see note 1 supra).

11 Ie by virtue of ibid s 14(1)(a) (see PARA 140 ante).

12 Ie by virtue of ibid s 14(1)(b) (see PARA 140 ante).

13 Ibid s 59(3)(a) (prospectively substituted: see note 1 supra). As to the making and cancellation of service declarations see PARA 141 ante.

14 Ibid s 59(3)(b) (prospectively substituted: see note 1 supra).

15 Ibid s 59(3)(c) (prospectively substituted: see note 1 supra). As to the manner of voting see PARA 368 et seq post.

16 Ibid s 59(3A) (prospectively added: see note 1 supra).

17 Ibid s 59(3C) (prospectively added: see note 1 supra).

18 Ibid s 59(3D) (prospectively added: see note 1 supra).

19 Ie persons having a service qualification by virtue of ibid s 14(1)(c) (see PARA 140 ante). For the meaning of 'British Council employee' see PARA 142 note 9 ante.

20 Ibid s 59(4). As to the British Council see NATIONAL CULTURAL HERITAGE vol 77 (2010) PARA 966. Section 59(4) refers to an obligation corresponding to that imposed by s 59(3) (as amended) (see the text and notes 1-8 supra). As from a day to be appointed under the Electoral Administration Act 2006 s 77(2), the Representation of the People Act 1983 s 59(4) is amended so as to refer to an obligation corresponding to that imposed by s 59(3) (as amended; prospectively substituted) and s 59(3A) (prospectively added) (see the text and notes 11-16 supra): s 59(4) (prospectively amended by the Electoral Administration Act 2006 s 13(3)). At the date at which this volume states the law, no such day had been appointed.

UPDATE

146 Guidance for service voters

NOTES 1, 20--Day now appointed: SI 2007/3376.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(ii) Entitlement to Registration/D. OVERSEAS ELECTORS DECLARATIONS/147. Formalities associated with overseas elector's declarations.

D. OVERSEAS ELECTORS DECLARATIONS

147. Formalities associated with overseas elector's declarations.

An overseas elector's declaration¹ must:

- 184 (1) state:
 - 3
 5. (a) the date of the declaration²;
 6. (b) that the declarant is a British citizen³;
 7. (c) that the declarant will not be resident in the United Kingdom⁴ on the relevant date⁵; and
 8. (d) when he ceased to be so resident or, in the case of a person relying on registration in pursuance of a service declaration⁶, when he ceased to have a service qualification⁷ or, if later, ceased to be so resident⁸;
- 4
- 185 (2) show which of the two sets of conditions⁹ the declarant claims to satisfy¹⁰;
- 186 (3) in the case of the first set of conditions, specify the address in respect of which he was registered¹¹; and
- 187 (4) in the case of the second set of conditions, specify:
 - 5
 9. (a) the date of the declarant's birth¹²;
 10. (b) the address in the United Kingdom at which he was resident¹³; and
 11. (c) the name of the parent or guardian on whose registration in respect of that address he relies, and whether the person named was a parent or guardian¹⁴.
- 6

The declaration must contain such other information and satisfy such other requirements as may be prescribed¹⁵. Accordingly, in addition to the information required by heads (1) to (4) above, an overseas elector's declaration must state the declarant's full name and present address¹⁶ and certain other information¹⁷ where appropriate¹⁸.

An overseas elector's declaration may be cancelled at any time by the declarant¹⁹.

1 For the meaning of 'overseas elector's declaration' see PARA 129 ante.

2 Representation of the People Act 1985 s 2(3)(a) (s 2 substituted by the Representation of the People Act 2000 s 8, Sch 2 paras 1, 3).

For the purposes of the registration of peers who (subject to the requirement of registration) may vote at European parliamentary elections, the Representation of the People Act 1985 s 2 (as substituted) is applied with modifications: see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(4), Sch 4; and PARA 116 note 7 ante.

3 Representation of the People Act 1985 s 2(3)(b) (as substituted: see note 2 supra). As to the application and modification of this provision see note 2 supra. As to who are British citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 8 et seq.

4 For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

5 Representation of the People Act 1985 s 2(3)(c) (as substituted: see note 2 supra). As to the application and modification of this provision see note 2 supra. As to the relevant date for these purposes see PARAS 111 note 6, 129 note 10 ante.

6 As to service declarations see PARA 140 et seq ante.

7 As to when a person ceases to have a service qualification see PARAS 141, 144 ante.

8 Representation of the People Act 1985 s 2(3)(d) (as substituted: see note 2 supra). As to the application and modification of this provision see note 2 supra. This date is relevant for the purposes of the registration officer determining whether the conditions as to qualification as an overseas elector are satisfied (as to which see PARA 111 ante).

9 Ie the conditions in *ibid* s 1(3), (4) (as substituted and amended) (see PARA 111 ante).

10 *Ibid* s 2(4)(a) (as substituted: see note 2 supra). As to the application and modification of this provision see note 2 supra.

11 *Ibid* s 2(4)(b) (as substituted: see note 2 supra). It is with reference to this address that the declarant claims to be registered (see PARA 129 ante). An overseas elector's declaration may not, in the case of either set of conditions, specify more than one such address: s 2(4) (as so substituted). As to the application and modification of this provision see note 2 supra.

12 *Ibid* s 2(4)(c)(i) (as substituted: see note 2 supra). As to the application and modification of this provision see note 2 supra.

13 *Ibid* s 2(4)(c)(ii) (as substituted: see note 2 supra). As to the application and modification of this provision see note 2 supra. See also note 11 supra.

14 *Ibid* s 2(4)(c)(iii) (as substituted: see note 2 supra). As to the application and modification of this provision see note 2 supra. The text refers to the name of the parent or guardian upon whose registration a declarant must rely where he cannot rely upon his own previous inclusion in a register of parliamentary electors on account of his age and where the conditions specified in s 1(4) (as substituted and amended) (the 'second set of conditions': see PARA 111 ante) apply.

15 *Ibid* s 2(3) (as substituted: see note 2 supra). Sections 1-12 (as amended) have effect as if contained in the Representation of the People Act 1983 Pt I (ss 1-66A) (as amended): Representation of the People Act 1985 s 27(2). 'Prescribed' means prescribed by regulations: Representation of the People Act 1983 s 202(1); applied by virtue of the Representation of the People Act 1985 s 27(2). As to the making of regulations under the Representation of the People Act 1985 generally see PARA 24 note 16 ante; and as to the regulations made for the purposes of s 2(3) (as substituted) see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended); the text and notes 16-18 infra; and PARA 148 post. The requirements prescribed as mentioned in the text may include requirements for declarations to be attested and for the charging of fees in respect of their attestation: Representation of the People Act 1985 s 2(3) (as so substituted). As to the application and modification of this provision see note 2 supra. As to the attestation of overseas elector's declarations see further PARA 149 post.

16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 18(1).

17 Ie any extra information required by *ibid* reg 18(2)-(7) (see PARA 148 post).

18 *Ibid* reg 18(1).

By virtue of reg 13(6), (7), reg 18 applies to registration in pursuance of a European parliamentary overseas elector's declaration as it applies to registration in pursuance of an overseas elector's declaration: see PARA 116 note 7 ante.

19 Representation of the People Act 1985 s 2(5) (as substituted: see note 2 supra). As to the application and modification of this provision see note 2 supra. A cancellation as mentioned in the text terminates the entitlement to vote in pursuance of an overseas elector's declaration: see PARA 188 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(ii) Entitlement to Registration/D. OVERSEAS ELECTORS DECLARATIONS/148. Additional information required to be stated in overseas elector's declaration in appropriate circumstances.

148. Additional information required to be stated in overseas elector's declaration in appropriate circumstances.

Where appropriate, the following additional information¹ must be stated in an overseas elector's declaration².

If the declarant was last registered in pursuance of a service or other declaration³, rather than actual residence at an address specified in an overseas elector's declaration⁴, and he no longer had connection with that address at the time at which he was so registered⁵, the declaration must include a statement that the declarant was so registered⁶; and if the declarant claims that his name has changed since he was last registered in respect of the address specified in an overseas elector's declaration⁷, that declaration must set out the name in respect of which the declarant was last previously registered⁸, and give the reason for the change of name⁹.

If a declarant has on a previous occasion been registered in a register of parliamentary electors¹⁰ in pursuance of an overseas elector's declaration¹¹, and has not, since being so registered, been registered in such a register¹² by virtue of being resident or treated for the purposes of registration as resident at an address in the United Kingdom¹³, his overseas elector's declaration must state those facts and indicate when he was last registered in pursuance of an overseas elector's declaration¹⁴; and if a declarant has not made an overseas elector's declaration in pursuance of which he was registered in a register of parliamentary electors since being included in such a register¹⁵ by virtue of being resident or treated for the purposes of registration as resident at an address in the United Kingdom, or has never made such a declaration, his overseas elector's declaration must state¹⁶: (1) in the case of a declarant who is the bearer of a British passport which describes his national status as 'British citizen', the number of that passport together with its date and place of issue¹⁷; or (2) in the case of a declarant who is not the bearer of such a passport, but who was born in the United Kingdom before 1 January 1983, those facts¹⁸; or (3) in the case of a declarant to whom neither head (1) nor head (2) above applies, when and how he acquired the status of British citizen, together with the date, place and country of his birth¹⁹.

In the case of a declarant who is required to transmit a copy of his birth certificate together with his declaration²⁰, if his name on his birth certificate is not the same as his name as given in his overseas elector's declaration, that declaration must state the reason for the change of name²¹; and if such a declarant relies on the registration of either: (a) a parent whose name in the register of parliamentary or local government electors in force on the relevant date²² is not the same as the name of that parent as given in either the declarant's birth certificate or overseas elector's declaration²³, or (b) a guardian whose name in the relevant register²⁴ is not the same as the name of that guardian as given in the declarant's overseas elector's declaration²⁵, that declaration must state the name of the parent or, as the case may be, guardian as given in the relevant register²⁶ and, where known, the reason for the change or, as the case may be, changes of name or, where such reason (or reasons) is not known, a statement to that effect²⁷.

¹ le required by the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 18(2)-(7) (see the text and notes 3-27 *infra*).

2 Ibid reg 18(1). For the meaning of 'overseas elector's declaration' see PARA 129 ante. As to the information which must be included in every overseas elector's declaration see PARA 147 ante.

By virtue of reg 13(6), (7), reg 18 applies to registration in pursuance of a European parliamentary overseas elector's declaration as it applies to registration in pursuance of an overseas elector's declaration: see PARA 116 note 7 ante.

3 As to registration in pursuance of a declaration of local connection see PARA 136 et seq ante; and as to registration in pursuance of a service declaration see PARA 140 et seq ante.

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 18(2)(a). As to the application and modification of this provision see note 2 supra. The text refers to an address specified in pursuance of the Representation of the People Act 1985 s 2(4)(b) (as substituted) (see PARA 147 ante), where a declarant has previously been included in a register of parliamentary electors and where the other conditions specified in s 1(3) (as substituted and amended) (the 'first set of conditions': see PARA 111 ante) apply. In the case of a person registered in pursuance of a service or other declaration, the address might not have been included in the register of electors and the elector's name included under the heading 'Other electors' at the end of the relevant section of the register: see PARA 160 post.

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 18(2)(b). As to the application and modification of this provision see note 2 supra.

6 Ibid reg 18(2). As to the application and modification of this provision see note 2 supra.

7 See note 4 supra.

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 18(3)(a). As to the application and modification of this provision see note 2 supra.

9 Ibid reg 18(3)(b). As to the application and modification of this provision see note 2 supra.

10 As to the entitlement to be registered as a parliamentary elector see PARA 128 ante.

11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 18(4)(a). As to the application and modification of this provision see note 2 supra.

12 For the purposes of its application in relation to a European parliamentary overseas elector's declaration (see note 2 supra), *ibid* reg 18(4) has effect as if, in addition to the modifications made by reg 13(6), the words 'a register of local government electors' were substituted for the words 'such a register': reg 18(4). As to the application and modification of this provision see note 2 supra. A peer's entitlement is based on his registration as a local government elector, previously having been denied registration as a parliamentary elector (see PARA 116 ante).

13 Ibid reg 18(4)(b). As to the application and modification of this provision see note 2 supra.

14 Ibid reg 18(4). As to the application and modification of this provision see note 2 supra.

15 For the purposes of its application in relation to a European parliamentary overseas elector's declaration (see note 2 supra), *ibid* reg 18(5) has effect as if, in addition to the modifications made by reg 13(6), the words 'a register of local government electors' were substituted for the words 'such a register': reg 18(5). As to the application and modification of this provision see note 2 supra.

16 Ibid reg 18(5). As to the application and modification of this provision see note 2 supra.

17 Ibid reg 18(5)(a). As to the application and modification of this provision see note 2 supra.

18 Ibid reg 18(5)(b). As to the application and modification of this provision see note 2 supra.

19 Ibid reg 18(5)(c). As to the application and modification of this provision see note 2 supra.

20 *Ie* in the case of a declarant to whom *ibid* reg 19 applies (see PARA 150 post).

21 Ibid reg 18(6). As to the application and modification of this provision see note 2 supra.

22 *Ie* the register (and the relevant date) referred to in the Representation of the People Act 1985 s 1(4)(c) (as substituted) (see PARA 111 ante). For the purposes of its application in relation to a European parliamentary overseas elector's declaration (see note 2 supra), the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 18(7) has effect as if, in addition to the modifications made by reg 13(6), a reference to the Representation of the People Act 1985 s 3(4)(c) (as substituted) (see PARA 116 ante) were

substituted for the references to s 1(4)(c) (as substituted), in each place where those references occur: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 18(7). As to the application and modification of this provision see note 2 *supra*.

23 Ibid reg 18(7)(a). As to the application and modification of this provision see note 2 *supra*. The text refers to the name of the parent upon whose registration a declarant must rely in accordance with the Representation of the People Act 1985 s 2(4)(c)(iii) (as substituted) (see PARA 147 *ante*), where a declarant cannot rely upon his own previous inclusion in a register of parliamentary electors on account of his age and the other conditions specified in s 1(4) (as substituted and amended) (the 'second set of conditions': see PARA 111 *ante*) apply.

24 See note 22 *supra*.

25 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 18(7)(b). As to the application and modification of this provision see note 2 *supra*. The text refers to the name of the guardian upon whose registration a declarant must rely in accordance with the Representation of the People Act 1985 s 2(4)(c)(iii) (as substituted) (see PARA 147 *ante*), where a declarant cannot rely upon his own previous inclusion in a register of parliamentary electors on account of his age and the other conditions specified in s 1(4) (as substituted and amended) (the 'second set of conditions': see PARA 111 *ante*) apply.

26 See note 22 *supra*.

27 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 18(7). As to the application and modification of this provision see note 2 *supra*.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(ii) Entitlement to Registration/D. OVERSEAS ELECTORS DECLARATIONS/149. Attestation of certain overseas electors' declarations.

149. Attestation of certain overseas electors' declarations.

An overseas elector's declaration¹ must be attested by the bearer of a British passport which described his national status as a 'British citizen'² who: (1) is not resident in the United Kingdom³; (2) is aged 18 years or over⁴; and (3) is not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild of the declarant⁵. A person must not attest an overseas elector's declaration unless he is satisfied, to the best of his knowledge and belief, that the declarant is a British citizen who is not resident in the United Kingdom on the date of the declaration⁶.

A person attesting an overseas elector's declaration must record on it:

- 188 (a) his full name and address⁷;
- 189 (b) that he is the bearer of a British passport which describes his national status as 'British citizen' and the number of that passport together with its date and place of issue⁸;
- 190 (c) that he is aged 18 years or over⁹;
- 191 (d) that he is not resident in the United Kingdom on the date of the declaration¹⁰;
- 192 (e) that he is not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild of the declarant¹¹; and
- 193 (f) that, to the best of his knowledge and belief, the declarant is a British citizen who is not resident in the United Kingdom on the date of the declaration¹².

A person attesting an overseas elector's declaration must sign the declaration¹³.

However, an overseas elector's declaration need not be attested in accordance with these provisions¹⁴ where the declarant has on a previous occasion made such a declaration in pursuance of which he was registered in a register of parliamentary electors and, since being so registered, he has not been included in any register of parliamentary electors by virtue of being resident or treated for the purposes of registration as resident at an address in the United Kingdom¹⁵.

1 As to overseas elector's declarations see PARA 129 ante.

2 As to who are British citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 8 et seq.

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 20(2)(a). For the meaning of 'United Kingdom' see PARA 13 note 1 ante. As to the circumstances when a person is treated for the purposes of registration as resident see PARA 132 et seq ante.

By virtue of reg 13(6), (7), reg 20 applies to registration in pursuance of a European parliamentary overseas elector's declaration as it applies to registration in pursuance of an overseas elector's declaration: see PARA 116 note 7 ante.

4 Ibid reg 20(2)(b). See note 3 supra.

5 Ibid reg 20(2)(c) (amended by SI 2005/2114). See note 3 supra.

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 20(3). See note 3 supra.

7 Ibid reg 20(4)(a). See note 3 supra.

8 Ibid reg 20(4)(b). See note 3 supra.

9 Ibid reg 20(4)(c) See note 3 supra.

10 Ibid reg 20(4)(d). See note 3 supra.

11 Ibid reg 20(4)(e) (amended by SI 2005/2114). See note 3 supra.

12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 20(4)(f). See note 3 supra.

13 Ibid reg 20(4). See note 3 supra.

14 Ie in accordance with ibid reg 20(2)-(4) (see the text and notes 1-13 supra).

15 Ibid reg 20(1).

For the purposes of the application of reg 20 (as amended) by reg 13(6) (see note 3 supra), reg 20(1) has effect as if, in addition to the modifications made by reg 13(6), the words 'local government' were substituted for the word 'parliamentary' in the second place where it occurs: reg 20(1). A peer's entitlement to vote as an overseas European parliamentary elector is based on his registration as a local government elector, previously having been denied registration as a parliamentary elector: see PARA 116 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(ii) Entitlement to Registration/D. OVERSEAS ELECTORS DECLARATIONS/150. Transmission of overseas elector's declaration.

150. Transmission of overseas elector's declaration.

An overseas elector's declaration¹ must be transmitted to the registration officer² for that part of the constituency within which is situated the address specified in the declaration as the address in respect of which the declarant was registered³. Where a person: (1) has made an overseas elector's declaration in which he claims to be qualified as an overseas elector by virtue of the conditions set out in relation to persons not previously registered in a register of parliamentary electors on account of age only⁴; and (2) has not on a previous occasion made an overseas elector's declaration in pursuance of which he was registered in a register of parliamentary electors⁵, a declarant must transmit together with his overseas elector's declaration a copy of his birth certificate which shows the names of either or both of his parents as well as his date of birth⁶.

Where the registration officer is satisfied that the declarant qualifies as an overseas elector⁷, he must so notify the applicant⁸.

1 As to overseas elector's declarations see PARA 129 ante.

2 For the meaning of 'registration officer' see PARA 154 note 1 post.

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 21. The declarant is required to include in an overseas elector's declaration the address referred to in the text under the Representation of the People Act 1985 s 2(4) (as substituted) either in respect of where the declarant had been registered previously (s 2(4)(b) (as substituted)) or in respect of which he was resident, if not registered previously (s 2(4)(c) (as substituted)): see PARA 147 ante. Where a declaration is transmitted too late for the declarant's name to be included in the electors' lists, it is treated as a claim to be registered: see PARA 167 post.

By virtue of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(6), (7), reg 19 (see the text and notes 4-6 infra) and reg 21 apply to registration in pursuance of a European parliamentary overseas elector's declaration as they apply to registration in pursuance of an overseas elector's declaration: see PARA 116 note 7 ante.

4 Ibid reg 19(1). The text refers to qualification as an overseas elector by a declarant who cannot rely upon his own previous inclusion in a register of parliamentary electors on account of his age and who satisfies the other conditions specified in the Representation of the People Act 1985 s 1(4) (as substituted and amended) (the 'second set of conditions': see PARA 111 ante).

For the purpose of the application of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 19 by reg 13(6) (see note 3 supra), reg 19 has effect as if, in addition to the modifications made by reg 13(6), a reference to the Representation of the People Act 1985 s 3(4) (as substituted and amended) (see PARA 116 ante) were substituted for the reference to s 1(4) (as substituted and amended): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 19(1).

5 Ibid reg 19(1). See note 3 supra.

6 Ibid reg 19(2). See note 3 supra.

7 A person qualifies as an overseas elector if he satisfies the provisions of the Representation of the People Act 1985 s 1 (as substituted and amended) (extension of parliamentary franchise to British citizens overseas: see PARA 111 ante) and is entitled to be registered under the provisions of s 2 (as substituted) (registration of British citizens overseas: see PARA 129 et seq ante).

For the purpose of the application of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 22 by reg 13(6) (see note 3 supra), reg 22(1) has effect as if, in addition to the modifications

made by reg 13(6), references in reg 22(1) to the Representation of the People Act 1985 s 2 (as substituted) and s 3 (as substituted and amended) (extension of European parliamentary franchise to peers resident outside the United Kingdom: see *PARA 116 ante*) were substituted for the references to s 1 (as substituted and amended) and s 2 (as substituted): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 22(3).

8 *Ibid* reg 22(1). See note 3 *supra*.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(ii) Entitlement to Registration/D. OVERSEAS ELECTORS DECLARATIONS/151. Invalid declarations.

151. Invalid declarations.

An overseas elector's declaration¹ is of no effect unless it is received by the registration officer² concerned within the period of three months beginning with the relevant date³.

An overseas elector's declaration may not specify more than one address as the address in respect of which the declarant is registered⁴; and if the declarant makes more than one such declaration bearing the same date and specifying different addresses in the United Kingdom⁵ as the address in respect of which he was registered the declarations are void⁶.

Where the registration officer⁷ rejects an application for registration in pursuance of an overseas elector's declaration because:

- 194 (1) in his opinion the declarant does not qualify as an overseas elector in respect of a parliamentary constituency⁸; or
- 195 (2) the declaration does not satisfy the requirements in relation to registration as such an elector⁹, or in relation to the contents of the declaration¹⁰ or in relation to its attestation¹¹; or
- 196 (3) in the case of a declarant who is required to transmit a copy of his birth certificate together with his declaration¹², that requirement has not been complied with¹³,

he must return the declaration to the declarant and set out his reasons for rejecting the application for registration¹⁴.

1 For the meaning of 'overseas elector's declaration' see PARA 129 ante.

2 For the meaning of 'registration officer' see PARA 154 post.

3 Representation of the People Act 1985 s 2(6) (s 2 substituted by the Representation of the People Act 2000 s 8, Sch 2 paras 1, 3). The reference in the text to the 'relevant date' is to the date on which a person makes a declaration under and in accordance with the Representation of the People Act 1985 s 2 (as substituted) (an 'overseas elector's declaration') (see PARA 129 ante).

For the purposes of the registration of peers who (subject to the requirement of registration) may vote at European parliamentary elections, s 2 (as substituted) is applied with modifications: see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(4), Sch 4; and PARA 116 note 7 ante.

4 Representation of the People Act 1985 s 2(4) (as substituted: see note 3 supra). As to the application and modification of this provision see note 3 supra. The text refers to the address which a declarant is required to include in an overseas elector's declaration either in respect of where the declarant had been registered previously, where the 'first' set of conditions applies (s 2(4)(b) (as so substituted)), or in respect of which he was resident, if not registered previously, where the 'second' set of conditions applies (s 2(4)(c) (as so substituted)): see PARA 147 ante.

5 For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

6 Representation of the People Act 1985 s 2(4) (as substituted: see note 3 supra).

7 For the meaning of 'registration officer' for these purposes see PARA 154 note 1 post.

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 22(2)(a). The text refers to qualification as an overseas elector in respect of a parliamentary constituency under the

Representation of the People Act 1985 s 1 (as substituted and amended) (extension of parliamentary franchise to British citizens overseas: see PARA 111 ante). By virtue of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(6), (7), reg 22 applies to registration in pursuance of a European parliamentary overseas elector's declaration as it applies to registration in pursuance of an overseas elector's declaration: see PARA 116 note 7 ante. For the purpose of the application of reg 22 by reg 13(6), reg 22(2) has effect as if, in addition to the modifications made by reg 13(6), the reference in reg 22(2) to the Representation of the People Act 1985 s 1 (as substituted and amended) was substituted by a reference to s 3 (as substituted and amended) (extension of European parliamentary franchise to peers resident outside the United Kingdom: see PARA 116 ante): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 22(3).

9 Ie the requirements of the Representation of the People Act 1985 s 2 (as substituted) (see PARAS 129 et seq ante, 152 post).

10 Ie the requirements of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 18 (see PARAS 147-148 ante).

11 Ibid reg 22(2)(b). As to the application and modification of this provision see note 8 supra. The text refers to the attestation required for certain overseas elector's declarations under reg 20 (as amended) (see PARA 149 ante).

12 Ie in the case of a declarant to whom ibid reg 19 applies (see PARA 150 ante).

13 Ibid reg 22(2)(c). As to the application and modification of this provision see note 8 supra.

14 Ibid reg 22(2). As to the application and modification of this provision see note 8 supra.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(ii) Entitlement to Registration/D. OVERSEAS ELECTORS DECLARATIONS/152. Effect of overseas elector's declaration.

152. Effect of overseas elector's declaration.

Where a person is registered in a register of parliamentary electors for any constituency or part of a constituency in pursuance of an overseas elector's declaration¹, it is conclusively presumed for the purposes of entitlement to vote as an overseas elector at a parliamentary election² that he was not resident in the United Kingdom on the relevant date³.

1 For the meaning of 'overseas elector's declaration' see PARA 129 ante.

2 Ie for the purposes of the Representation of the People Act 1985 s 1 (as substituted and amended) (extension of parliamentary franchise to British citizens overseas: see PARA 111 ante).

3 See *ibid* s 2(7) (as substituted); and PARA 111 ante.

For the purposes of the registration of peers who (subject to the requirement of registration) may vote at European parliamentary elections, s 2 (as substituted) is applied with modifications: see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(4), Sch 4; and PARA 116 note 7 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(ii) Entitlement to Registration/E. OFFENCES/153. Offences associated with voters' declarations.

E. OFFENCES

153. Offences associated with voters' declarations.

A person who makes a declaration of local connection¹ or a service declaration² when he is not authorised to do so or when he knows that he is subject to a legal incapacity³ to vote or when he knows that the declaration contains a statement which is false is guilty of an offence⁴. A person who makes an overseas elector's declaration⁵ (or a declaration purporting to be such a declaration) when he knows that he is subject to a legal incapacity or when he knows that the declaration contains a statement which is false is also guilty of an offence⁶.

A person who attests a service declaration⁷ or an overseas elector's declaration⁸ when he knows that he is not authorised to attest such a declaration or that the declaration contains a statement which is false is guilty of an offence⁹.

1 As to declarations of local connection see PARA 136 et seq ante.

2 As to service declarations see PARA 140 et seq ante.

3 As to the meaning of 'legal incapacity' for these purposes see PARA 110 note 8 ante.

4 See the Representation of the People Act 1983 s 62(1) (as substituted); and PARA 738 post.

5 As to overseas elector's declarations see PARA 129 et seq ante.

6 See the Representation of the People Act 1985 s 12(1); and PARA 738 post.

7 As to the attestation of a service declaration see PARA 142 ante.

8 As to the attestation of an overseas elector's declaration see PARA 149 ante.

9 See the Representation of the People Act 1983 s 62(2) (as amended); the Representation of the People Act 1985 s 12(2); and PARA 738 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iii) Registration Officers/154. Registration officers.

(iii) Registration Officers

154. Registration officers.

Electoral registration officers ('registration officers') are appointed for the registration of parliamentary and local government electors¹. In England², the council of every district³ and London borough⁴ must appoint an officer of the council to be registration officer for any constituency⁵ or part of a constituency coterminous with or situated in the district or borough⁶, and the Common Council of the City of London⁷ must appoint an officer to be registration officer for the part of the constituency containing the City and the Inner Temple and the Middle Temple⁸. In Wales⁹, the council of every county¹⁰ or county borough¹¹ must appoint an officer of the council to be registration officer for any constituency or part of a constituency coterminous with or situated in the area of the council¹².

The officer who is the registration officer for any of the areas referred to above¹³ is the registration officer also for the area in question for the purposes of the registration of relevant citizens of the Union¹⁴ as European parliamentary electors¹⁵.

1 Representation of the People Act 1983 s 8(1). Any reference in any Act, whenever passed, to the registration officer for the registration of parliamentary or local government electors is to be taken as a reference to the registration officer appointed under the Representation of the People Act 1983: s 206, Sch 7 para 11.

For the purposes of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, 'registration officer' means the electoral registration officer (reg 3(1)); and 'registration area' means the area for which a registration officer acts (reg 3(1) (definition added by SI 2002/1871)). For the purposes of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended), 'registration officer' means the electoral registration officer (art 2(1)); and, for the purposes of the European Parliamentary Elections Regulations 2004, SI 2004/293, 'registration officer' means an officer appointed under the Representation of the People Act 1983 s 8 (as amended) (European Parliamentary Elections Regulations 2004, SI 2004/293, reg 2(1)).

As to the entitlement to registration as a parliamentary or local government elector see PARA 128 ante.

2 Representation of the People Act 1983 s 8(2) (amended by the Local Government (Wales) Act 1994 s 66(6), (8), Sch 16 para 68(1), Sch 18). For the meaning of 'England' see PARA 13 note 1 ante.

A registration officer appointed under the Representation of the People Act 1983 s 8(2) (as amended) is disqualified for membership of the House of Commons: House of Commons Disqualification Act 1975 s 1(1), Sch 1 Pt III. See further PARLIAMENT vol 78 (2010) PARAS 905, 908.

3 As to districts in England and their councils see LOCAL GOVERNMENT vol 69 (2009) PARA 24 et seq.

4 As to London boroughs and their councils see LOCAL GOVERNMENT vol 69 (2009) PARA 35; LONDON GOVERNMENT vol 29(2) (Reissue) PARA 30 et seq.

5 For the meaning of 'constituency' for these purposes see PARA 9 ante.

6 Representation of the People Act 1983 s 8(2)(a). As to the registration officer for the Isles of Scilly see PARA 10 note 17 ante.

7 As to the Common Council of the City of London see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 51 et seq.

8 Representation of the People Act 1983 ss 8(2)(b), 202(1). As to the Temples see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 32 et seq. As to elections in the City of London see PARA 30 ante.

9 Ibid s 8(2A) (s 8(2A) added by the Local Government (Wales) Act 1994 Sch 16 para 68(1)). For the meaning of 'Wales' see PARA 13 note 1 ante.

10 As to counties in Wales and their councils see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq.

11 As to county boroughs in Wales and their councils see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq.

12 Representation of the People Act 1983 s 8(2A) (as added: see note 9 ante).

13 The officer who under ibid s 8(2) (as amended) or s 8(2A) (as added) (see the text and notes 2-12 supra) is the registration officer for any of the areas referred to therein for the purposes of the Representation of the People Act 1983: European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 5(1)(a).

For the purposes of extending the rights of citizens and nationals of accession states who (subject to the requirements of registration) may vote at local government and European parliamentary elections, reg 5 is applied with modifications: see the Local and European Parliamentary Elections (Registration of Citizens of Accession States) Regulations 2003, SI 2003/1557, reg 6, Sch 1 para 3.

14 For the meaning of 'relevant citizen of the Union' for these purposes see PARA 117 note 4 ante.

15 European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 5(1). As to registration officers for the Isles of Scilly for these purposes see reg 5(1)(b). As to the application and modification of this provision see note 13 supra. As to the registration of relevant citizens of the Union as European parliamentary electors see PARA 131 ante.

UPDATE

154 Registration officers

NOTE 1--SI 2004/293 reg 2(1) substituted: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iii) Registration Officers/155. Deputies and assistants.

155. Deputies and assistants.

Any of the powers and duties of a registration officer may be performed and exercised by a deputy for the time being approved by the council which appointed the registration officer¹.

Where there is a vacancy in the office of registration officer, or in the event of his incapacity to act, any acts authorised or required to be done by, or with respect to, the registration officer may be done by or with respect to the proper officer² of the council by which the registration officer was appointed³.

A district council⁴ or London borough council⁵ in England⁶ or a county council⁷ or county borough council⁸ in Wales⁹ must assign such officers to assist the registration officer as may be required for carrying out his functions¹⁰.

1 Representation of the People Act 1983 s 52(2) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 12(b)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 26(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 19(1). As to the European parliamentary electoral registration officer for Gibraltar see reg 19(4). The provisions of the Representation of the People Act 1983 or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended), or the European Parliamentary Elections Regulations 2004, SI 2004/293 (as the case may be) apply to any such deputy as is mentioned in the text so far as respects any duties or powers to be performed or exercised by him as they apply to the registration officer: Representation of the People Act 1983 s 52(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 26(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 19(1). As to the appointment of registration officers see PARA 154 ante; and as to the penalties for breach of official duty by a deputy or assistant see PARA 740 post.

The functions of a registration officer under the Representation of the People Act 1985 ss 2, 3, 6-9 (as amended) are included in any reference to a registration officer's functions under the Representation of the People Act 1983 because those provisions have effect as if they were contained in Pt I (ss 1-66A) (as amended): Representation of the People Act 1985 s 27(2).

For the purposes of extending the rights of peers and of relevant citizens of the Union who (subject to the requirement of registration) may vote at European parliamentary elections, the Representation of the People Act 1983 s 52 (as amended) is applied with modifications: see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(4), Sch 4 (cited in PARA 116 note 7 ante); and the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule (cited in PARA 117 note 5 ante).

2 The 'proper officer' means any officer appointed for the purpose by the council (or, in relation to the Greater London Authority, the Authority): Representation of the People Act 1983 s 202(1) (definition substituted by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 38(1), (2)(c)); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 2(1); Local Government Act 1972 s 270(3), (4); Greater London Authority Act 1999 s 424(1), (2). As to the Greater London Authority see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 79 et seq.

3 Representation of the People Act 1983 s 52(3) (amended by the Representation of the People Act 1985 Sch 4 para 12(c)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 26(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 19(2). As to the application and modification of this provision see note 1 supra.

4 As to districts in England and their councils see LOCAL GOVERNMENT vol 69 (2009) PARA 24 et seq.

5 As to London boroughs and their councils see LOCAL GOVERNMENT vol 69 (2009) PARA 35; LONDON GOVERNMENT vol 29(2) (Reissue) PARA 30 et seq.

6 Representation of the People Act 1983 s 52(4)(a) (s 52(4) substituted by the Representation of the People Act 1985 Sch 4 para 12(d); and the Representation of the People Act 1983 s 52(4)(a) amended by the Local Government (Wales) Act 1994 s 66(6), (8), Sch 16 para 68(12), Sch 18); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 19(3)(a). As to the application and modification of this provision see note 1 supra. For the meaning of 'England' see PARA 13 note 1 ante.

7 As to counties in Wales and their councils see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq.

8 As to county boroughs in Wales and their councils see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq.

9 Representation of the People Act 1983 s 52(4)(aa) (s 52(4) as substituted (see note 6 supra); s 52(4)(aa) added by the Local Government (Wales) Act 1994 Sch 16 para 68(12), Sch 18); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 26(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 19(3)(b). As to the application and modification of this provision see note 1 supra. For the meaning of 'Wales' see PARA 13 note 1 ante.

10 Representation of the People Act 1983 s 52(4) (as substituted: see note 6 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 26(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 19(3). As to the application and modification of this provision see note 1 supra.

UPDATE

155 Deputies and assistants

NOTES--Certain functions under provisions mentioned in this paragraph are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3, see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

NOTE 1--SI 2004/293 reg 19(4) amended: SI 2009/186.

NOTE 2--SI 2004/293 reg 2(1) substituted: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iii) Registration Officers/156. Discharge of duties by registration officer.

156. Discharge of duties by registration officer.

It is the duty of each registration officer¹ to maintain:

- 197 (1) a register of parliamentary electors² for each constituency or part of a constituency³ in the area for which he acts⁴;
- 198 (2) a register of local government electors for the local government areas⁵ or parts of local government areas included in the area for which he acts⁶;
- 199 (3) a register of any person or persons entitled to be registered under the provisions relating to the registration of relevant citizens of the Union⁷ as European parliamentary electors⁸.

The registration officer must also prepare and publish a list of the names of each person who appears to him to be entitled to be registered in pursuance of an overseas elector's declaration ('the list of overseas electors')⁹; and it is the duty of the relevant registration officer¹⁰ to prepare and publish a register¹¹ in respect of any year for which any peer who is entitled to vote as a European parliamentary elector is entitled to be registered¹². As far as is reasonably practicable, the registration officer must combine the registers¹³. The registration officer also must keep a record of anonymous entries¹⁴.

Each registration officer must take all steps that are necessary for the purpose of complying with his duty¹⁵ to maintain the registers¹⁶ and, in administering the registers, he must have regard to data protection provisions¹⁷. It is also the duty of the registration officer, during the relevant period¹⁸, to send to a person registered in pursuance of a service declaration¹⁹, a declaration of local connection²⁰ or an overseas elector's declaration²¹ a reminder of the need to make a fresh declaration if he wishes to remain registered as an elector in pursuance of such a declaration²²; and, in relation to each person who has an anonymous entry in the register²³, the registration officer must, during the relevant period²⁴, send a reminder²⁵: (a) that his entitlement to registration will terminate at the end of the period of 12 months beginning with the date on which his entry in the register first took effect²⁶; (b) that, if he wishes to remain entered in the register after that period, he must make a fresh application for registration in accordance with the requirements prescribed for the purposes²⁷; and (c) that, if he wishes to remain entered in the register anonymously, the application for registration must be accompanied by a fresh application for an anonymous entry²⁸. A registration officer must also compile records of absent voters and of their proxies²⁹, a list of overseas electors³⁰, and lists of rooms which candidates are entitled to use for election meetings³¹.

A registration officer must comply with any general or special directions given by the Secretary of State with respect to the arrangements to be made by the registration officer for carrying out his functions under the Representation of the People Act 1983³²; and an electoral registration officer must take such steps as he thinks appropriate to encourage the participation by electors in the electoral process in the area for which he acts³³ and, in so doing, he must have regard to any guidance issued by the Electoral Commission³⁴.

1 As to the appointment of registration officers see PARA 154 ante.

2 As to the registers of electors see PARA 160 et seq post.

3 For the meaning of 'constituency' for these purposes see PARA 9 ante. Where, under the Representation of the People Act 1983 s 9 (as substituted), two or more registration officers maintain registers of parliamentary electors in respect of different parts of the same constituency, then in relation to that constituency any reference in the Representation of the People Act 1983 (whether express or implied) to the register of parliamentary electors for a constituency must be read either as a reference to one of those registers or, in relation to one of those registration officers, as the register maintained by him, as the context may require: s 9(7) (s 9 substituted by the Representation of the People Act 2000 s 8, Sch 1 paras 1, 3). For these purposes, any reference, in relation to a registration officer, to 'his' registers is a reference to the registers maintained by him under the Representation of the People Act 1983 s 9 (as substituted): s 9(8)(a) (as so substituted). As to constituencies established for the purpose of elections to the National Assembly for Wales see note 32 infra.

The functions of a registration officer under the Representation of the People Act 1985 ss 2, 3, 6-9 (as amended) are included in any reference to a registration officer's functions under the Representation of the People Act 1983 because those provisions have effect as if they were contained in Pt I (ss 1-66A) (as amended): Representation of the People Act 1985 s 27(2).

For the purposes of extending the rights of peers and of relevant citizens of the Union who (subject to the requirement of registration) may vote at European parliamentary elections, the provisions of the Representation of the People Act 1983 s 9(1)-(4), (7), (8) (as substituted and amended) are applied with modifications: see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(4), Sch 4 (cited in PARA 116 note 7 ante); and the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule (cited in PARA 117 note 5 ante).

4 Representation of the People Act 1983 s 9(1)(a) (as substituted: see note 3 supra). As to the application and modification of this provision see note 3 supra.

5 For the meaning of 'local government area' see PARA 18 note 2 ante.

6 Representation of the People Act 1983 s 9(1)(b) (as substituted: see note 3 supra). As to the application and modification of this provision see note 3 supra.

7 For the meaning of 'relevant citizen of the Union' see PARA 117 note 4 ante.

8 European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 5(2). The text refers to entitlement to registration under reg 4 (see PARA 131 ante).

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 45(1). The 'list of overseas electors' means the list prepared under reg 45: reg 3(1). The registration officer must include in the list of overseas electors the address specified in the overseas elector's declaration in accordance with the Representation of the People Act 1985 s 2(4) (as substituted) (overseas elector's declarations: see PARA 147 ante) and the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 18(1) (contents of overseas elector's declarations: see PARA 147 ante): reg 45(1). As to the form and content of the list of overseas electors see PARA 161 post; and as to publication see PARA 164 et seq post. By virtue of reg 13(6), (7), reg 45 (as amended) applies to registration in pursuance of a European parliamentary overseas elector's declaration as it applies to registration in pursuance of an overseas elector's declaration: see PARA 116 note 7 ante.

10 I.e. the officer appointed under the Representation of the People Act 1983 s 8 (as amended) (see PARA 154 ante). For the purposes of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(2), 'the relevant registration officer' is the officer who acts for the area within which is situated the place specified in the declaration in accordance with the Representation of the People Act 1985 s 2(4) (as substituted) (overseas elector's declarations: see PARA 147 ante), as applied by the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13 (see note 3 supra), as having been the address in respect of which the declarant was previously registered or, as the case may be, at which he was resident: reg 13(3).

11 I.e. under the Representation of the People Act 1985 s 3 (as substituted and amended) (entitlement of peers to vote as European parliamentary electors: see PARA 116 ante).

12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(2). The relevant registration officer also must take reasonable steps to obtain information required by him for the purpose: reg 13(2).

13 See PARA 160 post. The registers of parliamentary electors, of local government electors, of peers overseas registered as European parliamentary overseas electors and of relevant citizens of the Union registered as European parliamentary electors should all be combined, as far as is reasonably practicable.

14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 45A(1) (added by SI 2006/2910). As to the form and content of the record of anonymous entries see PARA 160 post.

15 Ie under the Representation of the People Act 1983 s 9(1) (as substituted) (see the text and notes 1-6 supra).

16 Ibid s 9A(1) (s 9A added by the Electoral Administration Act 2006 s 9(1)). The steps referred to in the text include: (1) sending more than once to any address the form to be used for the canvass under the Representation of the People Act 1983 s 10 (as substituted) (see PARA 163 post) (s 9A(2)(a) (as so added)); (2) making on one or more occasions house to house inquiries under s 10(5) (as substituted) (see PARA 163 post) (s 9A(2)(b) (as so added)); (3) making contact by such other means as the registration officer thinks appropriate with persons who do not have an entry in a register (s 9A(2)(c) (as so added)); (4) inspecting any records held by any person which he is permitted to inspect under or by virtue of any enactment or rule of law (s 9A(2)(d) (as so added)); (5) providing training to persons under his direction or control in connection with the carrying out of the duty (s 9A(2)(e) (as so added)). Regulations made by the Secretary of State may amend s 9A(2) (as added) by varying or repealing any of the paragraphs therein or by inserting any paragraph: s 9A(3) (as so added). As to the Secretary of State see PARA 2 ante. As to the making of regulations under the Representation of the People Act 1983 generally see PARA 24 note 16 ante. At the date at which this volume states the law, no regulations had been made under s 9A (as added). As to the powers available to a registration officer to require information about electors and to inspect certain records for the purposes of registration see PARA 157 post. A registration officer also has power to make inquiries of electors who have been granted applications to vote by proxy on certain grounds: see PARAS 373-374 post.

17 Electoral registration officers must administer the register having regard to EC Council Directive 95/46 (OJ L281, 23.11.95, p 31) ('the Data Protection Directive') and the Data Protection Act 1998 s 11 (as amended) (right to prevent processing for purposes of direct marketing: see CONFIDENCE AND DATA PROTECTION vol 8(1) (2003 Reissue) PARA 527); and the Representation of the People Act 1983 must be construed so as to be compliant and consistent with those provisions: *R (on the application of Robertson) v City of Wakefield Metropolitan District Council* [2001] EWHC Admin 915, [2002] QB 1052, [2002] LGR 286. As to the Data Protection Directive see CONFIDENCE AND DATA PROTECTION vol 8(1) (2003 Reissue) PARA 503 et seq. As to the restrictions placed on registration officers and other persons regarding the supply of registers and disclosure of the information contained in them see PARA 176 et seq post.

18 For these purposes, 'the relevant period' means the period beginning nine months after the date when the existing entry in a register of the person in question first takes effect and ending ten months after that date, except in the case of a person who is a member of the forces or who is the spouse or civil partner of a member of the forces (ie a person who is mentioned in the Representation of the People Act 1983 s 14(1)(a) or s 14(1)(d) (as amended): see PARA 140 ante) in which case 'the relevant period' means the period beginning 33 months after the date when the existing entry in a register of the person in question first takes effect and ending 34 months after that date: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 25(3) (amended by SI 2006/3406). Where the day or last day of the time allowed by the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) for the doing of any thing falls on a Saturday, Sunday, Christmas Eve, Christmas Day, Good Friday or a bank holiday, that time must be extended until the next following day which is not one of those days: reg 8(1), (3) (reg 8(3) amended by SI 2006/2910). For this purpose, 'bank holiday' means a day which under the Banking and Financial Dealings Act 1971 is a bank holiday in England and Wales (see TIME vol 97 (2010) PARA 321): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 8(4).

By virtue of reg 13(6), (7), reg 8 (as amended) applies to registration in pursuance of a European parliamentary overseas elector's declaration as it applies to registration in pursuance of an overseas elector's declaration (see PARA 116 note 7 ante); and for the purposes of relevant citizens of the Union who (subject to the requirement of registration) may vote at European parliamentary elections, reg 8 (as amended) applies with modifications (see the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule; and PARA 117 note 5 ante).

19 As to registration in pursuance of a service declaration see PARA 140 et seq ante.

20 As to registration in pursuance of a declaration of local connection see PARA 136 et seq ante.

21 As to registration in pursuance of an overseas elector's declaration see PARA 129 et seq ante.

22 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 25(1), (2). This provision does not apply in respect of a person registered in pursuance of such a declaration as is mentioned in the text where the registration officer has already received from that person a fresh declaration, or where information which the registration officer has received indicates that that person is no longer entitled to make the relevant declaration: reg 25(4).

By virtue of reg 13(6), (7), reg 25 applies to registration in pursuance of a European parliamentary overseas elector's declaration as it applies to registration in pursuance of an overseas elector's declaration: see PARA 116 note 7 ante.

23 Ibid reg 25A(1) (reg 25A added by SI 2006/2910). As to anonymous registration see PARA 174 post.

24 For these purposes, the 'relevant period' must be construed in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 25(3) (see note 18 supra): reg 25A(4) (as added: see note 23 supra).

25 Ibid reg 25A(2) (as added: see note 23 supra). Regulation 25A(2) (as added) does not apply where the registration officer has already received from that person a fresh application for registration made in accordance with the requirements prescribed for the purposes of the Representation of the People Act 1983 s 10A(1)(a) (as added) (see PARA 167 post) which is accompanied by a fresh application for an anonymous entry: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 25A(3) (as so added).

26 Ibid reg 25A(2)(a) (as added: see note 23 supra).

27 Ibid reg 25A(2)(b) (as added: see note 23 supra). The text refers to the requirements prescribed for the purposes of the Representation of the People Act 1983 s 10A(1)(a) (as added) (see PARA 167 post).

28 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 25A(2)(c) (as added: see note 23 supra).

29 See PARA 372 et seq post. The registration officer must also every year by 31 January send every person who remains an absent voter (and whose signature held on the personal identifiers record is more than five years old) a notice in writing requiring him to provide a fresh signature and informing him of the date on which he would cease to be entitled to vote by post or by proxy in the event of a failure or refusal to provide a fresh signature: see PARA 371 post.

30 See PARA 161 post.

31 See PARA 341 post.

32 Representation of the People Act 1983 s 52(1) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 12(a)). Without prejudice to the generality of the Representation of the People Act 1983 s 52(1) (as amended), the directions which may be given thereunder include directions requiring a registration officer to maintain his registers in a specified electronic form: s 52(1A) (added by the Political Parties, Elections and Referendums Act 2000 s 158(1), Sch 21 para 6(1), (5)). Any such directions may in particular specify: (1) the software which is to be used in connection with the maintenance of the registers in that form (Representation of the People Act 1983 s 52(1A)(a) (as so added)); (2) the standards in accordance with which that software is to be maintained and updated (s 52(1A)(b) (as so added)); (3) how information required (by or under any enactment) to be included in the registers is to be recorded and stored in that form (s 52(1A)(c) (as so added)). The function of giving directions under s 52(1) (as amended) is exercisable only on, and in accordance with, a recommendation of the Electoral Commission: see the Political Parties, Elections and Referendums Act 2000 s 8(1); and PARA 51 ante. In relation to elections to the National Assembly for Wales, a registration officer must comply with any general or specific directions which may be given by the Secretary of State, in accordance with and on the recommendation of the Electoral Commission, with respect to the arrangements to be made by the registration officer in carrying out his functions under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284: art 26(1). As to the Electoral Commission see PARA 31 et seq ante.

For the purposes of extending the rights of peers and of relevant citizens of the Union who (subject to the requirement of registration) may vote at European parliamentary elections, the Representation of the People Act 1983 s 52 (as amended) is applied with modifications: see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(4), Sch 4 (cited in PARA 116 note 7 ante); and the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule (cited in PARA 117 note 5 ante).

33 Electoral Administration Act 2006 s 69(1), (8)(a).

34 Ibid s 69(2).

UPDATE

156 Discharge of duties by registration officer

NOTE 18--SI 2001/341 reg 25(3) further amended: SI 2010/882.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iii) Registration Officers/157. Registration officer's powers to require information about electors and to inspect certain records.

157. Registration officer's powers to require information about electors and to inspect certain records.

A registration officer¹ may require any person to give information required for the purposes of that officer's duties in maintaining registers of parliamentary and local government electors². If any person fails to comply with³ any such requisition of the registration officer⁴, that person is liable to a penalty⁵.

Except where an application for registration is made in pursuance of a service declaration⁶, a registration officer who has doubts about a person's age or nationality may require that person to produce for the purposes of registration the following such evidence as is specified⁷:

- 200 (1) a birth certificate or a statutory declaration as to the person's date of birth⁸;
- 201 (2) a certificate of naturalisation⁹;
- 202 (3) where a person has made an overseas elector's declaration¹⁰, further evidence of his status as a British citizen¹¹ including a document showing that he has become a British citizen by virtue of registration¹²;
- 203 (4) in any other case, either a document showing that he has become a Commonwealth citizen¹³ by virtue of registration¹⁴ or a statutory declaration that he is a qualifying Commonwealth citizen¹⁵ or citizen of the Republic of Ireland¹⁶ or a relevant citizen of the Union¹⁷.

Except where the declarant has, or has applied for, an anonymous entry¹⁸, any such declaration must be made available for inspection at the registration officer's office until the determination of the application for registration and of any objections duly made to it¹⁹. If any fee is payable in connection with the making of a declaration for these purposes, the registration officer must pay that fee and it is to be treated as part of his registration expenses²⁰.

A registration officer is authorised to inspect, for the purpose of his registration duties, records kept (in whatever form) by²¹ the council by which he was appointed²² and any registrar of births and deaths²³ or any person providing services to, or authorised to exercise any function of, any such council or registrar²⁴. A registration officer is authorised also to make copies of information contained in such records²⁵.

1 As to registration officers see PARA 154 ante.

2 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 23(1). As to the duty of registration officers to maintain, prepare and publish registers of electors see PARA 156 ante. At the same time, a registration officer is under a duty to require persons to give information required for the purposes of that officer's duty under the Juries Act 1974 s 3(1) (as amended) (electoral register as basis of jury selection: see JURIES vol 61 (2010) PARA 812): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 23(2). By virtue of reg 13(6), (7), regs 23, 24 (see the text and notes 3-20 infra) apply to registration in pursuance of a European parliamentary overseas elector's declaration as they apply to registration in pursuance of an overseas elector's declaration: see PARA 116 note 7 ante.

3 Ibid reg 23(3)(a). As to the application of this provision see note 2 supra.

4 Ie any such requisition as is mentioned in ibid reg 23 (see the text and notes 1-4 supra).

5 Ibid reg 23(3). As to the application of this provision see note 2 supra. The penalty on summary conviction is a fine not exceeding level 3 on the standard scale: see reg 23(3). As to the standard scale see PARA 736 note 3 post.

6 Ibid reg 24(5). As to the application of this provision see note 2 supra. As to service declarations see PARA 140 et seq ante.

For the purposes of extending the rights of relevant citizens of the Union who (subject to the requirement of registration) may vote at European parliamentary elections, and of citizens and nationals of accession states who (subject to the requirement of registration) may vote at local government and European parliamentary elections, reg 24 (as amended) applies with modifications: see the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule (cited in PARA 117 note 5 ante); and the Local and European Parliamentary Elections (Registration of Citizens of Accession States) Regulations 2003, SI 2003/1557, reg 7, Sch 2 para 1(1), (3)(a).

7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 24(1). As to the application and modification of this provision see notes 2, 6 supra.

8 Ibid reg 24(2)(a). As to the application and modification of this provision see notes 2, 6 supra.

9 Ibid reg 24(2)(b). As to the application and modification of this provision see notes 2, 6 supra. As to certificates of naturalisation see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 79.

10 As to overseas elector's declarations see PARA 129 et seq ante.

11 As to who are British citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 8 et seq.

12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 24(2)(c). As to the application and modification of this provision see notes 2, 6 supra.

13 As to who are Commonwealth citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 11.

14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 24(2)(d)(i). As to the application and modification of this provision see notes 2, 6 supra.

15 For this purpose, 'qualifying Commonwealth citizen' has the same meaning as in the Representation of the People Act 1983 s 4 (as substituted) (entitlement to be registered as parliamentary or local government elector: see PARA 128 note 9 ante): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 24(6). As to the application and modification of this provision see notes 2, 6 supra.

16 As to who are citizens of the Republic of Ireland see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 12.

17 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 24(2)(d)(ii). As to the application and modification of this provision see notes 2, 6 supra. As to the entitlement of relevant citizens of the Union to be registered as European parliamentary electors see PARA 131 ante.

18 Ibid reg 24(4A) (added by SI 2006/2910). As to the application and modification of this provision see notes 2, 6 supra. As to anonymous registration see PARA 174 post.

19 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 24(4). As to the application and modification of this provision see notes 2, 7 supra. For these purposes, 'available for inspection' means available for inspection during ordinary office hours: reg 3(1). Where a document (but not the full register) is made available for inspection under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, any person may make a copy (whether handwritten or by other means) of the whole or any part of it: reg 7(1), (2) (reg 7(1) renumbered, and reg 7(2) added, by SI 2002/1871). For the meaning of 'full register' see PARA 166 note 2 post. As to the determination of applications for registration and the making of objections see PARA 167 et seq post.

20 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 24(3). As to the application and modification of this provision see notes 2, 6 supra. The text refers to 'registration expenses' within the meaning of the Representation of the People Act 1983 s 54(1) (as amended) (see PARA 158 post).

21 Ibid reg 35(1).

22 Ibid reg 35(1)(a), (2)(a).

23 Ibid reg 35(1)(a), (2)(b). As to registrars of births and deaths see REGISTRATION CONCERNING THE INDIVIDUAL vol 39(2) (Reissue) PARA 610.

24 Ibid reg 35(1)(b).

25 Ibid reg 35(3).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iii) Registration Officers/158. Payment of expenses of registration officer.

158. Payment of expenses of registration officer.

Any expenses properly incurred by a registration officer¹ in the performance of his functions² must be paid by the local authority³ by whom he was appointed⁴. These expenses are referred to as 'registration expenses'⁵.

Any fees paid to the registration officer⁶ must be accounted for by him and paid to the local authority by which he was appointed⁷.

On the request of a registration officer for an advance on account of registration expenses the local authority by which he was appointed may, if it thinks fit, make such an advance to him of such an amount and subject to such conditions as it may approve⁸.

The Secretary of State⁹ may reimburse an electoral registration officer in respect of any expenditure incurred by the officer for the purposes of encouraging electoral participation¹⁰.

1 As to the appointment of registration officers see PARA 154 ante.

2 Ie under the Representation of the People Act 1983 or the European Parliamentary Elections Regulations 2004, SI 2004/293, or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended) (as the case may be).

The functions of a registration officer under the Representation of the People Act 1985 ss 2, 3, 6-9 (as amended) are included in any reference to a registration officer's functions under the Representation of the People Act 1983 because those provisions have effect as if they were contained in Pt I (ss 1-66A) (as amended): Representation of the People Act 1985 s 27(2). However, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 20 does not apply to the European parliamentary electoral registration officer for Gibraltar: reg 20(5).

For the purposes of extending the rights of peers and of relevant citizens of the Union who (subject to the requirement of registration) may vote at European parliamentary elections, the Representation of the People Act 1983 s 54 (as amended) is applied with modifications: see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(4), Sch 4 (cited in PARA 116 note 7 ante); and the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule (cited in PARA 117 note 5 ante).

3 In the Representation of the People Act 1983, unless the context otherwise requires, 'local authority' means the Greater London Authority, a county council, a county borough council, a district council, a London borough council or a parish or community council: s 203(1) (definition amended by the Local Government Act 1985 ss 18(1), 19, 102(2), Sch 9 Pt I, Sch 17; the Education Reform Act 1988 s 237, Sch 13 Pt I; the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 68(16); and the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 39(1), (4)(a)). As to the Greater London Authority see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 79 et seq. As to districts, counties and county boroughs, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 23 et seq. As to London boroughs and their councils see LOCAL GOVERNMENT vol 69 (2009) PARA 35; LONDON GOVERNMENT vol 29(2) (Reissue) PARA 30 et seq. As to parishes and their councils see LOCAL GOVERNMENT vol 69 (2009) PARA 27 et seq; and as to communities and their councils see LOCAL GOVERNMENT vol 69 (2009) PARA 41 et seq.

4 Representation of the People Act 1983 s 54(1) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 13(a)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 27(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 20(1). As to the application and modification of this provision see note 2 supra.

5 Representation of the People Act 1983 s 54(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 27(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 20(1). Any reference in any Act, whenever passed, to registration expenses in connection with the registration of

parliamentary and local government electors is to be taken as a reference to registration expenses under the Representation of the People Act 1983: s 206, Sch 7 para 12.

Any registration expenses (or contributions to them) paid by the Common Council of the City of London must be paid out of the general rate and any sums paid to the Common Council under these provisions must be paid to the credit of that rate: Representation of the People Act 1983 ss 54(5), 202(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 20(4). As to elections in the City of London see PARA 30 ante. As to the Common Council of the City of London see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 51 et seq.

As to the application and modification of these provisions see note 2 supra.

6 See note 2 supra. Such fees are paid to the registration officer on the sale of the register of electors: see further PARA 184 post.

7 Representation of the People Act 1983 s 54(3)(a) (amended by the Representation of the People Act 1985 Sch 4 para 13(b)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 27(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 20(2). As to the application and modification of this provision see note 2 supra.

8 Representation of the People Act 1983 s 54(4)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 27(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 20(3). As to the application and modification of this provision see note 2 supra.

9 As to the Secretary of State see PARA 2 ante.

10 Electoral Administration Act 2006 s 69(4), (8)(a). The text refers to the registration officer's duty of encouraging electoral participation under s 69 (see PARA 156 ante). The amount paid under s 69(4) must not in any year exceed such amount as is determined in accordance with regulations made by the Secretary of State: s 69(5). The power to make such regulations is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament (s 69(6)); and such regulations may make different provision for different purposes (s 69(7)). Accordingly, the Encouraging Electoral Participation (Reimbursement of Expenses) (England and Wales) Regulations 2006, SI 2006/2972, which come into force on 1 April 2007, provide that the total amount that may be paid to local electoral officers in England and Wales in pursuance of the Electoral Administration Act 2006 s 69(4) in the year ending on 31 March 2008 and each successive year is £2,500,000: Encouraging Electoral Participation (Reimbursement of Expenses) (England and Wales) Regulations 2006, SI 2006/2972, reg 2. For these purposes, 'year' means a period of 12 months ending on 31 March (reg 1(2)); and 'local electoral officer' means an electoral registration officer (Electoral Administration Act 2006 s 69(8)(a)).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iii) Registration Officers/159. Effect of misdescription in documents published by registration officer.

159. Effect of misdescription in documents published by registration officer.

No misnomer or inaccurate description of any person or place named¹:

- 204 (1) in the register of parliamentary electors²;
- 205 (2) in the register of local government electors³;
- 206 (3) in the register of peers⁴ overseas registered as European parliamentary overseas electors⁵;
- 207 (4) in the register of relevant citizens of the Union⁶ registered as European parliamentary electors⁷; or
- 208 (5) in any required list, record, proxy paper, nomination paper, ballot paper, notice or other document⁸,

affects the full operation of the document with respect to that person or place in any case where the description of the person or place is such as to be commonly understood⁹.

1 Representation of the People Act 1983 s 50; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 25; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 18.

For the purposes of extending the rights of peers and of relevant citizens of the Union who (subject to the requirement of registration) may vote at European parliamentary elections, the Representation of the People Act 1983 s 50 is applied with modifications: see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(4), Sch 4 (cited in PARA 116 note 7 ante); and the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule (cited in PARA 117 note 5 ante).

2 Representation of the People Act 1983 s 50(a); European Parliamentary Elections Regulations 2004, SI 2004/293, regs 2(1), 18(a). As to the application and modification of this provision see note 1 supra. As to the register of parliamentary electors see PARA 156 ante.

3 Representation of the People Act 1983 s 50(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 25(a); European Parliamentary Elections Regulations 2004, SI 2004/293, regs 2(1), 18(a). As to the application and modification of this provision see note 1 supra. As to the register of local government electors see PARA 156 ante.

4 I.e. a register under the Representation of the People Act 1985 s 3 (as substituted and amended) (extension of European parliamentary franchise to peers resident outside the United Kingdom: see PARA 116 ante).

5 European Parliamentary Elections Regulations 2004, SI 2004/293, regs 2(1), 18(a).

6 I.e. a register under the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 5 (see PARA 156 ante). For these purposes, 'citizen of the Union' must be construed in accordance with the Treaty Establishing the European Community (Rome, 25 March 1957; TS 1 (1973); Cmnd 5179) art 17 (formerly art 8 and renumbered by virtue of the Treaty of Amsterdam: see *Treaty Citation (No 2) (Note)* [1999] All ER (EC) 646, ECJ), which states that every person holding the nationality of a member state is a citizen of the Union; and 'relevant citizen of the Union' means such a citizen who is not a Commonwealth citizen or a citizen of the Republic of Ireland: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 2(1). As to who are Commonwealth citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 11; and as to who are citizens of the Republic of Ireland see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 12.

7 Ibid regs 2(1), 18(a).

8 Representation of the People Act 1983 s 50(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 25(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 18(b). The text refers to lists, records, papers, notices or other documents required for the purposes of the Representation of the People Act 1983, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended), or the European Parliamentary Elections Regulations 2004, SI 2004/293, Pt 1 (regs 1-30) (as amended), as the case may be. As to the application and modification of this provision see note 1 supra. As to nomination papers see PARA 262 et seq post; as to proxy papers see PARA 372 et seq post; and as to ballot papers see PARA 391 et seq post.

9 Representation of the People Act 1983 s 50; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 25; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 18. As to the application and modification of this provision see note 1 supra.

UPDATE

159 Effect of misdescription in documents published by registration officer

NOTES 2, 3, 5-7--SI 2004/293 reg 2(1) substituted: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iv) Records of Electors/A. THE REGISTER OF ELECTORS AND LIST OF OVERSEAS ELECTORS/160. Form and content of registers of electors.

(iv) Records of Electors

A. THE REGISTER OF ELECTORS AND LIST OF OVERSEAS ELECTORS

160. Form and content of registers of electors.

Each register of electors¹ must contain²:

- 209 (1) the names of the persons appearing to the registration officer to be entitled to be registered in it, subject to their complying with any prescribed³ requirements⁴;
- 210 (2) subject to any prescribed exceptions, the qualifying addresses⁵ of the persons registered in it⁶; and
- 211 (3) in relation to each such person, that person's electoral number⁷.

A person's 'electoral number' is such number (with or without any letters⁸) as is for the time being allocated by the registration officer to that person as his electoral number for the purposes of the register in question⁹. Electoral numbers must be allocated by a registration officer in such a way as to ensure, so far as is reasonably practicable, that in each separate part of a register the numbers run consecutively¹⁰. An anonymous entry of a person consists of that person's electoral number together with the letter 'N'¹¹; and the registration officer must enter in the record of anonymous entries each person who is entered in the register with such an entry¹².

The register must be framed in separate parts for each parliamentary polling district¹³, except that, where a parliamentary polling district is contained in more than one electoral area¹⁴, there must be a separate part of the register for each part of the polling district contained in each electoral area¹⁵. There must be a different letter or letters in the register for each parliamentary polling district and such letter or letters are deemed to form part of an elector's number in the register¹⁶. The names and addresses of each separate part of the register must be arranged in street order¹⁷. However, if the registration officer determines for any part of the register that street order is not reasonably practicable, the names and addresses must be arranged either in alphabetical order or partly in street order and partly in alphabetical order¹⁸. The name of any person whose qualifying address is not contained in a register¹⁹ must be grouped together in alphabetical order²⁰ at the end of that part of the register to which the address relates²¹, beneath the heading 'Other electors'²², and without giving that address²³. An anonymous entry of a person is to be entered in the register²⁴ at the end of the part of the register which relates to the qualifying address of the person entitled to the entry²⁵, under the heading of 'Other electors'²⁶, and following the names grouped together under that heading²⁷.

The registers of parliamentary electors and local government elector²⁸ must so far as practicable be combined, the entries of persons registered only as parliamentary electors or local government electors being marked to indicate that fact²⁹. As far as practicable, a register of peers entitled to be registered as European parliamentary electors³⁰ must³¹ be combined with the register of parliamentary and local government electors, the names of peers so registered being marked to indicate that fact³²; and a register of relevant citizens of the Union³³ who are registered as European parliamentary electors must so far as practicable be combined both

with the registers of parliamentary and local government electors³⁴ and with any register of peers entitled to be registered as European parliamentary electors³⁵, the names of persons registered as relevant citizens of the Union being marked to indicate that fact³⁶. The marks specified to appear against a person's entry in the register to indicate that he is registered in one or more of the four registers which are required to be combined³⁷ are as follows³⁸:

- 212 (a) to indicate that a relevant citizen of the Union is registered only in the register of local government electors, the letter 'G' must be placed against his entry³⁹;
- 213 (b) to indicate that such a citizen is registered in both that register and the register of such citizens registered as European parliamentary electors, the letter 'K' must be placed against his entry⁴⁰;
- 214 (c) to indicate that any other person is registered only in the register of local government electors, the letter 'L' must be placed against his entry⁴¹;
- 215 (d) to indicate that an overseas elector is registered only in the register of parliamentary electors, the letter 'F' must be placed against his entry⁴²;
- 216 (e) to indicate that a European parliamentary overseas elector is registered only in the register of such electors, the letter 'E' must be placed against his entry⁴³.

Where no mark appears against a person's entry in the register of electors, this indicates that he is registered in the registers of parliamentary and local government electors⁴⁴.

Any reference in any Act, whenever passed, to the register of parliamentary and local government electors, or to the register of parliamentary electors, or to the register of local government electors, or to the electors' lists for any such register, is to be taken as a reference to the register kept under the Representation of the People Act 1983, or to that register so far as it relates to parliamentary electors or local government electors, or to the electors' lists therefor, as the case may be; and references in any Act to a parliamentary or local government elector are to be construed accordingly⁴⁵. However, in relation to a person shown in a register or electors' list as attaining voting age⁴⁶ on a specified date, these references do not apply except for the purposes of an election at which the day fixed for the poll falls on or after that date⁴⁷. The above provision applies whatever the terms used in the reference⁴⁸, but in the case of Acts passed after 30 July 1948 does not apply where the context otherwise requires⁴⁹. It may be modified by order in relation to Acts not so passed⁵⁰.

1 As to the duty of registration officers to maintain, prepare and publish registers of electors see PARA 156 ante. As far as is practicable, all such registers should be combined: see the text and notes 28-36 infra. As to the form and content of the list of overseas electors see PARA 161 post.

2 Representation of the People Act 1983 s 9(2) (s 9 substituted by the Representation of the People Act 2000 s 8, Sch 1 paras 1, 3). The Representation of the People Act 1983 s 9(2) (as substituted and amended) is subject to s 9B(3) (as added) (test for anonymous entry in the register: see PARA 174 post): s 9(2) (as so substituted; and amended by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 2, 4(1), (2)).

For the purposes of extending the rights of peers and of relevant citizens of the Union who (subject to the requirement of registration) may vote at European parliamentary elections, the provisions of the Representation of the People Act 1983 s 9(1)-(4), (7), (8) (as substituted and amended) are applied with modifications: see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(4), Sch 4 (cited in PARA 116 note 7 ante); and the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule (cited in PARA 117 note 5 ante).

3 For these purposes, 'prescribed' means prescribed by regulations: Representation of the People Act 1983 s 202(1). As to the making of regulations under the Representation of the People Act 1983 generally see PARA 24 note 16 ante. As to the regulations made under s 9(2) (as substituted and amended) see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt III (regs 38-45) (as amended).

4 Representation of the People Act 1983 s 9(2)(a) (as substituted: see note 2 supra). As to the application and modification of this provision see note 2 supra.

5 In the Representation of the People Act 1983, 'qualifying address', in relation to a person registered in a register of electors, is the address in respect of which he is entitled to be so registered: s 9(8)(b) (as substituted: see note 2 supra); s 202(1) (definition added by the Representation of the People Act 2000 Sch 1 paras 1, 22(b)). As to the application and modification of this provision see note 2 supra.

6 Representation of the People Act 1983 s 9(2)(b) (as substituted: see note 2 supra). As to the application and modification of this provision see note 2 supra. According to the exceptions prescribed as mentioned in the text, s 9(2)(b) (as substituted) does not apply to an address: (1) where it appears to the registration officer that a service voter in his service declaration or a person who has made a declaration of local connection has given that address in such a declaration as an address at which he has resided, but which is not an address at which he is or would be residing but for the circumstances entitling him to make such a declaration (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 40(1)(a), (2)); (2) given in a declaration of local connection in accordance with the Representation of the People Act 1983 s 7B(4)(b) (as added) (required address given by a homeless person: see PARA 137 note 11 ante) (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 40(1)(a), (3)); or (3) which is specified in an overseas elector's declaration in accordance with the Representation of the People Act 1985 s 2(4)(b) (as substituted) or s 2(4)(c) (ii) (as substituted) (see PARA 147 ante) (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 40(1)(b)). As to overseas elector's declarations see PARA 129 et seq ante; as to declarations of local connection see PARA 136 et seq ante; and as to service declarations see PARA 140 et seq ante.

For the purposes of extending the rights of relevant citizens of the Union who (subject to the requirement of registration) may vote at European parliamentary elections, regs 38-41 are applied with modification: see the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule; and PARA 117 note 5 ante. By virtue of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(6), (7), regs 38-42 apply with modifications to registration in pursuance of a European parliamentary overseas elector's declaration as they apply to registration in pursuance of an overseas elector's declaration: see PARA 116 note 7 ante.

7 Representation of the People Act 1983 s 9(2)(c) (as substituted: see note 2 supra). As to the application and modification of this provision see note 2 supra.

8 As to the letters which are used to mark entries in the registers see the text and notes 11, 37-43 infra.

9 Representation of the People Act 1983 s 9(3) (as substituted: see note 2 supra). As to the application and modification of this provision see note 2 supra.

10 Ibid s 9(4) (as substituted: see note 2 supra). As to the application and modification of this provision see note 2 supra.

11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 41A(1) (reg 41A added by SI 2006/2910).

12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 45A(2) (reg 45A added by SI 2006/2910). The entry in the record referred to in the text must contain: (1) the full name of the person to whom the entry relates (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 45A(3)(a) (as so added)); (2) his electoral number (reg 45A(3)(b) (as so added)); (3) his qualifying address (reg 45A(3)(c) (as so added)); (4) where he has given in his application for an anonymous entry an address other than his qualifying address to which correspondence should be sent, that address (reg 45A(3)(d) (as so added)); (5) the date on which the anonymous entry in the register took effect (reg 45A(3)(e) (as so added)). Where the application of a person with an anonymous entry to vote by post is granted, the registration officer must also enter in the record the address to which the postal ballot paper should be sent as given in the application (ie in accordance with reg 51(2)(d): see PARA 372 post); reg 45A(4) (as so added). As to the registration officer's duty to keep a record of anonymous entries see PARA 156 ante.

Where a registration officer enters a person in the record of anonymous entries, he must issue to that person a certificate of anonymous registration: reg 45G(1) (reg 45G added by SI 2006/2910). A certificate of anonymous registration must be in writing and signed by the registration officer (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 45G(2) (as so added)); and must state: (a) the name of the area for which the registration officer acts (reg 45G(3)(a) (as so added)); (b) the name, electoral number and qualifying address of the person who has the anonymous entry (reg 45G(3)(b) (as so added)); (c) the date on which the anonymous entry took effect (reg 45G(3)(c) (as so added)); (d) that, unless a fresh application for an anonymous entry is made, the entitlement to remain registered anonymously will terminate no later than at the end of the period of 12 months beginning with the date stated in accordance with head (c) supra (reg 45G(3)(d) (as so added)). A 'certificate of anonymous registration' means a certificate issued in pursuance of reg 45G (as added): reg 3(1) (definition added by SI 2006/2910).

13 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 38(1). As to the application and modification of this provision see note 6 supra. As to polling districts at parliamentary elections see PARA 348 post.

14 For the meaning of 'electoral area' see PARA 10 ante.

15 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 38(2). As to the application and modification of this provision see note 6 supra.

Where a National Assembly for Wales constituency is not coterminous with, or wholly situated in, a county or county borough, the registration officer for any part of the Assembly constituency must, if he is not the returning officer for the constituency, consult him concerning the form of so much of the register or the electors' lists as relates to the constituency in order to ensure that, so far as practicable, they are in a form similar to those in use elsewhere in the constituency: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 139. For the meanings of 'Assembly constituency' and 'Assembly election' for these purposes see PARA 3 note 1 ante; and for the meaning of 'constituency returning officer' see PARA 18 note 2 ante. As to Assembly constituencies see PARA 75 ante; as to the electors' lists see PARA 163 et seq post; and as to returning officers for elections to the National Assembly for Wales see PARA 362 et seq post. As to counties and county boroughs in Wales see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq.

16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 39. As to the application and modification of this provision see note 6 supra.

17 Ibid reg 41(1). As to the application and modification of this provision see note 6 supra.

18 Ibid reg 41(2). As to the application and modification of this provision see note 6 supra.

19 Ie by virtue of ibid reg 40 (as to which see note 6 supra).

20 Ibid reg 41(3). As to the application and modification of this provision see note 6 supra.

21 Ibid reg 41(3)(a). As to the application and modification of this provision see note 6 supra.

22 Ibid reg 41(3)(b). As to the application and modification of this provision see note 6 supra.

23 Ibid reg 41(3)(c). As to the application and modification of this provision see note 6 supra.

24 Ibid reg 41A(2) (as added: see note 11 supra).

25 Ibid reg 41A(2)(a) (as added: see note 11 supra).

26 Ibid reg 41A(2)(b) (as added: see note 11 supra). The text refers to the heading of 'Other electors' as mentioned in reg 41(3)(b) (see the text and note 22 supra).

27 Ibid reg 41A(2)(c) (as added: see note 11 supra). The text refers to the names grouped together under the heading of 'Other electors' in pursuance of reg 41(3) (see the text and notes 19-23 supra).

28 As to the registers of parliamentary electors and local government electors see PARA 156 ante.

29 Representation of the People Act 1983 s 9(5) (as substituted (see note 2 supra); and amended by the Electoral Administration Act 2006 Sch 1 paras 2, 4(1), (3)). As to the application and modification of this provision see note 2 supra. As to anonymous entries in the register of electors see PARA 170 et seq post.

30 As to the register of peers entitled to be registered as European parliamentary electors see PARA 156 ante.

31 Ie under the Representation of the People Act 1985 s 3(7) (as substituted and amended) (see PARA 116 note 7 ante).

32 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(2).

33 For the meaning of 'relevant citizen of the Union' see PARA 117 note 4 ante.

34 European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 5(3)(a).

For the purposes of extending the rights of citizens and nationals of accession states who (subject to the requirements of registration) may vote at local government and European parliamentary elections, reg 5 is applied with modifications: see the Local and European Parliamentary Elections (Registration of Citizens of Accession States) Regulations 2003, SI 2003/1557, reg 6, Sch 1 para 3.

35 European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 5(3)(b). As to the application and modification of this provision see note 34 *supra*.

36 *Ibid* reg 5(3). As to the application and modification of this provision see note 34 *supra*.

37 *Ie* those of parliamentary electors, of local government electors, of peers overseas registered as European parliamentary overseas electors and of relevant citizens of the Union registered as European parliamentary electors. A registration officer must also prepare a list of the names of each person who appears to him to be entitled to be registered in pursuance of an overseas elector's declaration ('the list of overseas electors'): see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 45; and *PARA* 161 *post*.

38 *Ibid* reg 42(1) (amended by SI 2006/2910). The marks are specified in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 42(3)-(7) (as amended): see heads (a)-(e) in the text. As to the application and modification of this provision see note 6 *supra*. Letters may appear against a person's entry in versions of the register other than for the purposes of combining them. To indicate that an elector or his proxy is entitled to vote by post and is for that reason not entitled to vote in person, the letter 'A' is placed against the entry of that elector in any copy of the register, or part of it, provided for a polling station: see reg 62 (as amended); and *PARAS* 382, 387 *post*. In any copy of the full register (or any copy of a notice of alteration) which is sold to prescribed government departments or to credit reference agencies, the letter 'Z' is placed against the entry of any person whose entry is not included in the edited version of the register: see reg 111 (as added and amended); and *PARA* 184 note 16 *post*. For the meaning of 'full register' see *PARA* 166 note 2 *post*; and for the meaning of 'edited register' see *PARA* 166 note 4 *post*.

39 *Ibid* reg 42(3) (amended by SI 2006/2910).

For the purposes of extending the rights of citizens and nationals of accession states who (subject to the requirements of registration) may vote at local government and European parliamentary elections, reg 42(3) (as amended) is applied with modifications: see the Local and European Parliamentary Elections (Registration of Citizens of Accession States) Regulations 2003, SI 2003/1557, reg 7, Sch 2 para 1(1), (3)(c). As to the application and modification of this provision see also note 6 *supra*.

40 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 42(4) (amended by SI 2006/2910). As to the application and modification of this provision see note 6 *supra*.

41 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 42(5) (amended by SI 2006/2910). As to the application and modification of this provision see note 6 *supra*.

42 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 42(6) (amended by SI 2006/2910). As to the application and modification of this provision see note 6 *supra*.

43 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 42(7) (amended by SI 2006/2910). As to the application and modification of this provision see note 6 *supra*.

44 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 42(2) (amended by SI 2006/2910). As to the application and modification of this provision see note 6 *supra*.

45 Representation of the People Act 1983 s 206, Sch 7 para 10(1).

46 For the purposes of parliamentary and local government elections, voting age is currently 18 years: see *PARA* 110 note 2 *ante*.

47 Representation of the People Act 1983 Sch 7 para 10(2).

48 The provisions of *ibid* Sch 7 paras 10-12 apply to a reference to any of the matters mentioned in them whatever the terms used in the reference, and to a reference to any other matter which was to be construed as a reference to any of the matters so mentioned by virtue of an enactment repealed by the Representation of the People Act 1948: Representation of the People Act 1983 Sch 7 para 13(1).

49 *Ibid* Sch 7 para 13(2).

50 *Ibid* Sch 7 para 13(3)-(6).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iv) Records of Electors/A. THE REGISTER OF ELECTORS AND LIST OF OVERSEAS ELECTORS/161. Form and content of list of overseas electors.

161. Form and content of list of overseas electors.

The list of overseas electors¹ must have a separate part in respect of each constituency² which is wholly or partly comprised in the area for which the registration officer acts³. The names of the persons included in each part must be listed in alphabetical order⁴; and the name of a person appearing to the registration officer to be entitled to be registered in pursuance of a European parliamentary overseas elector's declaration⁵ must be marked with the letter 'E'⁶.

1 For the meaning of 'list of overseas electors' see PARA 156 note 9 ante.

2 For the meaning of 'constituency' for these purposes see PARA 9 ante.

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 45(2). By virtue of reg 13(6), (7), reg 45 (as amended) applies to registration in pursuance of a European parliamentary overseas elector's declaration as it applies to registration in pursuance of an overseas elector's declaration: see PARA 116 note 7 ante. As to registration officers and the areas for which they act see PARA 154 ante.

4 Ibid reg 45(2).

5 Ie and included in the list of overseas electors by virtue of ibid reg 13(6) (see note 3 supra).

6 Ibid reg 45(4). As to the entries associated with overseas electors in the registers of electors see PARA 160 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iv) Records of Electors/A. THE REGISTER OF ELECTORS AND LIST OF OVERSEAS ELECTORS/162. Effect of register entries and list of proxies.

162. Effect of register entries and list of proxies.

If any entry in the register of electors¹ gives a date as that on a which the person named will attain voting age², the entry is conclusive³ that until the date given in the entry he is not of voting age nor entitled to be treated as an elector except for purposes of an election⁴ at which the day fixed for the poll is that or a later date⁵.

A person registered as an elector⁶ or entered in the list of proxies⁷ cannot be excluded from voting on any of the following grounds⁸, namely that:

- 217 (1) he is not of voting age⁹;
- 218 (2) that he is not or, on the relevant date¹⁰ or the date of his appointment (as the case may be), was not¹¹: (a) a Commonwealth citizen¹²; (b) a citizen of the Republic of Ireland¹³; (c) in the case of a person registered as a parliamentary elector or as a European parliamentary elector (as the case may be) in pursuance of an overseas elector's declaration¹⁴, a British citizen¹⁵; and (d) in the case of a person registered as an elector or entered in the list of proxies by virtue of being a relevant citizen of the Union¹⁶, a relevant citizen of the Union¹⁷; or
- 219 (3) that he is or, on the relevant date or the date of his appointment (as the case may be), was otherwise subject to any other legal incapacity to vote¹⁸.

This, however, does not prevent the rejection of the vote on a scrutiny¹⁹ or affect the person's liability to any penalty for voting²⁰.

1 (1) in relation to parliamentary and local government elections, the register of parliamentary electors or the register of local government electors (Representation of the People Act 1983 s 49(4)); (2) in relation to elections to the National Assembly for Wales, the register of local government electors only (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 24(1)); and (3) in relation to European parliamentary elections, any part of: (a) a register of parliamentary or, in the case of peers, local government electors; (b) a register under the Representation of the People Act 1985 s 3 (as substituted and amended) (peers resident outside the United Kingdom registered as European parliamentary electors: see PARA 116 ante); (c) a register under the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 5 (see PARA 156 ante); and (d) the Gibraltar register (see PARA 131 note 2 ante), in force within an electoral region at the time of a European parliamentary election in that region (European Parliamentary Elections Regulations 2004, SI 2004/293, reg 2(1)). As to electoral regions established for the purposes of European parliamentary elections see PARA 76 ante; and as to the registers of electors generally see PARA 156 et seq ante.

For the purposes of extending the rights of citizens and nationals of accession states who (subject to the requirements of registration) may vote at local government and European parliamentary elections, the Representation of the People Act 1983 s 49 (as amended) and the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 24 are applied with modifications: see the Local and European Parliamentary Elections (Registration of Citizens of Accession States) Regulations 2003, SI 2003/1557, regs 2(1), (4), 7, Sch 2 para 6(1), (3). The Representation of the People Act 1983 s 49(4), (5) (s 49(5) as substituted and amended) has been applied and modified in order to make provision for the conduct of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1. As to the conduct of local authority referendums generally see PARA 557 post.

2 'Voting age' is currently 18 years for all purposes: see PARAS 110 note 2, 112 note 14, 117 note 9 ante.

3 le for any purpose of the Representation of the People Act 1983 Pt I (ss 1-66A) (as amended) or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Pt II (arts 3-34) (as amended) or the European Parliamentary Elections Regulations 2004, SI 2004/293, Pt 1 (regs 1-30) (as amended), relating to the person named as elector.

4 For the meaning of 'election' see PARA 3 note 1 ante.

5 Representation of the People Act 1983 s 49(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 24(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 17(1). As to the application and modification of this provision see note 1 supra. The Representation of the People Act 1983 s 49(4) applies to an entry in the record of anonymous entries as it applies to an entry in the register of parliamentary or local government electors: s 49(4A) (added by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 2, 7). For the meaning of the 'record of anonymous entries' see PARA 174 note 12 post.

6 le in relation to parliamentary and local government elections, a person registered as a parliamentary elector or local government elector (Representation of the People Act 1983 s 49(5) (as substituted: see note 8 infra)); in relation to elections to the National Assembly for Wales, a local government elector only (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 24(2)); and, in relation to European parliamentary elections, any person whose name is for the time being on the register of electors (see note 1 supra), but not including those shown in the register as below voting age on the day fixed for the poll (European Parliamentary Elections Regulations 2004, SI 2004/293, reg 2(1)). As to Gibraltar residents as European parliamentary electors see reg 17(3)(b), (4).

7 For the meaning of the 'list of proxies' see PARA 378 note 14 post.

8 Representation of the People Act 1983 s 49(5) (substituted by the Local Government Elections (Changes to the Franchise and Qualification of Members) Regulations 1995, SI 1995/1948, reg 5(2), Sch 2 para 5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 24(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 17(2). As to the application and modification of this provision see note 1 supra.

9 Representation of the People Act 1983 s 49(5)(a) (as substituted: see note 8 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 24(3)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 17(2)(a). As to the application and modification of this provision see note 1 supra.

10 For these purposes, 'the relevant date' means, in relation to a person registered in the register in question (see note 1 supra) as published in accordance with the Representation of the People Act 1983 s 13(1) (as substituted) (see PARA 164 post), the 15 October immediately preceding the date of publication of the register or, in relation to any other person registered in the register in question, the 'relevant date' for the purposes of s 4 (as substituted) (entitlement to be registered as parliamentary or local government elector: see PARA 128 note 4 ante): s 49(6) (added by the Representation of the People Act 2000 s 8, Sch 1 paras 1, 12(1), (4)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 24(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 17(3). As to the application and modification of this provision see note 1 supra.

11 Representation of the People Act 1983 s 49(5)(b) (as substituted (see note 8 supra); and amended by the Representation of the People Act 2000 Sch 1 paras 1, 12(1), (3)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 24(3)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 17(2)(b). As to the application and modification of this provision see note 1 supra.

12 Representation of the People Act 1983 s 49(5)(b)(i) (as substituted: see note 8 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 24(3)(b)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 17(2)(b)(i). As to the application and modification of this provision see note 1 supra. As to who are Commonwealth citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 11.

13 Representation of the People Act 1983 s 49(5)(b)(ii) (as substituted: see note 8 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 24(3)(b)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 17(2)(b)(ii). As to the application and modification of this provision see note 1 supra. As to who are citizens of the Republic of Ireland see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 12.

14 For these purposes, 'overseas elector's declaration' has the meaning given by the Representation of the People Act 1985 s 2 (as substituted) (see PARA 129 ante); Representation of the People Act 1983 s 202(1) (definition added by the Representation of the People Act 1985 s 4(5), Sch 2 Pt I).

15 Representation of the People Act 1983 s 49(5)(b)(iii) (as substituted: see note 8 supra); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 17(2)(b)(iii). As to the application and modification of this provision see note 1 supra. As to who are British citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 8 et seq.

16 For the meaning of 'relevant citizen of the Union' in relation to the Representation of the People Act 1983 see PARA 112 note 13 ante; and in relation to the European Parliamentary Elections Regulations 2004, SI 2004/293, see PARA 159 note 6 ante. For the purposes of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended), 'citizen of the Union' is to be interpreted in the same way as in the Representation of the People Act 1983 (as to which see PARA 112 note 13 ante); and 'relevant citizen of the Union' means a citizen of the Union who is not a Commonwealth citizen or a citizen of the Republic of Ireland: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 2(1).

17 Representation of the People Act 1983 s 49(5)(b)(iv) (as substituted: see note 8 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 24(3)(b)(iii); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 17(2)(b)(iv). As to the application and modification of this provision see note 1 supra.

18 Representation of the People Act 1983 s 49(5)(c) (as substituted (see note 8 supra); and amended by the Representation of the People Act 2000 Sch 1 paras 1 12(1), (3)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 24(3)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 17(2)(c). As to the application and modification of this provision see note 1 supra. As to the meaning of 'legal incapacity (to vote)' under the Representation of the People Acts see PARA 110 note 8 ante. For the purposes of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended), 'legal incapacity' includes (in addition to any incapacity arising by virtue of any subsisting provision of the common law) any disqualification imposed by the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended), or by any other enactment (art 2(1)); and, for the purposes of the European Parliamentary Elections Regulations 2004, SI 2004/293, 'legal incapacity' includes (in addition to any incapacity by virtue of any subsisting provision of the common law) any disqualification imposed by the European Parliamentary Elections Regulations 2004, SI 2004/293, or by any Act (reg 2(1)). As to incapacities imposed for offences against electoral law during Welsh Assembly parliamentary elections see PARA 124 ante; and as to incapacities imposed for offences during European parliamentary elections see PARA 125 ante.

19 As to the rejection, on a scrutiny, of votes given by persons under a legal incapacity to vote see PARA 839 post.

20 Representation of the People Act 1983 s 49(5) (as substituted: see note 8 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 24(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 17(2). As to the application and modification of this provision see note 1 supra.

UPDATE

162 Effect of register entries and list of proxies

NOTES 1, 6, 18--SI 2004/293 reg 2(1) substituted: SI 2009/186.

NOTES 1-5--SI 2004/293 reg 17(1A) added: SI 2009/186.

NOTE 1--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iv) Records of Electors/B. MAINTENANCE OF ELECTORAL RECORDS/163. Annual canvass.

B. MAINTENANCE OF ELECTORAL RECORDS

163. Annual canvass.

Each registration officer¹ must conduct an annual canvass in relation to the area for which he acts for the purpose of ascertaining the persons who are for the time being entitled to be, or to remain, registered in his registers². The canvass for any year must be conducted by reference to residence³ on 15 October in that year⁴. A canvass is not, however, concerned with: (1) the registration of persons in respect of residence in penal institutions⁵ or mental hospitals⁶ or other places at which certain persons⁷ may be detained under a relevant order or direction⁸; (2) the registration of persons in pursuance of declarations of local connection⁹, service declarations¹⁰, or overseas electors' declarations¹¹; or (3) the registration of persons with anonymous entries in the register¹².

The form to be used for the purposes of a canvass must be either a form prescribed for those purposes¹³ or a form to the same effect¹⁴.

In connection with a canvass, a registration officer may, for the purpose of supplementing the information obtained by the use of any such form¹⁵ or, where any such form has not been returned, obtaining any information designed to be obtained by the use of the form¹⁶, make such house to house inquiries as he thinks fit¹⁷.

On the conclusion of a canvass, a registration officer must make such alterations in his registers as fall to be made¹⁸ as a result of the canvass¹⁹.

1 As to registration officers see PARA 154 ante.

2 Representation of the People Act 1983 s 10(1) (s 10 substituted by the Representation of the People Act 2000 s 8, Sch 1 paras 1, 4). As to references, in relation to a registration officer, to 'his' registers see PARA 156 note 3 ante. As to the duty of registration officers to maintain, prepare and publish registers of electors see PARA 156 ante.

3 For these purposes, 'residence' means residence for the purposes of the Representation of the People Act 1983 s 4 (as substituted) (entitlement to be registered as parliamentary or local government elector: see PARA 128 ante): s 10(7) (as substituted: see note 2 supra).

4 Ibid s 10(2) (as substituted: see note 2 supra).

5 Ie within the meaning of ibid 3 (as amended): see PARA 122 note 2 ante.

6 Ie within the meaning of ibid s 7 (as substituted and amended): see PARA 134 note 3 ante.

7 Ie persons to whom ibid s 7A (as added and amended) (deemed residence for persons on remand etc: see PARA 135 ante) applies.

8 Ibid s 10(3)(a) (as substituted: see note 2 supra). As to the orders or directions referred to in the text see PARA 135 note 3 ante.

9 Ibid s 10(3)(b)(i) (as substituted: see note 2 supra). As to declarations of local connection see PARA 136 et seq ante.

10 Ibid s 10(3)(b)(ii) (as substituted: see note 2 supra). As to service declarations see PARA 140 et seq ante.

11 Ibid s 10(3)(b)(iii) (as substituted: see note 2 supra). For the meaning of 'overseas elector's declaration' see PARA 162 note 14 ante. As to registration in the register of parliamentary electors in pursuance of an overseas elector's declaration see PARA 129 et seq ante.

12 Ibid s 10(3)(c) (s 10 as substituted (see note 2 supra); and s 10(3)(c) added by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 2, 5). As to anonymous entries in a register of electors see PARA 170 et seq post.

13 For these purposes, 'prescribed' means prescribed by regulations: Representation of the People Act 1983 s 202(1). As to the making of regulations under the Representation of the People Act 1983 generally see PARA 24 note 16 ante. As to the regulations made under s 10(4) (as substituted) see the Representation of the People (Form of Canvass) (England and Wales) Regulations 2006, SI 2006/1694. The form prescribed for use for the purposes mentioned in the text is set out in reg 3, Schedule Pt 1.

14 Representation of the People Act 1983 s 10(4) (as substituted: see note 2 supra).

15 Ibid s 10(5)(a) (as substituted: see note 2 supra).

16 Ibid s 10(5)(b) (as substituted: see note 2 supra).

17 Ibid s 10(5) (as substituted: see note 2 supra). As to the registration officer's general powers to require information about electors and to inspect certain records see PARA 157 ante.

18 Ie in accordance with ibid s 10A (as added and amended) (maintenance of the registers (registration of electors): see PARA 167 post).

19 Ibid s 10(6) (as substituted: see note 2 supra).

UPDATE

163 Annual canvass

TEXT AND NOTES--As to the situation where an election falls within the canvass period see PARA 163A.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iv) Records of Electors/B. MAINTENANCE OF ELECTORAL RECORDS/163A. Election falling within canvass period.

163A. Election falling within canvass period.

The Representation of the People Act 1983 s 13BB (added by the Political Parties and Elections Act 2009 s 23(1)) applies where (1) in connection with a canvass under the Representation of the People Act 1983 s 10 (see PARA 163), the form returned in respect of an address ('the relevant address') is completed in such a way that, by virtue of s 10A(2) (see PARA 167), an application for registration is treated as having been made in respect of that address; and (2) notice is published of an election to which s 13B (see PARA 160) applies that is to be held in an area which includes the relevant address, during the period starting with 1 July in the year of the canvass and ending with 1 December in that year: s 13BB(1). The application must be treated as made when the notice of election is published, if the canvass form has already been returned, when the form is returned, if the notice has already been published, or at such other time as may be prescribed: s 13BB(2). Section 13BB(2) does not apply if the canvass form is returned after the appropriate publication date or the form is returned too late for the application to be determined in accordance with regulations on or before that date, even without there being any delay in dealing with the application or any objections to the registration: s 13BB(3). Where, in consequence of the determination of the application, an entry relating to a person falls to be made in, or removed from, a register covering the relevant address, the registration officer by whom that register is maintained must issue, in the prescribed manner, a notice specifying the appropriate alteration: s 13BB(4). Where (a) in consequence of the determination of the application, a person's entry in respect of an address other than the relevant address falls to be removed from a register maintained by a registration officer other than the one referred to in s 13BB(4), (b) at the time of the determination, notice has been published of an election to which s 13B applies that is to be held in an area which includes that other address, during the period starting with 1 July in the year of the canvass and ending with 1 December in that year and (c) the determination is made before the appropriate publication date for that election, the other registration officer must, on being informed of the determination, issue in the prescribed manner a notice specifying the appropriate alteration: s 13BB(5). A notice under s 13BB(4) or (5) must be issued on the appropriate publication date for the election in question, and the alteration takes effect as from the beginning of that day: s 13BB(6). A requirement imposed by s 13BB(4) or (5) does not apply if, before the appropriate publication date for the election in question, the registration officer concerned publishes a revised version of the register incorporating the appropriate alteration: s 13BB(7). As to the meaning of 'the appropriate publication date' see s 13B (PARA 160); 'canvass form' means the form mentioned in head (1) above: s 13BB(8). For the purposes of s 13BB, a canvass form is 'returned' when it is inserted: s 13BB(9).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iv) Records of Electors/C. PUBLICATION OF ELECTORAL RECORDS/164. Publication of revised version of registers and list of overseas electors.

C. PUBLICATION OF ELECTORAL RECORDS

164. Publication of revised version of registers and list of overseas electors.

Following the conclusion of the canvass conducted by a registration officer¹ for any year, the officer must publish a revised version of both of his registers² either by 1 December in that year³ or by such later date as regulations may prescribe⁴. The revised versions of the registers must incorporate all the alterations which are required to be made in them as a result of the annual canvass⁵ and any alterations which are required to be made by virtue of the statutory provisions which relate to the alteration of the registers⁶. A registration officer may in addition, if he thinks fit, publish a revised version of either of his registers at any time between⁷ the time when the register was last published following the conclusion of the annual canvass⁸ and the time when it is due to be next so published⁹. However, a registration officer proposing to publish a revised version of a register in this way¹⁰ must publish notice of his intention to do so by such time and in such manner as may be prescribed¹¹. A register of peers resident outside the United Kingdom who are registered as European parliamentary electors¹² may be published by means of a notice making additions to the registers of parliamentary electors and of local government electors with which it must be combined¹³.

When revising a register for publication, the registration officer must make such changes affecting the electoral numbers¹⁴ of persons registered in the register as he considers necessary in order to comply with the requirement¹⁵ that the numbers should, so far as is reasonably practicable, run consecutively in each separate part of a register¹⁶.

Where a revised version of a register is published at any time, the register has effect in the form in which it is so published as from that time until the time when¹⁷ a revised version is next so published¹⁸ or, if earlier, any alteration to the register takes effect under the statutory provisions which relate to the alteration of the registers¹⁹. The revised version of a register²⁰ must be kept published until the coming into force of the next revised version of it²¹.

At the time when the registration officer publishes a revised version of the register following the conclusion of the annual canvass²², he must publish also the list of overseas electors²³ by making a copy of it available for inspection under supervision at his office²⁴; and the list must be kept so published until the next revised version of the register is published following the conclusion of the annual canvass²⁵.

1 Ie under the Representation of the People Act 1983 s 10 (as substituted) (see PARA 163 ante). As to registration officers and the areas for which they act see PARA 154 ante.

2 Ibid s 13(1) (s 13 substituted by the Representation of the People Act 2000 s 8, Sch 1 paras 1, 6). The registers referred to in the text are the registers of parliamentary electors and local government electors. As to references, in relation to a registration officer, to 'his' registers see PARA 156 note 3 ante.

Any reference in the Representation of the People Act 1983 s 13 (as substituted) or s 13A (as added and amended) (see PARA 175 post) to the publication of a revised version of the register is to its publication in accordance with regulations made in pursuance of s 53(1) (as amended), Sch 2 para 10A (as added) (copies of the register etc to be made available for inspection by the public) and Sch 2 para 10B(1)(a) (as added) (registration officer to supply copies of the register etc to prescribed persons) (see PARA 127 ante): s 13(6) (as so substituted). Accordingly, the manner in which each revised version of the full register is to be published under s 13(1) (as substituted) and s 13(3) (as substituted) (see the text and notes 7-11 infra) is by the

registration officer: (1) making a copy of it available for inspection under supervision at his office, and at such places, if any, in his registration area as allow members of the public in that area reasonable facilities for that purpose (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 43(1)(a) (reg 43(1) substituted by SI 2002/1871)); and (2) supplying copies of it in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt VI (regs 92-115) (as added and amended) (see PARA 176 et seq post) (reg 43(1)(b) (as so substituted)). Where a copy of the full register is made available pursuant to head (1) supra by providing the register on a computer screen or otherwise in data form, the registration officer must ensure that the manner in, and equipment on, which that copy is provided do not permit any person consulting that copy to search it by electronic means by reference to the name of any person or to copy or transmit any part of that copy by electronic, or any other, means: reg 43(1A) (added by SI 2002/1871). The permitted purpose for which a copy of the full register is made available for inspection under supervision in this way does not include direct marketing: see PARA 176 note 18 post. For the meaning of 'full register' see PARA 166 note 2 post. As to the making of regulations under the Representation of the People Act 1983 generally see PARA 24 note 16 ante. By virtue of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(6), (7), reg 43 (as amended) applies to registration in pursuance of a European parliamentary overseas elector's declaration as it applies to registration in pursuance of an overseas elector's declaration: see PARA 116 note 7 ante.

For the purposes of extending the rights of peers and of relevant citizens of the Union who (subject to the requirement of registration) may vote at European parliamentary elections, the Representation of the People Act 1983 s 13 (as substituted; prospectively amended in relation to Northern Ireland) is applied with modifications: see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(4), Sch 4 (cited in PARA 116 note 7 ante); and the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule (cited in PARA 117 note 5 ante).

3 Representation of the People Act 1983 s 13(1)(a) (as substituted: see note 2 supra). As to the application and modification of this provision see note 2 supra.

4 Ibid s 13(1)(b) (as substituted: see note 2 supra). As to the application and modification of this provision see note 2 supra.

5 Ibid s 13(2)(a) (as substituted: see note 2 supra). As to the application and modification of this provision see note 2 supra. The text refers to alterations which are required to be made as mentioned in s 10(6) (as substituted) (see PARA 163 ante).

6 Ibid s 13(2)(b) (as substituted: see note 2 supra). As to the application and modification of this provision see note 2 supra. The text refers to alterations which are required to be made by virtue of s 13A(3) (as added) (see PARA 175 post).

7 Ibid s 13(3) (as substituted: see note 2 supra). As to the application and modification of this provision see note 2 supra.

8 Ibid s 13(3)(a) (as substituted: see note 2 supra). As to the application and modification of this provision see note 2 supra. The text refers to the time when the register was last published in accordance with s 13(1) (as substituted) (see the text and notes 1-4 supra).

9 Ibid s 13(3)(b) (as substituted: see note 2 supra). As to the application and modification of this provision see note 2 supra.

10 Ibid in accordance with ibid s 13(3) (as substituted).

11 Ibid s 13(3) (as substituted: see note 2 supra). As to the application and modification of this provision see note 2 supra. For these purposes, 'prescribed' means prescribed by regulations: s 202(1). Accordingly, a notice under s 13(3) (as substituted) must be published: (1) not less than 14 days before the publication of the revised version of the register to which it relates (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 36(1)(a)); (2) in a newspaper circulating in the area for which the registration officer acts (reg 36(1)(b)); and (3) by posting a copy of it at his office and in some conspicuous place or places in that area (reg 36(1)(c)). As to the making of regulations under the Representation of the People Act 1983 generally see PARA 24 note 16 ante.

For the purposes of extending the rights of relevant citizens of the Union who (subject to the requirements of registration) may vote at European parliamentary elections, the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 36 (as amended) is applied with modifications: see the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule; and PARA 117 note 5 ante.

12 Ibid a register under the Representation of the People Act 1985 s 3 (as substituted and amended), which has been prepared and published in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13 and the provisions applied by it (see note 2 supra): see PARA 116 ante.

- 13 Ibid reg 13(8). As to the combination of registers see PARA 160 ante.
- 14 As to electoral numbers see PARA 160 ante.
- 15 Ie the requirement in the Representation of the People Act 1983 s 9(4) (as substituted) (see PARA 160 ante).
- 16 Ibid s 13(4) (as substituted: see note 2 supra). As to the application and modification of this provision see note 2 supra. As to the framing of a register in parts see PARA 160 ante.
- 17 Ibid s 13(5) (as substituted: see note 2 supra). As to the application and modification of this provision see note 2 supra.
- 18 Ibid s 13(5)(a) (as substituted: see note 2 supra). As to the application and modification of this provision see note 2 supra.
- 19 Ibid s 13(5)(b) (as substituted: see note 2 supra). As to the application and modification of this provision see note 2 supra. The text refers to alterations which take effect under s 13A (as added and amended) (see PARA 175 post) or s 13B (as added and amended) (see PARA 175 post).
- 20 Ie the revised version of a register published under ibid s 13(1) (as substituted) (see the text and notes 1-4 supra) or s 13(3) (as substituted) (see the text and notes 7-11 supra).
- 21 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 43(2). As to the application and modification of this provision see note 2 supra.
- 22 See note 8 supra.
- 23 For the meaning of 'list of overseas electors' see PARA 156 note 9 ante.
- 24 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 45(3) (amended by SI 2002/1871). For the meaning of 'available for inspection' see PARA 157 note 19 ante. By virtue of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(6), (7), reg 45 (as amended) applies to registration in pursuance of a European parliamentary overseas elector's declaration as it applies to registration in pursuance of an overseas elector's declaration: see PARA 116 note 7 ante.
- 25 Ibid reg 45(3). As to the application and modification of this provision see note 24 supra.

UPDATE

164 Publication of revised version of registers and list of overseas electors

NOTE 3--The Representation of the People Act 1983 s 13(1)(a) has effect, in the case of a registration officer acting for an area in which, or in part of which, an election to which s 13B (see PARA 167) applies is held during the period starting with 1 July in the year in question, and ending with 1 December in that year, as if for '1 December in that year' there were substituted '1 February in the following year': s 13(1A) (added by the Political Parties and Elections Act 2009 s 23(2)).

NOTE 19--Representation of the People Act 1983 s 13(5)(b) amended: Political Parties and Elections Act 2009 Sch 6 para 2.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iv) Records of Electors/C. PUBLICATION OF ELECTORAL RECORDS/165. Supply of electoral information following publication of revised register.

165. Supply of electoral information following publication of revised register.

As soon as practicable after the publication of a revised version of the register¹ following the conclusion of the annual canvass², the registration officer³ must supply to the Secretary of State⁴ a document setting out the information about electors which is required as follows⁵:

- 220 (1) the name of the constituency⁶ (and, if only part of the constituency is situated in the area for which the registration officer acts, that fact) must be stated and the following total numbers of electors in that constituency or part thereof listed, namely⁷:
 12. (a) parliamentary electors (including those referred to in head (1)(d) below)⁸;
 13. (b) local government electors (including those referred to in head (1)(d) below)⁹;
 14. (c) those local government electors who are ineligible to vote at parliamentary elections¹⁰; and
 15. (d) those registered before attaining voting age¹¹;
- 221 (2) the following totals must be set out separately as respects those electors referred to in heads (1)(a) and (1)(d) above, namely¹²:
 16. (a) those registered by virtue of residence at a qualifying address¹³;
 17. (b) those registered in pursuance of a service declaration¹⁴;
 18. (c) those registered in pursuance of an overseas elector's declaration¹⁵; and
 19. (d) those registered in pursuance of a declaration of local connection¹⁶;
- 222 (3) in respect of each relevant area¹⁷ in the constituency, there must be stated¹⁸:
 20. (a) its name or number¹⁹;
 21. (b) the letters²⁰ for each parliamentary polling district in each relevant area or part thereof²¹; and
 22. (c) if only part of the relevant area is situated in the constituency, that fact²²;
- 223 and the following total numbers of electors in that area or part thereof must be listed, namely²³:
 23. (i) parliamentary electors (including those referred to in head (ii) below)²⁴;
 24. (ii) those registered before attaining voting age²⁵; and
 25. (iii) those local government electors who are ineligible to vote at parliamentary elections²⁶;
- 224 (4) the total number of electors who have an anonymous entry²⁷.

¹ As to the meaning of references to publication of a revised version of the register see PARA 164 note 2 ante.

- 2 le under the Representation of the People Act 1983 s 13(1) (as substituted) (see PARA 164 ante).
- 3 As to registration officers and the areas for which they act see PARA 154 ante.
- 4 As to the Secretary of State see PARA 2 ante.
- 5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 44(1) (amended by SI 2006/2910).
- 6 For the meaning of 'constituency' for these purposes see PARA 9 ante.
- 7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 44(2).
- 8 Ibid reg 44(2)(a). As to the entitlement to vote as a parliamentary elector see PARA 110 ante.
- 9 Ibid reg 44(2)(b). As to the entitlement to vote as a local government elector see PARA 112 ante.
- 10 Ibid reg 44(2)(c).
- 11 Ibid reg 44(2)(d). The text refers to those registered in pursuance of the Representation of the People Act 1983 s 4(5) (as substituted) (attainers: see PARA 128 ante).
- 12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 44(3).
- 13 Ibid reg 44(3)(a). As to registration by virtue of residence at a qualifying address see PARA 128 ante.
- 14 Ibid reg 44(3)(b). As to registration in pursuance of a service declaration see PARA 140 et seq ante.
- 15 Ibid reg 44(3)(c). As to registration in pursuance of an overseas elector's declaration see PARA 129 et seq ante.
- 16 Ibid reg 44(3)(d). As to registration in pursuance of a declaration of local connection see PARA 136 et seq ante.
- 17 For these purposes, 'relevant area' means, in England, a ward of a district, of a London borough or of the City of London and, in Wales, an electoral division of a county or county borough: ibid reg 44(5). As to electoral divisions established in England and Wales see PARA 73 ante.
- 18 Ibid reg 44(4).
- 19 Ibid reg 44(4)(a).
- 20 le the different letters for each parliamentary polling district referred to in ibid reg 39 (see PARA 160 ante).
- 21 Ibid reg 44(4)(b).
- 22 Ibid reg 44(4)(c).
- 23 Ibid reg 44(4).
- 24 Ibid reg 44(4)(i).
- 25 Ibid reg 44(4)(ii). The text refers to those registered in pursuance of the Representation of the People Act 1983 s 4(5) (as substituted) (attainers: see PARA 128 ante).
- 26 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 44(4)(iii).
- 27 Ibid reg 44(6) (added by SI 2006/2910).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iv) Records of Electors/C. PUBLICATION OF ELECTORAL RECORDS/166. Publication of edited version of register.

166. Publication of edited version of register.

At the time when the registration officer¹ publishes a version of the register (the 'full register')², he must also publish³ a version of the register (the 'edited register')⁴, which omits the name and address of any elector whose details are included in the full register, if a request has been duly made⁵ by or on behalf of that elector for his name and address to be excluded from the edited register⁶. The edited register must omit all anonymous entries in the register, and any information relating to them⁷.

In other respects, the edited register must be identical to the full register and, accordingly, must include any mark or date which is required to be recorded against the name of any elector⁸. The manner in which each revised version of the edited register is to be so published is by the registration officer making a copy of it available for inspection at his office⁹ and by such other means (if any) as he thinks appropriate¹⁰. Each revised version of the edited register must be kept published until the coming into force of the next revised version of it¹¹.

1 As to registration officers and the areas for which they act see PARA 154 ante.

2 I.e. a revised version of the register published under the Representation of the People Act 1983 s 13(1) or (3) (as substituted) (see PARA 164 ante). For the purposes of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended), unless the context otherwise requires, 'full register' has the meaning given in reg 93(1) (as added): reg 3(1) (definition added by SI 2002/1871).

3 I.e. under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 93 (as added and amended).

4 Ibid reg 93(1) (reg 93 added by SI 2002/1871). For the purposes of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended), unless the context otherwise requires, 'edited register' has the meaning given in reg 93(1) (as added): reg 3(1) (definition added by SI 2002/1871). However, unless the contrary intention appears, any reference in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) to the register is to the full register: reg 93(5) (as so added).

5 I.e. in the form referred to in the Representation of the People Act 1983 s 10(4) (as substituted) (see PARA 163 ante) or in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 26 (as amended) (see PARA 168 post).

6 Ibid reg 93(2) (as added: see note 4 supra). Notwithstanding the omission of names and addresses in accordance with reg 93(2) (as added), reg 41 (order of names: see PARA 160 ante) applies to the edited register as it applies to the full register: reg 93(4) (as so added).

7 Ibid reg 93(2A) (reg 93 as added (see note 4 supra); and reg 93(2A) added by SI 2006/2910).

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 93(3) (as added: see note 4 supra). As to the marks and dates which must be recorded against the name of any elector in the register see PARA 160 ante.

9 Ibid reg 93(6)(a) (as added: see note 4 supra). For the meaning of 'available for inspection' see PARA 157 note 19 ante. The usual provision made under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) for inspecting a document (see reg 7(1) (as renumbered); and PARA 157 note 19 ante) does not apply to the full register: reg 7(2) (reg 7(2)-(5) added by SI 2002/1871). A person inspecting the full register may not make copies of any part of it, or record any particulars included in it, otherwise than by means of handwritten notes: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 7(3) (as so added). A person who inspects the full register and makes a copy of it or records any particulars included in it otherwise than by means of handwritten notes is guilty of an offence and

liable on summary conviction to a fine not exceeding level 5 on the standard scale: reg 7(4) (as so added). For these purposes, 'full register' includes any part of it and any notice published under the Representation of the People Act 1983 s 13A(2) (as added) (see PARA 175 post), s 13B(3) (as added) (see PARA 175 post), s 13B(3B) (as added) (see PARA 175 post) or s 13B(3D) (as added) (see PARA 175 post) altering the register: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 7(5) (as so added; and amended by SI 2006/2910). As to the standard scale see PARA 736 note 3 post; and as to registration offences generally see further PARA 736 et seq post. The amendment effected by the Representation of the People (England and Wales) (Amendment) (No 2) Regulations 2006, SI 2006/2910, does not have effect in relation to any election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see reg 1(2), (3).

By virtue of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(6), (7), reg 7 (as amended) is applied with modifications to registration in pursuance of a European parliamentary overseas elector's declaration as it applies to registration in pursuance of an overseas elector's declaration (see PARA 116 note 7 ante); and for the purposes of extending the rights of relevant citizens of the Union who (subject to the requirements of registration) may vote at European parliamentary elections, reg 7 (as amended) is applied with modifications (see the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule; and PARA 117 note 5 ante).

10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 93(6)(b) (as added: see note 4 supra).

11 Ibid reg 93(7) (as added: see note 4 supra).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iv) Records of Electors/D. ALTERATIONS TO PUBLISHED ELECTORAL RECORDS/167. Registration officer to determine applications for registration.

D. ALTERATIONS TO PUBLISHED ELECTORAL RECORDS

167. Registration officer to determine applications for registration.

A registration officer¹ must determine² all applications for registration³ which are⁴: (1) made to him in accordance with the prescribed⁵ requirements⁶; or (2) treated as made to him⁷ in circumstances where, in connection with an annual canvass⁸, the form completed in respect of any address⁹ specifies any person as a person who is entitled to be registered in a register¹⁰, and that person is not for the time being registered in the register in respect of that address¹¹.

1 As to registration officers see PARA 154 ante.

2 For this purpose, 'determine' means determine in accordance with regulations: Representation of the People Act 1983 s 10A(9) (s 10A added by the Representation of the People Act 2000 s 8, Sch 1 paras 1, 4). As to the making of regulations under the Representation of the People Act 1983 generally see PARA 24 note 16 ante. As to the regulations which provide for the determination of applications for registration see PARA 173 post.

3 Ibid s 10A(1) (as added) applies to applications asking for: (1) the omission, insertion or alteration of a date as that on which a person will become of voting age and entitled to registration (s 10A(4)(a) (as added: see note 2 supra)); or (2) the alteration of the qualifying address in respect of which a person is registered (s 10A(4)(b) (as so added)), as it applies to applications for registration (s 10A(4) (as added: see note 2 supra)). 'Voting age' is currently 18 years for all purposes: see PARAS 110 note 2, 112 note 14, 117 note 9 ante. For the meaning of 'qualifying address' see PARA 160 note 5 ante. As to the entitlement to be registered as an elector see PARA 128 et seq ante.

4 Ibid s 10A(1) (as added: see note 2 supra).

5 For these purposes, 'prescribed' means prescribed by regulations: ibid s 202(1). As to the regulations so made see PARA 168 post.

6 Ibid s 10A(1)(a) (as added: see note 2 supra). The registration officer must supply free of charge as many forms for use in connection with s 10A(1)(a) (as added) as appear to that officer reasonable in the circumstances to any person who satisfies that officer of his intention to use the forms in connection with an election: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 4(1).

7 Representation of the People Act 1983 s 10A(1)(b) (as added: see note 2 supra).

8 Ie under ibid s 10 (as substituted) (see PARA 163 ante).

9 As to the form to be used for the purposes of a canvass see PARA 163 ante.

10 Representation of the People Act 1983 s 10A(2)(a) (as added: see note 2 supra). As to the registers of electors see PARA 160 ante.

11 Ibid s 10A(2)(b) (as added: see note 2 supra). By virtue of s 10A(2) (as added), a person may be treated as having made, on 15 October in the year in question, an application for registration in the register in respect of the address mentioned in head (2) in the text: s 10A(2)(b) (as so added).

UPDATE

167 Registration officer to determine applications for registration

TEXT AND NOTES 8-11--The application referred to in the Representation of the People Act 1983 s 10A(2) must, subject to s 13BB(2) (see PARA 163A) be treated as made on 15 October in the year in question: s 10A(2A) (added by the Political Parties and Elections Act 2009 Sch 6 para 1).

NOTE 11--Words 'on the 15 October in the year in question' omitted: Representation of the People Act 1983 s 10A(2)(b) (amended by the Political Parties and Elections Act 2009 Sch 6 para 1).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iv) Records of Electors/D. ALTERATIONS TO PUBLISHED ELECTORAL RECORDS/168. Form of application for registration as a parliamentary or local government elector.

168. Form of application for registration as a parliamentary or local government elector.

An application for registration¹ as a parliamentary² or local government elector³ or both ('an application for registration') must state⁴:

- 225 (1) the applicant's full name⁵;
- 226 (2) the address in respect of which the applicant applies to be registered and at which he is resident on the date of the application⁶;
- 227 (3) any address in respect of which the applicant is currently registered as an elector, if he has ceased to reside at that address⁷;
- 228 (4) in the case of an applicant who has not attained the age of 18 years, his date of birth⁸;
- 229 (5) in the case of an applicant who is 70 years of age or older, that fact⁹;
- 230 (6) in the case of an applicant whose application is not accompanied by an application for an anonymous entry and who wishes his name and address to be omitted from the edited version of the register, that request¹⁰;
- 231 (7) except in the case of a person applying to be registered in pursuance of an overseas elector's declaration¹¹, the applicant's nationality¹²;
- 232 (8) in the case of an applicant whose application is accompanied by an application for an anonymous entry, that fact¹³.

In the case of a person applying to be registered as a parliamentary or local government elector (or both) in pursuance of a service declaration¹⁴, a declaration of local connection¹⁵ or an overseas elector's declaration, the declaration in question must accompany the application¹⁶.

An application for registration must include a declaration made by the applicant that¹⁷:

- 233 (a) the particulars given in accordance with heads (1) to (8) above are true¹⁸;
- 234 (b) in the case of an application by a relevant citizen of the Union for registration as a local government elector¹⁹, he is such a citizen²⁰; and
- 235 (c) in any other case, he is a Commonwealth citizen²¹ or citizen of the Republic of Ireland²².

An application for registration must be made in writing²³ to the registration officer and must be signed²⁴ and dated by the applicant²⁵. An application for registration must be made available for inspection²⁶ at the registration officer's office until the application has been determined by the registration officer²⁷.

Where the registration officer provides the form on which an application for registration is made²⁸, the form of words about the two versions of the register (the full register and the edited register)²⁹ or a form of words to the same effect, must form part of the application form³⁰. Where an application for registration is made otherwise than on a form provided by the registration officer, that officer must, on or before the determination of the application³¹, send to the applicant the form of words about the two versions of the register and must, at the same time, inform the applicant, in writing, that he may, before the end of the period of 21 days,

starting with the day on which the officer sends that form of words to the applicant³², make a request, in writing, to the registration officer that he wishes his name and address to be excluded from the edited version of the register³³. Where an applicant does not reply to the registration officer within the period of 21 days, the registration officer must assume that the applicant does not request that his name and address be excluded from the edited version of the register³⁴; but where an applicant does reply to the registration officer within the period of 21 days and in his response requests that his name and address be excluded from the edited version register, that request must be treated as part of the application for registration³⁵.

1 le under the Representation of the People Act 1983 s 10A(1)(a) (as added) (see PARA 167 ante) or s 13A(1) (a) (as added) (see PARA 175 post).

2 As to the entitlement to be registered as a parliamentary elector see PARA 128 ante.

3 As to the entitlement to be registered as a local government elector see PARA 128 ante.

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 26(1) (amended by SI 2002/1871).

For the purposes of extending the rights of citizens and nationals of accession states who (subject to the requirements of registration) may vote at local government and European parliamentary elections, the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 26 (as amended) is applied with modifications: see the Local and European Parliamentary Elections (Registration of Citizens of Accession States) Regulations 2003, SI 2003/1557, reg 7, Sch 2 para 1(1), (3)(b).

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 26(1)(a). As to the application and modification of this provision see note 4 supra.

6 Ibid reg 26(1)(b). As to the application and modification of this provision see note 4 supra.

7 Ibid reg 26(1)(c). As to the application and modification of this provision see note 4 supra. Where a registration officer receives an application for registration which includes a statement given in accordance with reg 26(1)(c) and where the address given in the statement received by the registration officer ('the new registration officer') is in an area for which another registration officer ('the former registration officer') acts, the new registration officer must as soon as practicable notify the former registration officer that the applicant no longer resides in his area: reg 37(1), (2). As to registration officers and the areas for which they act see PARA 154 ante.

8 Ibid reg 26(1)(d). As to the application and modification of this provision see note 4 supra.

9 Ibid reg 26(1)(e). As to the application and modification of this provision see note 4 supra.

10 Ibid reg 26(1)(g) (substituted by SI 2002/1871; and amended by SI 2006/2910). As to the application and modification of this provision see note 4 supra. As to applications for an anonymous entry in a register of electors see PARA 170 post.

11 As to registration in pursuance of an overseas elector's declaration see PARA 129 et seq ante.

12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 26(1)(h) (added by SI 2006/752). As to the application and modification of this provision see note 4 supra.

13 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 26(1)(i) (added by SI 2006/2910). As to the application and modification of this provision see note 4 supra.

14 As to registration in pursuance of a service declaration see PARA 140 et seq ante.

15 As to registration in pursuance of a declaration of local connection see PARA 136 et seq ante.

16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 26(2) (amended by SI 2002/1871). As to the application and modification of this provision see note 4 supra.

17 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 26(3) (amended by SI 2002/1871). As to the application and modification of this provision see note 4 supra.

18 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 26(3)(a). As to the application and modification of this provision see note 4 supra.

19 As to the entitlement to vote as a local government elector see PARA 112 ante.

20 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 26(3)(b). This requirement does not apply to a person applying to be registered in pursuance of a service declaration or an overseas elector's declaration: reg 26(5). As to the application and modification of this provision see note 4 supra.

21 As to who are Commonwealth citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 11.

22 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 26(3)(c). This requirement does not apply to a person applying to be registered in pursuance of a service declaration or an overseas elector's declaration: reg 26(5). As to the application and modification of this provision see note 4 supra. As to who are citizens of the Republic of Ireland see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 12.

23 The requirement in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) that any application, notice, representation or objection should be in writing is satisfied where (apart from the usual meaning of that expression) the text of it is transmitted by electronic means, is received in legible form, and is capable of being used for subsequent reference: reg 5 (amended by SI 2006/2910). The amendment effected by the Representation of the People (England and Wales) (Amendment) (No 2) Regulations 2006, SI 2006/2910, does not have effect in relation to any election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see reg 1(2), (3).

By virtue of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(6), (7), reg 5 (as amended) and reg 6 (as amended) (see note 24 infra) apply to registration in pursuance of a European parliamentary overseas elector's declaration as they apply to registration in pursuance of an overseas elector's declaration (see PARA 116 note 7 ante); and for the purposes of extending the rights of relevant citizens of the Union who (subject to the requirements of registration) may vote at European parliamentary elections, reg 5 (as amended) and reg 6 (as amended) are applied with modifications (see the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule; and PARA 117 note 5 ante).

24 A requirement in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) for an application, notice, representation or objection to be signed is satisfied (as an alternative to the signature given by hand) where there is both an electronic signature incorporated into or logically associated with a particular electronic communication and the certification by any person of such a signature: reg 6(1) (amended by SI 2006/2910). For these purposes, an electronic signature is so much of anything in electronic form as: (1) is incorporated into or otherwise logically associated with any electronic communication or both; and (2) purports to be so incorporated or associated for the purpose of being used in establishing the authenticity of the communication, the integrity of the communication or both (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 6(2)); and an electronic signature incorporated into or associated with a particular electronic communication is certified by any person if that person (whether before or after the making of the communication) has made a statement confirming that the signature, a means of producing, communicating or verifying the signature or a procedure applied to the signature, is (either alone or in combination with other factors) a valid means of establishing the authenticity of the communication, the integrity of the communication or both (reg 6(3)). As to the application and modification of this provision see note 23 supra. The amendment to reg 6(1) effected by the Representation of the People (England and Wales) (Amendment) (No 2) Regulations 2006, SI 2006/2910, does not have effect in relation to any election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see reg 1(2), (3).

25 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 26(4). As to the application and modification of this provision see note 4 supra.

26 For the meaning of 'available for inspection' see PARA 157 note 19 ante. As to provision made for the inspection of documents see PARA 175 note 12 post.

27 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 28(1) (renumbered by SI 2006/2910). This provision does not apply to an application for registration which is accompanied by an application for an anonymous entry: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 28(2) (added by SI 2006/2910).

By virtue of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(6), (7), reg 28 (as amended) applies to registration in pursuance of a European parliamentary overseas elector's declaration as it applies to registration in pursuance of an overseas elector's declaration (see PARA 116 note 7

ante); and for the purposes of extending the rights of relevant citizens of the Union who (subject to the requirements of registration) may vote at European parliamentary elections, reg 28 (as amended) is applied with modifications (see the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule; and PARA 117 note 5 ante).

28 le in connection with the Representation of the People Act 1983 s 10A(1)(a) (as added) (see PARA 167 ante) or s 10A(3) (as added) (see PARA 171 post).

29 le the form of words in the Representation of the People (Form of Canvass) (England and Wales) Regulations 2006, SI 2006/1694, reg 4, Schedule Pt 2 (Form of Words about the Two Versions of the Register).

30 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 26(6) (added by SI 2002/1871; and amended by SI 2006/1694). As to the application and modification of this provision see note 4 supra. The provisions of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 26(6)-(9) (as added) (see also notes 31-35 infra) do not apply to an application for registration which is accompanied by an application for an anonymous entry: reg 26(10) (added by SI 2006/2910).

31 As to the procedure for determining applications see PARA 173 post.

32 As to the calculation of periods of time for the purposes of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) see PARA 156 note 18 ante.

33 Ibid reg 26(7) (added by SI 2002/1871). As to the application and modification of this provision see notes 4, 30 supra. As to requests for an applicant's name and address to be excluded from the edited version of the register see PARA 166 ante.

34 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 26(8) (added by SI 2002/1871). As to the application and modification of this provision see notes 4, 30 supra.

35 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 26(9) (added by SI 2002/1871). As to the application and modification of this provision see notes 4, 30 supra.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iv) Records of Electors/D. ALTERATIONS TO PUBLISHED ELECTORAL RECORDS/169. Form of application by relevant citizen of the Union for registration as European parliamentary elector.

169. Form of application by relevant citizen of the Union for registration as European parliamentary elector.

An application for registration as European parliamentary elector¹ may be made by a relevant citizen of the Union² ('the applicant'), must be signed³ and dated by him and must state⁴:

- 236 (1) the full name of the applicant⁵;
- 237 (2) the address in respect of which the applicant claims to be registered and whether he is resident there on the relevant date⁶;
- 238 (3) if the applicant is not resident on the relevant date at the address in respect of which he claims to be registered, whether he has made a declaration of local connection⁷;
- 239 (4) if the applicant is a merchant seaman on the relevant date, that fact⁸; and
- 240 (5) either that the applicant is aged 18 or over or, if not, the date of his birth⁹.

Such an application must include a declaration stating¹⁰:

- 241 (a) the nationality of the applicant¹¹;
- 242 (b) the applicant's address in the United Kingdom¹², if different from the address given under head (2) above¹³;
- 243 (c) where the applicant's name has been entered in a register of electors in a locality or constituency¹⁴ in the member state of which he is a national, the name of the locality or constituency where, so far as he knows, his name was last so entered¹⁵; and
- 244 (d) that the applicant will exercise any right which he has to vote at European parliamentary elections at any such election only in the United Kingdom during the period for which any entry in the register of electors made in pursuance of his application remains in force¹⁶.

Such a declaration may be cancelled at any time by the declarant¹⁷.

The registration officer¹⁸ must supply free of charge as many copies of forms for use in connection with such applications and declarations as appear to that officer reasonable in the circumstances to any person who satisfies that officer of his intention to use the forms in connection with the registration of relevant citizens of the Union as European parliamentary electors¹⁹. An application and a declaration are of no effect unless they are received by the registration officer concerned within the period of three months beginning with the date on which they are made²⁰.

As soon as practicable after the registration officer has registered the name of a relevant citizen of the Union in the register maintained for the purpose²¹ in circumstances where the relevant citizen would be entitled to vote at a European parliamentary general election in pursuance of the registration, he must send a copy of the application²² and declaration²³ by virtue of which he entered the name in the register to the person shown as the representative of the state in respect of which the applicant is a national in a direction containing a list of such representatives issued by the Lord Chancellor²⁴.

1 le an application required by the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 4(1) (see PARA 131 ante).

2 For the meaning of 'relevant citizen of the Union' see PARA 117 note 4 ante.

3 As to the requirement for an application to be signed see PARA 168 note 24 ante. As to offences associated with voting declarations see PARA 738 post.

4 European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 6(1).

For the purposes of extending the rights of citizens and nationals of accession states who (subject to the requirements of registration) may vote at local government and European parliamentary elections, reg 6 is applied with modifications: see the Local and European Parliamentary Elections (Registration of Citizens of Accession States) Regulations 2003, SI 2003/1557, reg 6, Sch 1 para 4.

5 European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 6(1)(a). As to the application and modification of this provision see note 4 supra.

6 Ibid reg 6(1)(b). For these purposes, 'relevant date' has the same meaning as in reg 4 (see PARA 131 note 4 ante): reg 6(6). As to the application and modification of this provision see note 4 supra.

7 Ibid reg 6(1)(d). As to the application and modification of this provision see note 4 supra. As to registration in pursuance of a declaration of local connection see PARA 136 et seq ante.

8 Ibid reg 6(1)(e). As to the application and modification of this provision see note 4 supra. As to deemed residence for merchant seamen see PARA 133 ante.

9 Ibid reg 6(1)(f). As to the application and modification of this provision see note 4 supra.

10 Ibid reg 6(2). As to the application and modification of this provision see note 4 supra.

11 Ibid reg 6(2)(a). As to the application and modification of this provision see note 4 supra.

12 For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

13 European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 6(2)(b). As to the application and modification of this provision see note 4 supra.

14 For these purposes, 'locality or constituency' has the same meaning as it has in EC Council Directive 93/109 of 6 December 1993 (OJ L329, 30.12.93, p 34) (as to which see PARA 6 note 8 ante): European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 6(6). As to the application and modification of this provision see note 4 supra. There is no separate definition of 'locality or constituency' made in EC Council Directive 93/109 (OJ L329, 30.12.93, p 34), although reference is made in the definition for 'electoral roll' (see art 2(7)).

15 European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 6(2)(c). As to the application and modification of this provision see note 4 supra.

16 Ibid reg 6(2)(d). As to the application and modification of this provision see note 4 supra.

17 Ibid reg 10(1). A cancellation as mentioned in the text terminates the entitlement to vote in pursuance of such a declaration: see PARA 188 post.

For the purposes of extending the rights of citizens and nationals of accession states who (subject to the requirements of registration) may vote at local government and European parliamentary elections, reg 10 is applied with modifications: see the Local and European Parliamentary Elections (Registration of Citizens of Accession States) Regulations 2003, SI 2003/1557, Sch 1 para 7.

18 As to the registration officer see PARA 154 ante.

19 European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 6(3). As to the application and modification of this provision see note 4 supra.

20 Ibid reg 6(4). As to the application and modification of this provision see note 4 supra.

21 Ie the register maintained under ibid reg 5(2) (see PARA 156 ante).

22 le an application made under *ibid* reg 6(1) (see the text and notes 1-9 *supra*).

23 le a declaration made under *ibid* reg 6(2) (see the text and notes 10-16 *supra*).

24 *Ibid* reg 8(1), (2) (reg 8(1) amended by SI 2003/1557). The Lord Chancellor must issue directions identifying the representative for each member state of the European Union to whom the application and declaration referred to in the text are to be sent: European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 8(3) (added by SI 2003/1557). As to the Lord Chancellor generally see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 477 *et seq*.

For the purposes of extending the rights of citizens and nationals of accession states who (subject to the requirements of registration) may vote at local government and European parliamentary elections, the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 8 (as amended) is applied with modifications: see the Local and European Parliamentary Elections (Registration of Citizens of Accession States) Regulations 2003, SI 2003/1557, Sch 1 para 5.

UPDATE

169 Form of application by relevant citizen of the Union for registration as European parliamentary elector

NOTE 24--SI 2001/1184 reg 8(1), (3) amended: SI 2009/726.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iv) Records of Electors/D. ALTERATIONS TO PUBLISHED ELECTORAL RECORDS/170. Registration officer to determine applications for anonymous entry in register.

170. Registration officer to determine applications for anonymous entry in register.

An application for registration in a register of parliamentary electors¹ or local government electors² may be made³ and accompanied by: (1) an application for anonymous registration⁴ made in accordance with prescribed⁵ requirements ('an application for an anonymous entry')⁶; (2) a declaration made in accordance with such requirements for the purposes of such an application⁷; and (3) such evidence in support of the application for an anonymous entry as may be prescribed⁸.

An application for an anonymous entry must state: (a) the applicant's full name⁹; (b) the address in respect of which the applicant applies to be registered and at which he is resident on the date of the application¹⁰; (c) the reason for the application¹¹; and (d) the date of the application¹². The application must be in writing and signed by the applicant¹³; and must be accompanied by evidence of the nature prescribed¹⁴, being either evidence of relevant court orders or injunctions¹⁵ or evidence by attestation of the risk to the safety of the applicant or of another person of the same household as the applicant¹⁶.

The application must be accompanied by a declaration made by the applicant: (i) that the particulars given in accordance with heads (a) to (d) above are true¹⁷; (ii) that, so far as he is aware, the evidence provided as mentioned in head (3) above¹⁸ is genuine, and (iii) that, where the evidence so provided relates not to the applicant but to another person of the same household as the applicant¹⁹, the person to whom the evidence relates is a person of the same household of the applicant²⁰ and, so far as he is aware, the evidence so provided²¹ is genuine²².

The application may give an address to which the registration officer must send correspondence, other than the address given in accordance with head (b) above²³.

Where the registration officer²⁴ determines²⁵ that the applicant for an anonymous entry is entitled to be registered²⁶, and where the application for an anonymous entry is made in accordance with the prescribed²⁷ requirements²⁸, he must also determine whether the safety test is satisfied²⁹. The safety test is satisfied if the safety of the applicant for an anonymous entry or that of any other person of the same household would be at risk if the register contains the name of the applicant or his qualifying address³⁰. Accordingly, the registration officer must determine that the safety test is satisfied (and so allow the application for an anonymous entry) where he is satisfied³¹: (A) that the evidence provided in support of the application³² constitutes evidence of the nature prescribed³³; and (B) in the case of an application where the evidence so provided relates not to the applicant but to another person of the same household as the applicant³⁴, that the evidence so provided establishes that the person in question is a person of the same household as the applicant³⁵.

1 As to the register of parliamentary electors see PARA 160 ante.

2 As to the register of local government electors see PARA 160 ante.

3 Ie in accordance with the requirements prescribed for the purposes of the Representation of the People Act 1983 s 10A(1)(a) (as added) (see PARA 167 ante).

4 Ie an application under ibid s 9B (as added).

5 For these purposes, 'prescribed' means prescribed by regulations: *ibid* s 202(1). As to the regulations so made see the text and notes 9-16 *infra*. As to the making of regulations under the Representation of the People Act 1983 generally see PARA 24 note 16 *ante*.

6 *Ibid* s 9B(1)(a) (s 9B added by the Electoral Administration Act 2006 s 10(1)). The text refers to the requirements prescribed under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 31G(1)-(4), (6) (as added) (see the text and notes 9-14, 23 *infra*). No application may be made under the Representation of the People Act 1983 s 9B(1)(a) (as added) until 1 June 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 2.

7 Representation of the People Act 1983 s 9B(1)(b) (as added: see note 6 *supra*). The text refers to the requirements prescribed under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 31G(5) (as added) (see the text and notes 17-22 *infra*).

8 Representation of the People Act 1983 s 9B(1)(c) (as added: see note 6 *supra*). The text refers to the evidence prescribed under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 31I, 31J (as added) (see the text and notes 15, 16 *infra*).

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 31G(1)(a) (regs 31G-31J added by SI 2006/2910).

10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 31G(1)(b) (as added: see note 9 *supra*). The text refers to the address given in accordance with reg 26(1)(b) (applications for registration: see PARA 168 *ante*).

11 *Ibid* reg 31G(1)(c) (as added: see note 9 *supra*).

12 *Ibid* reg 31G(1)(d) (as added: see note 9 *supra*).

13 *Ibid* reg 31G(2) (as added: see note 9 *supra*).

14 *Ibid* reg 31G(3) (as added: see note 9 *supra*). The text refers to the evidence prescribed under regs 31I, 31J (as added) (see the text and notes 15, 16 *infra*). Where the evidence mentioned in reg 31G(3) (as added) relates not to the applicant, but to another person of the same household as the applicant, the application must be accompanied by evidence that that person is of that household: reg 31G(4) (as so added).

15 Evidence which meets the following conditions is prescribed for the purposes of *ibid* reg 31G(3) (as added) and reg 31H(2)(a) (as added) (see head (A) in the text): reg 31I(1) (as added: see note 9 *supra*). The first condition is that the evidence is, or is a copy of, a relevant order or injunction: reg 31I(2) (as so added). For these purposes, a relevant order or injunction is an injunction for the purpose of restraining a person from pursuing any conduct which amounts to harassment granted in proceedings under the Protection from Harassment Act 1997 s 3 (as amended) (see TORT vol 97 (2010) PARA 557), an injunction granted under s 3A(2) (as added) (see TORT vol 97 (2010) PARA 557), a restraining order made under s 5(1) (prospectively amended) (see SENTENCING AND DISPOSITION OF OFFENDERS vol 92 (2010) PARA 349), a restraining order on acquittal made under s 5A(1) (prospectively added) (see SENTENCING AND DISPOSITION OF OFFENDERS vol 92 (2010) PARA 349) or a non-molestation order made under the Family Law Act 1996 s 42(2) (see MATRIMONIAL AND CIVIL PARTNERSHIP LAW vol 73 (2009) PARA 716 *et seq*): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 31I(3) (as so added). The second condition is that the relevant order or injunction is made for the protection, or otherwise for the benefit, of the applicant for an anonymous entry or of another person of the same household as him: reg 31I(4) (as so added). The third condition is that the relevant order or injunction is in force on the day on which the application for an anonymous entry is made: reg 31I(5) (as so added).

16 An attestation within the meaning of *ibid* reg 31J (as added) is prescribed for the purposes of reg 31G(3) (as added) and reg 31H(2)(a) (as added) (see head (A) in the text): reg 31J(1) (as added: see note 9 *supra*). The attestation: (1) must certify that the safety of the applicant, or of another named person of the same household as him, would be at risk if the register contained the name of the applicant or his qualifying address (reg 31J(2) (a) (as so added)); (2) must state the date on which it is made (reg 31J(2)(b) (as so added)); and (3) must be in writing and signed by a qualifying officer (reg 31J(2)(c) (as so added)). For these purposes, 'qualifying officer' means the chief officer of police of any police force in England and Wales, the Director General of the Security Service, the Director General of the Serious Organised Crime Agency and any director of social services within the meaning of the Local Authority Social Services Act 1970 s 6(1) (prospectively amended) (see SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue) PARA 1007): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 31J(4) (as so added). The attestation must state the period for which it has effect, being a period of between one and five years beginning with the date on which the attestation is made: reg 31J(3) (as so added). As to the Security Service see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 471; as to the chief officer of police of any police force in England and Wales see POLICE vol 36(1) (2007

Reissue) PARA 178 et seq; and as to the Director General of the Serious Organised Crime Agency see POLICE vol 36(1) (2007 Reissue) PARA 430 et seq.

As from a day to be appointed under the Children Act 2004 s 67(2) (ie when s 18, Sch 2 para 2(1), (2) comes into force), the reference to the Local Authority Social Services Act 1970 s 6(1) (prospectively amended) in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 31J(4) (as added) is to be read, in relation to England, as references to any director of adult social services within the meaning of the Local Authority Social Services Act 1970 s 6(A1) (prospectively added) and any director of children's services within the meaning of the Children Act 2004 s 18 (as amended; prospectively further amended), and, in relation to Wales, as a reference to any director of social services within the meaning of the Local Authority Social Services Act 1970 s 6(1) (prospectively amended): see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 31J(4) (as so added; prospectively amended); and the Representation of the People (England and Wales) (Amendment) (No 2) Regulations 2006, SI 2006/2910, reg 67. At the date at which this volume states the law, no such day had been appointed.

17 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 31G(5)(a) (as added: see note 9 supra).

18 Ibid reg 31G(5)(b) (as added: see note 9 supra). The text refers to the evidence provided in pursuance of reg 31G(3) (as added) (see the text and notes 14-16 supra).

19 Ibid reg 31G(5)(c) (as added: see note 9 supra). The text refers to the evidence provided in pursuance of reg 31G(4) (as added) (see note 14 supra).

20 Ibid reg 31G(5)(c)(i) (as added: see note 9 supra).

21 Ie in pursuance of ibid reg 31G(4) (as added) (see note 14 supra).

22 Ibid reg 31G(5)(c)(ii) (as added: see note 9 supra).

23 Ibid reg 31G(6) (as added: see note 9 supra).

24 As to registration officers see PARA 154 ante.

25 For the purposes of the Representation of the People Act 1983 s 9B (as added), 'determines' means determines in accordance with regulations: s 9B(11) (as added: see note 6 supra). As to the regulations made see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 31H (as added); and the text and notes 26-35 infra.

26 Representation of the People Act 1983 s 9B(2) (as added: see note 6 supra); Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 31H(1)(a) (as added: see note 9 supra).

27 Ie in accordance with ibid reg 31G(1), (2) (as added) (see the text and notes 9-13 infra) and reg 31G(5) (as added) (see the text and notes 17-22 infra).

28 Ibid reg 31H(1)(b) (as added: see note 9 supra).

29 Representation of the People Act 1983 s 9B(2) (as added: see note 6 supra).

30 Ibid s 9B(10) (as added: see note 6 supra). For the meaning of 'qualifying address' see PARA 160 note 5 ante.

31 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 31H(2) (as added: see note 9 supra).

32 Ie in pursuance of ibid reg 31G(3) (as added) (see the text and note 14 supra).

33 Ibid reg 31H(2)(a) (as added: see note 9 supra). The text refers to evidence of the nature prescribed in reg 31I (as added) (evidence of relevant court orders or injunctions: see the text and note 15 supra) or reg 31J (as added) (evidence by attestation: see the text and note 16 supra).

34 Ie where ibid reg 31G(4) (as added) applies (see note 14 supra).

35 Ibid reg 31H(2)(b) (as added: see note 9 supra).

UPDATE

170 Registration officer to determine applications for anonymous entry in register

NOTES--Certain functions under provisions mentioned in this paragraph are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3, see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

NOTE 16--Appointed day is 1 January 2008: SI 2007/1792. For 'chief officer of police' read 'a police officer of or above the rank of superintendent'; any director of adult social services in England within the meaning of the 1970 Act s 6(A1), any director of children's services in England within the meaning of the 2004 Act s 18, and any director of social services in Wales within the meaning of the 1970 Act s 6(1) is now a qualifying officer in relation to both England and Wales: SI 2001/341 reg 31J(4) (amended by SI 2009/725).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iv) Records of Electors/D. ALTERATIONS TO PUBLISHED ELECTORAL RECORDS/171. Registration officer to determine objections to registration.

171. Registration officer to determine objections to registration.

A registration officer¹ must determine² all objections to a person's registration³ made in accordance with the prescribed⁴ requirements by another person whose name appears in the register in question⁵.

1 As to registration officers see PARA 154 ante.

2 For the meaning of 'determine' for these purposes see PARA 167 note 2 ante.

3 The objections asking for: (1) the omission, insertion or alteration of a date as that on which a person will become of voting age and entitled to registration (Representation of the People Act 1983 s 10A(4)(a) (s 10A added by the Representation of the People Act 2000 s 8, Sch 1 paras 1, 4)); or (2) the alteration of the qualifying address in respect of which a person is registered (Representation of the People Act 1983 s 10A(4)(b) (as so added)), as it applies to objections to registration (s 10A(4) (as so added)). For the meaning of 'qualifying address' see PARA 160 note 5 ante.

4 For these purposes, 'prescribed' means prescribed by regulations: *ibid* s 202(1). As to the regulations so made see PARA 172 post.

5 *Ibid* s 10A(3) (as added: see note 3 *supra*). This provision applies to an objection to a person's registration whether the objection is made before or after the person is registered in the register: s 10A(3A) (s 10A as so added; and s 10A(3A) added by the Electoral Administration Act 2006 s 12(4)). However, no objection to a person's registration may be made if the person has an anonymous entry in the register: Representation of the People Act 1983 s 10A(3B) (s 10A as so added; and s 10A(3B) added by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 2, 6(1), (2)). For the meaning of 'anonymous entry' in relation to a register of electors see PARA 174 post. As to the determination of objections to registration see PARA 172 *et seq* post.

The registration officer must supply free of charge as many forms for use in connection with the Representation of the People Act 1983 s 10A(3) (as added) as appear to that officer reasonable in the circumstances to any person who satisfies that officer of his intention to use the forms in connection with an election: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 4(1).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iv) Records of Electors/D. ALTERATIONS TO PUBLISHED ELECTORAL RECORDS/172. Form of objection to registration.

172. Form of objection to registration.

Any objection to a person's registration¹ must state²:

- 245 (1) the name of the person against whom the objection is made³;
- 246 (2) in the case of an objection made before that person is entered in the register, the address of that person as given in the application for registration⁴ or, in the case of an objection made after that person is entered in the register, the electoral number and qualifying address of that person contained in the register⁵;
- 247 (3) the grounds of the objection⁶;
- 248 (4) the name of the objector and his address as shown in the register (if so shown) together with the address to which correspondence should be sent if that address is different or if no address is shown in the register⁷; and
- 249 (5) the electoral number of the objector⁸.

An objection must be made in writing⁹ and must be signed¹⁰ and dated by the person objecting¹¹.

Any objection to a person's registration must be made available for inspection at the registration officer's office¹² until the objection has been determined by the registration officer¹³.

1 See the Representation of the People Act 1983 s 10A(1)(a) (as added); and PARA 167 ante. For the purposes of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt III (regs 23-45) (as amended), 'objection' includes representations made against an application for registration under the Representation of the People Act 1983 s 13A(1)(a) (as added) (see PARA 175 post): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 27(3).

By virtue of reg 13(6), (7), reg 27 (as amended) and reg 28 (as amended) (see the text and notes 11-12 infra) apply to registration in pursuance of a European parliamentary overseas elector's declaration as they apply to registration in pursuance of an overseas elector's declaration (see PARA 116 note 7 ante); and for the purposes of extending the rights of relevant citizens of the Union who (subject to the requirements of registration) may vote at European parliamentary elections, reg 27 (as amended) and reg 28 (as amended) are applied with modifications (see the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule; and PARA 117 note 5 ante).

2 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 27(1). As to the application and modification of this provision see note 1 supra.

3 Ibid reg 27(1)(a). As to the application and modification of this provision see note 1 supra.

4 Ibid reg 27(1)(b) (amended by SI 2006/2910). As to the application and modification of this provision see note 1 supra.

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 27(1)(ba) (added by SI 2006/2910). As to the application and modification of this provision see note 1 supra.

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 27(1)(c). As to the application and modification of this provision see note 1 supra.

7 Ibid reg 27(1)(d). As to the application and modification of this provision see note 1 supra.

8 Ibid reg 27(1)(e). As to the application and modification of this provision see note 1 supra. As to a person's electoral number see PARA 160 ante.

9 As to the requirement for an objection to be in writing see PARA 168 note 23 ante.

10 As to the requirement for an objection to be signed see PARA 168 note 24 ante.

11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 27(2). As to the application and modification of this provision see note 1 supra.

12 For the meaning of 'available for inspection' see PARA 157 note 19 ante. As to the registration officer see PARA 154 ante; and as to provision made for the inspection of documents see PARA 175 note 12 post.

13 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 28(1) (renumbered by SI 2006/2910). This provision does not apply to an application for registration which is accompanied by an application for an anonymous entry: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 28(2) (added by SI 2006/2910). As to the application and modification of this provision see note 1 supra. As to applications for anonymous registration see PARA 170 ante; and as to the procedure for determining objections see PARA 173 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iv) Records of Electors/D. ALTERATIONS TO PUBLISHED ELECTORAL RECORDS/173. Procedure for determining applications for registration and objections.

173. Procedure for determining applications for registration and objections.

A registration officer¹ must discharge his functions of determining an application for registration² and an objection³ in accordance with the statutory provisions⁴.

The registration officer must keep separate lists⁵ of: (1) applications for registration⁶; (2) objections made before the person against whom the objection is made is entered in the register⁷; (3) objections made after the person against whom the objection is made is entered in the register⁸. On receipt of an application, the registration officer must enter the name of the applicant and the address claimed as his qualifying address⁹ in the list he keeps in pursuance of head (1) above¹⁰. On receipt of an objection made before the person against whom the objection is made is entered in the register, the registration officer must enter, in the list he keeps in pursuance of head (2) above, the name and qualifying address of the objector together with the name of the applicant and the address claimed as his qualifying address¹¹ and, in the list he keeps in pursuance of head (1) above, the particulars of the objection¹². On receipt of any other objection, the registration officer must enter the name and qualifying address of the objector together with the name of the applicant and the address claimed as his qualifying address in the list he keeps in pursuance of head (3) above¹³. The registration officer may ask for further information and take no further action until such information is supplied, if he is of opinion that the particulars given in the application or objection are insufficient¹⁴.

The registration officer may allow an application without a hearing provided that no objection is made within the period of five days beginning with the day following the entry of the application in the list of applications¹⁵. The registration officer may disallow an objection if he is of the opinion that the objector is not entitled to object¹⁶; and he must so inform the objector¹⁷. Furthermore, he may disallow an objection without a hearing if he is of the opinion that the objection is clearly without merit¹⁸. The registration officer may send to the applicant or objector a notice stating his opinion that an application or objection cannot be allowed because the matter has been concluded by the decision of a court¹⁹ or the particulars given in the application or objection do not entitle the applicant or objector to succeed²⁰. In such cases, the registration officer must state the grounds for his opinion and that he intends to disallow the application or objection unless that person gives the registration officer notice within three days from the date of the registration officer's notice that he requires the application or objection to be heard²¹. If the registration officer receives no such notice within that time, he may disallow the application or objection²².

Unless the registration officer allows or disallows the application or objection without a hearing²³, he must send a notice²⁴ to the person making the application (in the case of an application)²⁵ and to the objector and the person objected to (in the case of an objection)²⁶, stating the time and place at which he proposes to hear the application or objection²⁷ and the name and address of the objector and the grounds of the objection (in the case of a notice sent to a person objected to)²⁸. The time fixed for the hearing of an application or objection must not be earlier than the third day or later than the seventh day after the date of the notice²⁹. The persons entitled to appear and be heard at the hearing of applications and objections are as follows³⁰: (a) on an application, the applicant³¹; (b) on an objection, the objector and the person objected to³²; (c) on an application or an objection, any other person who appears to the registration officer to be interested³³. The registration officer may, at the request of any person

entitled to appear and be heard or, if he thinks fit, without such a request, require that the evidence tendered by any person be given on oath and he may administer the oath for the purpose³⁴.

Where the registration officer is able to determine an objection before an alteration to the register is due to take effect³⁵ and he allows the objection³⁶, the application is to be treated as if it had been disallowed³⁷. Where the registration officer is not able to determine an objection before the alteration to the register is due to take effect, the objection is to be treated as if it was made after the person against whom it is made is entered in the register³⁸.

1 As to registration officers and the areas for which they act see PARA 154 ante.

2 Ie under the Representation of the People Act 1983 s 10A(1) (as added) (see PARA 167 ante) or s 13A(1)(a) (as added) (see PARA 175 post).

3 Ie under ibid s 10A(3) (as added) (see PARA 167 ante).

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 29(1) (amended by SI 2006/2910). The provisions referred to in the text are those under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 29-31A (reg 29 as amended; reg 31A as added) (see the text and notes 5-38 infra).

By virtue of reg 13(6), (7), the provisions of reg 6, reg 8 (as amended) (see note 15 infra) and regs 29-31 (but not, at the date at which this volume states the law, reg 31A) apply to registration in pursuance of a European parliamentary overseas elector's declaration as they apply to registration in pursuance of an overseas elector's declaration (see PARA 116 note 7 ante); and for the purposes of extending the rights of relevant citizens of the Union who (subject to the requirements of registration) may vote at European parliamentary elections, regs 6, 8, 29-31 are applied with modifications (see the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule; and PARA 117 note 5 ante). In any case where the registration officer is not required to notify the applicant of the result of an application under the provisions applied by reg 9, he must so notify the applicant under the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184 (as amended): reg 6(5). For the purposes of extending the rights of citizens and nationals of accession states who (subject to the requirements of registration) may vote at local government and European parliamentary elections, reg 6 is applied with modifications: see the Local and European Parliamentary Elections (Registration of Citizens of Accession States) Regulations 2003, SI 2003/1557, reg 6, Sch 1 para 4.

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 29(2) (substituted by SI 2006/2910). As to the application and modification of this provision see note 4 supra.

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 29(2)(a) (as substituted: see note 5 supra). As to the application and modification of this provision see note 4 supra.

7 Ibid reg 29(2)(b) (as substituted: see note 5 supra). As to the application and modification of this provision see note 4 supra.

8 Ibid reg 29(2)(c) (as substituted: see note 5 supra). As to the application and modification of this provision see note 4 supra.

9 For this purpose, 'qualifying address' includes the address specified in an overseas elector's declaration in accordance with the Representation of the People Act 1985 s 2(4)(b) (as substituted) or s 2(4)(c)(ii) (as substituted) (see PARA 147 ante): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 29(8) (added by SI 2006/2910). As to the application and modification of these provisions see note 4 supra. As to overseas elector's declarations see PARA 129 et seq ante.

10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 29(2A) (reg 29(2A)-(2D) added by SI 2006/2910). The Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 29(2A) (as added) does not apply to an application accompanied by an application for an anonymous entry: reg 29(2B) (as so added). As to the application and modification of these provisions see note 4 supra. As to applications for anonymous registration see PARA 170 ante.

11 Ibid reg 29(2C)(a) (as added: see note 10 supra). As to the application and modification of this provision see note 4 supra.

12 Ibid reg 29(2C)(b) (as added: see note 10 supra). As to the application and modification of this provision see note 4 supra.

13 Ibid reg 29(2D) (as added: see note 10 supra). As to the application and modification of this provision see note 4 supra.

14 Ibid reg 29(3). As to the application and modification of this provision see note 4 supra.

15 Ibid reg 29(4) (amended by SI 2006/2910). In the case of an application for registration accompanied by an application for an anonymous entry, the registration officer may allow the former application without a hearing at any time: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 29(4A) (added by SI 2006/2910). As to the application and modification of these provisions see note 4 supra. Subject to the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(6) (as amended) (closing date for application for absent vote: see PARA 372 note 6 post), in computing any period of not more than seven days for the purposes of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended), a Saturday, Sunday, Christmas Eve, Christmas Day, Good Friday or a bank holiday is to be disregarded: reg 8(2), (3) (reg 8(3) amended by SI 2006/2910). For this purpose, 'bank holiday' means a day which under the Banking and Financial Dealings Act 1971 is a bank holiday in England and Wales (see TIME vol 97 (2010) PARA 321): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 8(4).

By virtue of reg 13(6), (7), the provisions of reg 8 (as amended) apply to registration in pursuance of a European parliamentary overseas elector's declaration as they apply to registration in pursuance of an overseas elector's declaration (see PARA 116 note 7 ante); and for the purposes of relevant citizens of the Union who (subject to the requirement of registration) may vote at European parliamentary elections, reg 8 (as amended) applies with modifications (see the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule; and PARA 117 note 5 ante).

16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 29(5) (amended by SI 2006/2910). As to the application and modification of this provision see note 4 supra.

17 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 29(5). As to the application and modification of this provision see note 4 supra.

18 Ibid reg 29(5A) (reg 29(5A)-(5D) added by SI 2006/2910). Where the registration officer disallows an objection without a hearing as mentioned in the text, he must send to the objector a notice stating that the application has been disallowed on that basis and the grounds for his opinion: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 29(5B) (as so added). An objector may require the objection to be heard by giving notice to the registration officer within three days from the date of the notice given under reg 29(5B) (as added): reg 29(5C) (as so added). A notification under reg 29(5C) (as added) is not to prevent the application to which the objection relates from being allowed: reg 29(5D) (as so added). As to the application and modification of these provisions see note 4 supra.

19 Ibid reg 29(6)(a). As to the application and modification of this provision see note 4 supra.

20 Ibid reg 29(6)(b). As to the application and modification of this provision see note 4 supra.

21 Ibid reg 29(7). As to the application and modification of this provision see note 4 supra.

22 Ibid reg 29(7). As to the application and modification of this provision see note 4 supra.

23 Ie under ibid reg 29 (see the text and notes 15, 18 supra).

24 Ibid reg 30(1). As to the application and modification of this provision see note 4 supra.

25 Ibid reg 30(1)(a). As to the application and modification of this provision see note 4 supra.

26 Ibid reg 30(1)(b). As to the application and modification of this provision see note 4 supra.

27 Ibid reg 30(1)(i). As to the application and modification of this provision see note 4 supra.

28 Ibid reg 30(1)(ii). As to the application and modification of this provision see note 4 supra.

29 Ibid reg 30(2). As to the application and modification of this provision see note 4 supra.

30 Ibid reg 31(1). Any person entitled to appear and be heard may do so either in person or by any other person on his behalf: reg 31(3). The right to appear and be heard includes the right to make written representations: reg 31(2). As to the application and modification of this provision see note 4 supra.

31 Ibid reg 31(1)(a). As to the application and modification of this provision see note 4 supra.

32 Ibid reg 31(1)(b). As to the application and modification of this provision see note 4 supra.

33 Ibid reg 31(1)(c). As to the application and modification of this provision see note 4 supra.

34 Ibid reg 31(4). As to the application and modification of this provision see note 4 supra.

35 Ibid reg 31A(2)(a) (reg 31A added by SI 2006/2910). The text refers to circumstances where: (1) an application for registration has been allowed (whether without or following a hearing) (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 31A(1)(a) (as so added)); and (2) either an objection is later made to that application or an objector whose objection in respect of that application has been disallowed without a hearing in pursuance of reg 29(5A) (as added) (see the text and note 18 supra) notifies the registration officer, in accordance with reg 29(5C) (as added) (see note 18 supra), that he requires the objection to be heard (reg 31A(1)(b) (as so added)); and (3) no alteration to the register has yet taken effect in respect of that application by virtue of the Representation of the People Act 1983 s 13(5) (as substituted) (see PARA 164 ante), s 13A(2) (as added) (see PARA 175 post) or s 13B(3) (as added) (see PARA 175 post) (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 31A(1)(c) (as so added)).

36 Ibid reg 31A(2)(b) (as added: see note 35 supra).

37 Ibid reg 31A(2) (as added: see note 35 supra).

38 Ibid reg 31A(3) (as added: see note 35 supra). Where reg 31A(3) (as added) applies, the registration officer must transfer the entry relating to the objection from the list he keeps in pursuance of head (2) in the text to the list he keeps in pursuance of head (3) in the text: reg 31A(4) (as so added).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iv) Records of Electors/D. ALTERATIONS TO PUBLISHED ELECTORAL RECORDS/174. Procedure for determining applications for anonymous entry.

174. Procedure for determining applications for anonymous entry.

If the registration officer¹, in considering an application for an anonymous entry² in a register of parliamentary electors³ or local government electors⁴, determines⁵ that the person is entitled to be registered, he must also determine whether the safety test is satisfied⁶.

If the registration officer does not determine that the safety test is satisfied, no entry is to be made in respect of him in the register⁷; but this does not affect any other entry in the register for the person⁸ or the determination of any further application for registration which is made by the person⁹.

If the registration officer determines that the safety test is satisfied then the usual requirements for a register entry¹⁰ do not apply in relation to the person¹¹, and the person's entry in the register instead contains letters in the prescribed form and his electoral number (an 'anonymous entry')¹². If an anonymous entry is made in respect of a person, the registration officer must remove any other entry in the register for that person¹³. Any communication sent by a registration officer or the returning officer¹⁴ for any election to a person who has an anonymous entry must be sent in an envelope or other form of covering so as not to disclose to any other person that the person has an anonymous entry¹⁵.

1 As to registration officers and the areas for which they act see PARA 154 ante.

2 As to applications for an anonymous entry in a register of electors see PARA 170 ante.

3 As to the register of parliamentary electors see PARA 160 ante.

4 As to the register of local government electors see PARA 160 ante.

5 For this purpose, 'determines' means determines in accordance with regulations: Representation of the People Act 1983 s 9B(11) (s 9B added by the Electoral Administration Act 2006 s 10(1)). At the date at which this volume states the law, no such regulations had been made. As to the making of regulations under the Representation of the People Act 1983 generally see PARA 24 note 16 ante.

6 Ibid s 9B(2) (as added: see note 5 supra). As to the safety test see PARA 170 ante.

7 Ibid s 9B(6) (as added: see note 5 supra). The text refers to no entry being made, whether an anonymous entry (see the text and note 12 infra) or otherwise: s 9B(6) (as so added).

8 Ibid s 9B(7)(a) (as added: see note 5 supra).

9 Ibid s 9B(7)(b) (as added: see note 5 supra). The determination of any further application for registration made by the person which is treated as having been made by him by virtue of s 10A(2) (as added) (see PARA 167 ante) is not affected by s 9B(6) (as added): s 9B(7)(b) (as so added).

10 Ie the requirements of ibid s 9(2) (as substituted and amended) (see PARA 160 ante).

11 Ibid s 9B(3)(a) (as added: see note 5 supra).

12 Ibid s 9B(3)(b), (4) (as added: see note 5 supra). For these purposes, 'anonymous entry', in relation to a register of electors, must be construed in accordance with s 9B (as added); and the 'record of anonymous entries' means the record prepared in pursuance of regulations made by virtue of s 53(1) (as amended), Sch 2 para 8A (as added) (provisions requiring the registration officer to prepare a record of those persons with

anonymous entries in the register: see PARA 127 ante); s 202(1) (definitions added by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 2, 13(1), (2)). As to a person's electoral number see PARA 160 ante.

13 Representation of the People Act 1983 s 9B(5) (as added: see note 5 supra).

14 As to returning officers see PARA 355 post.

15 Representation of the People Act 1983 s 9B(8) (as added: see note 5 supra).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iv) Records of Electors/D. ALTERATIONS TO PUBLISHED ELECTORAL RECORDS/175. Notice of alteration of published register.

175. Notice of alteration of published register.

Where, at any time ('the relevant time') after the publication of a revised version of a register¹ by a registration officer², the registration officer³:

- 250 (1) on an application for registration being made by any person in accordance with the prescribed⁴ requirements, determines⁵ that that person is entitled to be so registered⁶;
- 251 (2) is required, by virtue of any provision of statutory provisions relating to the franchise and its exercise⁷, to remove a person's entry from the register⁸;
- 252 (3) is notified of any decision on an appeal⁹ which requires any such alteration in the register¹⁰; or
- 253 (4) determines that the register contains any clerical error¹¹,

the registration officer must issue, in the prescribed manner, a notice¹² specifying the appropriate alteration in the register¹³. The notice must be so issued by him either on the first day of the month which follows that in which the relevant time falls¹⁴ or, if that day is less than 14 days after that time, on the first day of the month immediately following that month¹⁵. However, a registration officer is not so required to issue a notice in a case where the notice is required to be issued either at the beginning of the month containing the date on which a revised version of the register is next due to be published¹⁶ or at the beginning of either of the two months preceding that containing the date on which a revised version of the register is next due to be published following the conclusion of the annual canvass¹⁷, and in such a case the alteration in question must be made in that revised version of the register¹⁸.

The alteration in question has effect as from the beginning of the day on which the notice is issued¹⁹. However, if an alteration in a published version of a register is due to take effect²⁰ after the fifth day before the date of the poll²¹ for a parliamentary election²², an election to the European Parliament²³, an election to the National Assembly for Wales²⁴ or a local government election in England or Wales²⁵ ('a relevant election'), the alteration does not have effect for the purposes of that election²⁶. In circumstances where:

- 254 (a) at any time before the appropriate publication date²⁷ in the case of such an election, the registration officer has to issue a notice specifying an appropriate alteration in the register²⁸ in connection with a determination, requirement or decision falling within any of heads (1) to (4) above²⁹;
- 255 (b) in consequence of the determination, requirement or decision, an entry relating to a person falls to be made in (or removed from) the register in respect of an address in the relevant election area³⁰; and
- 256 (c) no alteration made in consequence of that determination, requirement or decision has already taken effect³¹, or is due to take effect³², on or before the fifth day before the date of the poll³³,

the registration officer must issue, in the prescribed manner, a notice specifying the appropriate alteration in the register³⁴. The notice must be so issued by him on the appropriate

publication date³⁵ and the alteration takes effect as from the beginning of that day³⁶. In circumstances where:

- 257 (i) at any time on or after the appropriate publication date in the case of a relevant election but before the prescribed time on the day of the poll³⁷, the registration officer must issue, in the prescribed manner, a notice specifying the appropriate alteration in the register³⁸ in connection with a notification mentioned in head (3) above³⁹; and
- 258 (ii) in consequence of the notification either an entry relating to that person falls to be made in the register in respect of an address in the relevant election area⁴⁰ or his entry in the register requires to be altered⁴¹,

the registration officer must issue, in the prescribed manner, a notice specifying the appropriate alteration in the register⁴². The notice must be so issued by him when he receives the notification⁴³ and the alteration takes effect as from the beginning of the day on which the notice is issued⁴⁴. In circumstances where:

- 259 (A) at any time on or after the appropriate publication date in the case of a relevant election but before the prescribed time on the day of the poll⁴⁵, the registration officer must issue, in the prescribed manner, a notice specifying the appropriate alteration in the register⁴⁶ in connection with a determination falling within head (4) above⁴⁷; and
- 260 (B) the determination was made following a representation⁴⁸ made by or on behalf of a person to the registration officer⁴⁹; and
- 261 (C) in consequence of the determination either an entry relating to that person falls to be made in the register in respect of an address in the relevant election area⁵⁰ or his entry in the register requires to be altered⁵¹,

the registration officer must issue, in the prescribed manner, a notice specifying the appropriate alteration in the register⁵². The notice must be so issued by him when he makes the determination⁵³ and the alteration takes effect as from the beginning of the day on which the notice is issued⁵⁴.

No alteration affecting a published version of a register of electors is to be made otherwise than in accordance with the provisions set out above⁵⁵.

1 As to the meaning of references to publication of a revised version of the register see PARA 164 note 2 ante.

2 As to registration officers and the areas for which they act see PARA 154 ante.

3 Representation of the People Act 1983 s 13A(1) (ss 13A, 13B added by the Representation of the People Act 2000 s 8, Sch 1 paras 1, 6).

For the purposes of extending the rights of peers and relevant citizens of the Union who (subject to the requirement of registration) may vote at European parliamentary elections, the Representation of the People Act 1983 s 13A (as added and amended) and s 13B (as added) are applied with modifications: see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(4), Sch 4 (cited in PARA 116 note 7 ante); and the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule (cited in PARA 117 note 5 ante). The Representation of the People Act 1983 s 13B (as added) has been applied and modified in order to make provision for the conduct of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1. As to the conduct of local authority referendums generally see PARA 557 post.

4 For these purposes, 'prescribed' means prescribed by regulations: Representation of the People Act 1983 s 202(1). As to the regulations that have been made see the Representation of the People (England and Wales)

Regulations 2001, SI 2001/341 (as amended); and PARA 168 ante. As to the making of regulations under the Representation of the People Act 1983 generally see PARA 24 note 16 ante.

5 For these purposes, 'determines' means determines in accordance with regulations: *ibid* s 13A(6) (as added: see note 3 supra). As to the application and modification of this provision see note 3 supra. As to the regulations that have been made under s 13A(6) (as added) see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended); and PARA 173 ante.

6 Representation of the People Act 1983 s 13A(1)(a) (as added: see note 3 supra). As to the application and modification of this provision see note 3 supra.

7 *Ie* by virtue of any provision of *ibid* Pt I (ss 1-66A) (as amended).

8 *Ibid* s 13A(1)(b) (as added: see note 3 supra). As to the application and modification of this provision see note 3 supra.

9 *Ie* by virtue of *ibid* s 56 (as amended) (see PARA 189 et seq post).

10 *Ibid* s 13A(1)(c) (as added: see note 3 supra). As to the application and modification of this provision see note 3 supra. The text refers to any alteration in the register such as is mentioned in s 56(4) (as amended) (see PARA 195 post).

11 *Ibid* s 13A(1)(d) (as added: see note 3 supra). As to the application and modification of this provision see note 3 supra.

12 A notice under *ibid* s 13A(2) (as added) or under s 13B(3) (as added) (see the text and notes 34-36 *infra*), s 13B(3B) (as added) (see the text and notes 41-43 *infra*) or s 13B(3D) (as added) (see the text and notes 50-52 *infra*) must be issued (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 36(2) (amended by SI 2006/2910)):

- 42 (1) by making a copy of it available for inspection under supervision at the registration officer's office and at such places, if any, in his registration area as allow members of the public in that area reasonable facilities for that purpose (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 36(2)(a) (substituted by SI 2002/1871));
- 43 (2) by supplying copies of it in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt VI (regs 92-115) (as added and amended) (see PARA 176 et seq post) (reg 36(2)(aa) (added by SI 2002/1871)); and
- 44 (3) except in a case falling within the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 31C(2)(d) (as added) (death of elector: see PARA 187 post), by sending a copy of it to any person affected by its contents (reg 36(2)(b) (amended by SI 2006/2910)).

See also note 34 *infra*. For the meaning of 'available for inspection' see PARA 157 note 19 ante.

By virtue of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(6), (7), reg 36(2) (as amended) applies to registration in pursuance of a European parliamentary overseas elector's declaration as it applies to registration in pursuance of an overseas elector's declaration (see PARA 116 note 7 ante); and for the purposes of extending the rights of relevant citizens of the Union who (subject to the requirement of registration) may vote at European parliamentary elections, reg 36(2) (as amended) is applied with modifications (see the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule; and PARA 117 note 5 ante).

13 Representation of the People Act 1983 s 13A(2) (as added: see note 3 supra). As to the application and modification of this provision see note 3 supra. This is subject to s 13A(3) (as added) (see the text and notes 16-18 *infra*). See also note 34 *infra*.

14 *Ibid* s 13A(2)(a)(i) (as added: see note 3 supra). Periods of time must be calculated in accordance with s 119 (as amended) (see PARA 237 note 11 post), which applies for the purposes of s 13A(2)(a) (as added) as if it were contained in Pt II (ss 67-119) (as amended) (the election campaign: see PARA 237 et seq post): s 13A(6) (as so added). As to the application and modification of these provisions see note 3 supra.

15 *Ibid* s 13A(2)(a)(ii) (as added: see note 3 supra). As to the application and modification of this provision see note 3 supra. See also note 14 supra.

16 *Ibid* s 13A(3)(a) (as added: see note 3 supra). As to the application and modification of this provision see note 3 supra. The text refers to a revised version of the register next due to be published in accordance with s 13(1) or (3) (as substituted) (see PARA 164 ante).

17 Ibid s 13A(3)(b) (as added: see note 3 supra). As to the application and modification of this provision see note 3 supra. The text refers to the time when the register is next due to be published in accordance with s 13(1) (as substituted) (see PARA 164 ante).

18 Ibid s 13A(3) (as added: see note 3 supra). As to the application and modification of this provision see note 3 supra.

19 Ibid s 13A(2)(b) (as added: see note 3 supra). As to the application and modification of this provision see note 3 supra.

20 Ie by virtue of ibid s 13A(2) (as added) (see the text and notes 12-15, 19 supra).

21 Ibid s 13B(1) (s 13B as added (see note 3 supra); and s 13B(1) substituted by the Electoral Administration Act 2006 s 11(1), (2)). The amendments effected by the Electoral Administration Act 2006 s 11 do not have effect in relation to any election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. For the purposes of the Representation of the People Act 1983 s 13B (as added and amended), s 119 (as amended) (see PARA 237 note 11 post) applies as if it were contained in Pt II (as amended) (the election campaign: see PARA 237 et seq post) and as if each of the days referred to in s 13B (as added and amended) were the day on which anything is required or permitted to be done by or in pursuance of Pt II (as amended): s 13B(6) (as so added). As to the application and modification of s 13B (as added and amended) see note 3 supra.

22 Ibid s 13B(4)(a) (as added: see note 3 supra). As to the application and modification of this provision see note 3 supra. As to the date of the poll at a parliamentary general election or by-election see PARA 202 post.

23 Ibid s 13B(4)(b) (as added: see note 3 supra). As to the application and modification of this provision see note 3 supra. As to the date of the poll at a European parliamentary election see PARA 229 post.

24 Ibid s 13B(4)(d) (as added: see note 3 supra). As to the application and modification of this provision see note 3 supra. An alteration in a register of electors under s 13A (as added and amended) does not have effect for the purposes of an Assembly election if it was made after the last day for the delivery of nomination papers set out in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 1(1) (as to which see PARA 267 post): art 4(1). For the meaning of 'Assembly election' see PARA 3 note 1 ante. As to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see PARAS 220-221 post.

25 Representation of the People Act 1983 s 13B(4)(f) (as added: see note 3 supra). As to the application and modification of this provision see note 3 supra. As to the date of the poll at local government elections (including elections to fill vacancies) see PARAS 213-216 post.

26 Ibid s 13B(1) (as added and substituted: see note 21 supra). As to the application and modification of this provision see notes 3, 21 supra.

27 For these purposes, the 'appropriate publication date', in relation to a registration officer and an election to which ibid s 13B (as added and amended) applies (see the text and notes 22-25 supra), means either the sixth or the fifth day before the date of the poll, as the registration officer may determine: s 13B(5) (as added: see note 3 supra). As to the application and modification of these provisions see note 3 supra.

28 Ie where ibid s 13A (as added and amended) applies to a registration officer by virtue of s 13A(1) (as added) (see the text and notes 1-11 supra).

29 Ibid s 13B(2)(a) (s 13B as added (see note 3 supra); and s 13B(2) substituted by the Electoral Administration Act 2006 s 11(1), (3)). As to the application and modification of this provision see notes 3, 21 supra.

30 Representation of the People Act 1983 s 13B(2)(b) (s 13B as added (see note 3 supra); and s 13B(2) as substituted (see note 29 supra)). For these purposes, 'the relevant election area', in relation to a registration officer and an election to which s 13B (as added and amended) applies (see the text and notes 22-25 supra), means either the area for which the registration officer acts or, if the election is held in only part of that area, the part of that area in question: s 13B(5) (as so added). As to the application and modification of these provisions see notes 3, 21 supra.

31 Ibid s 13B(2)(c)(i) (s 13B as added (see note 3 supra); and s 13B(2) as substituted (see note 29 supra)). The text refers to alterations taking effect under s 13A(2) (as added) (see the text and notes 12-15, 19 supra). As to the application and modification of these provisions see notes 3, 21 supra.

32 Ibid s 13B(2)(c)(ii) (s 13B as added (see note 3 supra); and s 13B(2) as substituted (see note 29 supra)). The text refers to alterations taking effect under s 13A(2) (as added) (see the text and notes 12-15, 19 supra). As to the application and modification of these provisions see notes 3, 21 supra.

33 Ibid s 13B(2)(c) (s 13B as added (see note 3 supra); and s 13B(2) as substituted (see note 29 supra)). As to the application and modification of this provision see notes 3, 21 supra. As to the alterations due to take effect which are referred to in the text see note 32 supra.

34 Ibid s 13B(3) (as added: see note 3 supra). In a case where s 13B(3) (as added), s 13B(3B) (as added) (see the text and notes 41-43 infra) or s 13B(3D) (as added) (see the text and notes 50-52 infra) requires a registration officer to issue a notice, he is not required to issue a notice under s 13A(2) (as added) (see the text and notes 12-15 supra): s 13A(4) (as so added; and amended by the Electoral Administration Act 2006 s 11(6), Sch 1 paras 31, 32).

The amendments effected by the Electoral Administration Act 2006 Sch 1 paras 31, 32 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

35 Representation of the People Act 1983 s 13B(3)(a) (as added: see note 3 supra). As to the application and modification of this provision see note 3 supra.

36 Ibid s 13B(3)(b) (as added: see note 3 supra). As to the application and modification of this provision see note 3 supra.

37 For the purposes of ibid s 13B(3A) (as added), the prescribed time on the day of the poll is 9 pm: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 36(3) (added by SI 2006/2910). The amendment effected by the Representation of the People (England and Wales) (Amendment) (No 2) Regulations 2006, SI 2006/2910, does not have effect in relation to any election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see reg 1(2), (3).

38 See note 28 supra.

39 Representation of the People Act 1983 s 13B(3A)(a) (s 13B(3A)-(3E) added by the Electoral Administration Act 2006 s 11(1), (4)). As to the application and modification of this provision see notes 3, 21 supra.

40 Ibid s 13B(3A)(b)(i) (as added: see note 39 supra). As to the application and modification of this provision see notes 3, 21 supra.

41 Ibid s 13B(3A)(b)(ii) (as added: see note 39 supra). As to the application and modification of this provision see notes 3, 21 supra.

42 Ibid s 13B(3B) (as added: see note 39 supra). As to the application and modification of this provision see notes 3, 21 supra. As to the notice referred to in the text see note 34 supra. Where a notice is issued under s 13B(3B) (as added) on the day of the poll, the registration officer must take reasonable steps to ensure that the notice comes to the attention of the relevant presiding officer: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 36A(1) (reg 36A added by SI 2006/2910). Such steps may include communicating the notice to the presiding officer by telephone, in which case the presiding officer must make a written record of that notice: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 36A(2), (3) (as so added). As to the appointment of presiding officers see PARA 398 ante.

43 Representation of the People Act 1983 s 13B(3B)(a) (as added: see note 39 supra). As to the application and modification of this provision see notes 3, 21 supra.

44 Ibid s 13B(3B)(b) (as added: see note 39 supra). As to the application and modification of this provision see notes 3, 21 supra.

45 For the purposes of ibid s 13B(3C) (as added), the prescribed time on the day of the poll is 9 pm: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 36(3) (added by SI 2006/2910). As to the commencement of this provision see note 37 supra.

46 See note 28 supra.

47 Representation of the People Act 1983 s 13B(3C)(a) (as added: see note 39 supra). As to the application and modification of this provision see note 3 supra.

48 For this purpose, 'representation' means a representation made in accordance with prescribed requirements to the effect that the register contains a clerical error: ibid s 13B(3E) (as added: see note 39

supra). As to the application and modification of this provision see notes 3, 21 supra. For the purposes of s 13B(3C) (as added), a representation may be made orally or in writing: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 32A(1) (reg 32A added by SI 2006/2910). Where a representation is made in a polling station to a presiding officer, the presiding officer must as soon as practicable communicate that representation to the relevant registration officer: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 32A(2) (as so added). Regulation 32A (as added) has no effect in relation to any election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see reg 1(2), (3).

49 Representation of the People Act 1983 s 13B(3C)(b) (as added: see note 39 supra). As to the application and modification of this provision see notes 3, 21 supra.

50 Ibid s 13B(3C)(c)(i) (as added: see note 39 supra). As to the application and modification of this provision see notes 3, 21 supra.

51 Ibid s 13B(3C)(c)(ii) (as added: see note 39 supra). As to the application and modification of this provision see notes 3, 21 supra.

52 Ibid s 13B(3D) (as added: see note 39 supra). As to the application and modification of this provision see notes 3, 21 supra. As to the notice referred to in the text see note 34 supra. Where a notice is issued under s 13B(3D) (as added) on the day of the poll, the registration officer must take reasonable steps to ensure that the notice comes to the attention of the relevant presiding officer: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 36A(1) (reg 36A as added: see note 42 supra). Such steps may include communicating the notice to the presiding officer by telephone, in which case the presiding officer must make a written record of that notice: reg 36A(2), (3) (as so added). Regulation 36A (as added) has no effect in relation to any election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see reg 1(2), (3).

53 Representation of the People Act 1983 s 13B(3D)(a) (as added: see note 39 supra). As to the application and modification of this provision see notes 3, 21 supra.

54 Ibid s 13B(3D)(b) (as added: see note 39 supra). As to the application and modification of this provision see notes 3, 21 supra.

55 Ibid s 13A(5) (as added: see note 3 supra). As to the application and modification of this provision see note 3 supra. The text refers to the provisions of both s 13A (as added and amended) (see the text and notes 1-19 supra) and s 13B (as added and amended) (see the text and notes 20-54 supra).

UPDATE

175 Notice of alteration of published register

NOTE 3--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

NOTE 5--Representation of the People Act 1983 s 13A(5) amended: Political Parties and Elections Act 2009 Sch 6 para 3.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iv) Records of Electors/E. SUPPLY AND SALE OF ELECTORAL RECORDS AND RESTRICTIONS ON USE/176. General restriction on supply of electoral records and disclosure of information.

E. SUPPLY AND SALE OF ELECTORAL RECORDS AND RESTRICTIONS ON USE

176. General restriction on supply of electoral records and disclosure of information.

Persons with access to the full register¹ or to the information contained in it may not supply to any other person a copy of the full register², disclose any information which is contained in it (and which is not contained in the edited register)³ or make use of any such information⁴, otherwise than as follows:

- 262 (1) the registration officer⁵, any deputy registration officer⁶ and any person appointed to assist any such officer or who in the course of his employment is assigned to assist any such officer in his registration duties⁷ may not so supply, disclose or make use of such registers or such information otherwise than in accordance with an enactment⁸;
- 263 (2) any officer⁹ to whom copies of the register are delivered for the purpose of summoning jurors¹⁰ and any other person to whom a copy of the full register has been supplied or to whom information contained in it has been disclosed for the purpose of summoning jurors¹¹ may not so supply, disclose or make use of such registers or such information otherwise than for the purpose of summoning jurors¹²;
- 264 (3) any person to whom a copy of the full register has been supplied in pursuance of any enactment¹³ ('a relevant provision') under which a copy of the full register is to be supplied or information from that register disclosed for a particular purpose¹⁴, any person to whom information contained in the full register has been disclosed in pursuance of such a provision¹⁵, any person to whom such person has supplied a copy of the full register or information contained in it for the purposes (express or implied) of such a provision¹⁶, and any person who has obtained access to a copy of the full register or information contained in it by any other means¹⁷, may not so supply, disclose or make use of such registers or such information other than for a permitted purpose¹⁸.

The restrictions contained in heads (1) and (2) above apply to a person to whom the full register is duly supplied or to whom any information contained in it (that is not contained in the edited register) is duly disclosed as they apply to the original recipient of the data¹⁹.

The registration officer, any deputy registration officer and any person appointed to assist any such officer or who in the course of his employment is assigned to assist such officer in his registration duties²⁰ may not²¹ supply to any person a copy of the record of anonymous entries²², disclose information contained in it²³ or make use of such information²⁴, otherwise than in accordance with an enactment²⁵ or in accordance with the order of any court or tribunal made at any hearing or during the course of any proceedings²⁶. All such persons must take proper precautions for the safe custody of the record²⁷. The registration officer must, at the request in writing of any person to whom a copy of the full register has been supplied or to whom information contained in it has been disclosed for the purpose of summoning jurors²⁸, supply to that person a copy of the record of anonymous entries²⁹. No person who has been supplied with

a copy of the record of anonymous entries for these purposes³⁰ may supply a copy of the record of anonymous entries³¹, disclose any information contained in it³² or make use of any such information³³, other than for the purpose of summoning jurors³⁴; and such persons must take proper precautions for the safe custody of the record³⁵.

1 For the meaning of 'full register' see PARA 166 note 2 ante. For the purposes of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt VI (regs 92-115) (as added and amended), 'register' includes: (1) any part of the register referred to; and (2) any notice altering the register published under the Representation of the People Act 1983 s 13A(2) (as added), s 13B(3) (as added), s 13B(3B) (as added) or s 13B(3D) (as added) (see PARA 175 post): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 92(1) (reg 92 added by SI 2002/1871; and the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 92(1) amended by SI 2006/2910). However, head (2) supra does not apply either in the context of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 93 (as added and amended) (edited version of the register: see PARA 166 ante) or in the context of the supply by the registration officer of the register and notices altering the register (see PARA 175 ante): reg 92(1) (as so added and amended).

2 Ibid reg 94(3)(a) (reg 94 added by SI 2002/1871).

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 94(3)(b) (as added: see note 2 supra). For the meaning of 'edited register' see PARA 166 note 4 ante.

4 Ibid reg 94(3)(c) (as added: see note 2 supra).

5 Ibid reg 94(1)(a) (as added: see note 2 supra). Where the registration officer is also the returning officer or acting returning officer at any election or the counting officer at a referendum held by or under an Act of Parliament (and thereby has access to the full register without being supplied with a copy of it), reg 94 (as added) also applies to: (1) the registration officer acting in that other capacity (reg 94(2)(a) (as so added)); (2) any deputy returning officer, deputy acting returning officer or deputy counting officer (reg 94(2)(b) (as so added)); and (3) any person appointed to assist any person mentioned in head (1) or head (2) supra or who in the course of his employment is assigned to assist any such officer in his duties in respect of the election or referendum in question (reg 94(2)(c) (as so added)). For the meaning of 'registration officer' for these purposes see PARA 154 note 1 ante. As to the appointment of deputies of and assistants to the registration officer see PARA 155 ante; as to returning officers and their deputies and assistants see PARA 355 et seq post; and as to counting officers and their deputies see PARA 545 et seq post.

6 Ibid reg 94(1)(b) (as added: see note 2 supra).

7 Ibid reg 94(1)(c) (as added: see note 2 supra).

8 Ibid reg 94(3) (as added: see note 2 supra). Nothing in reg 94(3) (as added) applies to the supply or disclosure by a person mentioned in head (1) in the text to another such person in connection with his registration duties or for the purposes of an election or referendum: reg 94(4) (as so added). For the purposes of Pt VI (as added and amended), 'enactment' has the same meaning as in the Representation of the People Act 2000 s 17(2) (see PARA 513 note 8 post) (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 3(1), 92(2)(a) (reg 92 as added: see note 1 supra)); and for the purposes of reg 94(3) (as added), it includes the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended). A person who contravenes reg 94(3) (as added) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale: see reg 115 (as added and amended); and PARA 737 post. As to the standard scale see PARA 736 note 3 post.

9 Ie any officer designated under the Juries Act 1974 s 3(1) (as amended) (electoral register as basis of jury selection: see JURIES vol 61 (2010) PARA 812).

10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 95(1)(a) (reg 95 added by SI 2002/1871).

11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 95(1)(b) (as added: see note 10 supra).

12 Ibid reg 95(2) (as added: see note 10 supra). A person who contravenes reg 95(2) (as added) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale: see reg 115 (as added and amended); and PARA 737 post.

13 Ie except the Juries Act 1974 (see head (2) in the text) and the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended): reg 96(3) (reg 96 added by SI 2002/1871).

14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 96(1)(a), (3) (as added: see note 13 supra).

15 Ibid reg 96(1)(b) (as added: see note 13 supra).

16 Ibid reg 96(1)(c) (as added: see note 13 supra).

17 Ibid reg 96(1)(d) (as added (see note 13 supra); and amended by SI 2006/752).

18 Ibid reg 96(2) (as added (see note 13 supra); and amended by SI 2006/752). The Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 96(2) (as added and amended) provides that 'permitted purpose' must be construed as follows: (1) where the copy was supplied or the information obtained in pursuance of a relevant provision, it means the particular purpose for which the copy was supplied or the information disclosed to the person in question pursuant to the relevant provision (reg 96(2A)(a) (reg 96(2A) added by SI 2006/752)); and (2) where the copy was not supplied or the information was not disclosed in pursuance of a relevant provision: (a) in the case of a person to whom the copy of the full register was made available for inspection under supervision in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 43(1)(a) (as substituted) (see PARA 164 note 2 ante), reg 97(2)(a), (3) (as added and amended) (see PARA 177 post), reg 97A(4)(a), (b) (as added) (see PARA 177 post), reg 99(4)(a) (as added) (see PARA 183 post) and reg 109A(6)(a), (b) (as added) (see PARA 178 post) does not include direct marketing within the meaning of the Data Protection Act 1998 s 11(3) (see CONFIDENCE AND DATA PROTECTION vol 8(1) (2003 Reissue) PARA 527) (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 96(2A)(b)(i) (as so added)); and (b) in any other case, means any purpose for which the person to whom reg 96 (as added and amended) applies could have obtained a copy of the register or the information contained in it pursuant to any enactment, including the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) (reg 96(2A)(b)(ii) (as so added)). A person who contravenes reg 96(2) (as added and amended) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale: see reg 115 (as added and amended); and PARA 737 post. For the meaning of 'available for inspection' see PARA 157 note 19 ante.

In *R (on the application of Robertson) v City of Wakefield Metropolitan District Council* [2001] EWHC Admin 915, [2002] QB 1052, [2002] LGR 286, the previous practice of selling the electoral register for direct marketing purposes without affording an individual elector a right of objection was held to be a disproportionate interference with the individual's right to respect for private life under the Convention for the Protection of Human Rights and Fundamental Freedoms (Rome, 4 November 1950; TS 71 (1953); Cmd 8969) art 8 and, to the extent that the prevailing regulations made the right to vote conditional upon acquiescence in the practice with no right of objection, they also involved an unjustified and disproportionate restriction on the right to vote by reference to the First Protocol (Paris, 20 March 1952; Cmd 9221) art 3 (see PARA 7 ante).

19 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 92(10) (as added: see note 1 supra).

20 Ibid reg 45B(1) (reg 45B added by SI 2006/2910). Where the registration officer is also the returning officer or acting returning officer at any election or counting officer at any referendum (and in consequence has access to the record of anonymous entries without being supplied with a copy of it), the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 45B (as added) applies to the registration officer acting in that other capacity, any deputy returning officer, deputy acting returning officer or deputy counting officer, and any person appointed to assist any such officer or who in the course of his employment is assigned to assist any such officer in his duties in respect of the election or referendum in question: reg 45B(2) (as so added). For these purposes, 'counting officer' means the counting officer at a referendum held by or under any Act: reg 45B(6) (as so added). As to the duty of the registration officer to keep a record of anonymous entries see PARA 156 et seq ante.

21 Ibid reg 45B(3) (as added: see note 20 supra). Nothing in reg 45B(3) (as added) (see the text and notes 22-24 infra) applies to the supply or disclosure by a person to whom reg 45B (as added) applies to another such person in connection with his registration duties or for the purposes of an election or referendum: reg 45B(4) (as so added).

22 Ibid reg 45B(3)(a) (as added: see note 20 supra).

23 Ibid reg 45B(3)(b) (as added: see note 20 supra).

24 Ibid reg 45B(3)(c) (as added: see note 20 supra).

25 Ie including the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended). For these purposes, 'enactment' includes any provision of an Act (including the Representation of the People Act 2000) and any provision of subordinate legislation (within the meaning of the Interpretation Act 1978: see STATUTES vol 44(1) (Reissue) PARA 1232): Representation of the People Act 2000 s 17(2);

Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 45B(6) (as added: see note 20 supra).

26 Ibid reg 45B(3) (as added: see note 20 supra).

27 Ibid reg 45B(5) (as added: see note 20 supra).

28 Ie other than a designated officer within the meaning of the Juries Act 1974 s 3(1) (as amended) (electoral register as basis of jury selection: see JURIES vol 61 (2010) PARA 812).

29 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 45D(1), (2) (reg 45D added by SI 2006/2910).

30 Ie either in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 45D (as added) (see the text and notes 28-29 supra) or in accordance with the Juries Act 1974 s 3(A1) (as added) (see JURIES vol 61 (2010) PARA 801 et seq): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 45D(3) (as added: see note 29 supra).

31 Ibid reg 45D(4)(a) (as added: see note 29 supra).

32 Ibid reg 45D(4)(b) (as added: see note 29 supra).

33 Ibid reg 45D(4)(c) (as added: see note 29 supra).

34 Ibid reg 45D(4) (as added: see note 29 supra).

35 Ibid reg 45D(5) (as added: see note 29 supra).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iv) Records of Electors/E. SUPPLY AND SALE OF ELECTORAL RECORDS AND RESTRICTIONS ON USE/177. Supply of electoral records to national libraries.

177. Supply of electoral records to national libraries.

Each registration officer¹ must supply, free of charge and on publication², one printed copy and one data copy of any revised version of the register³ and one printed copy of any list of overseas electors⁴ to the national libraries⁵. No person employed by the library may⁶: (1) supply a copy of the full register other than to another such person or to a person using the library to inspect it under supervision⁷; (2) disclose any information contained in it (that is not contained in the edited register) otherwise than by allowing a person using the library to inspect it under supervision⁸; or (3) make use of any such information⁹. However, a person employed by the library is not prohibited from supplying a copy of, or disclosing information contained in, a version of the full register where: (a) more than ten years have expired since that version of the register was first published¹⁰; and (b) the supply or disclosure is for research purposes in compliance with the relevant conditions¹¹.

Where a copy of the full register is made available for inspection by providing the register on a computer screen or otherwise in data form, the library must ensure that the manner in, and equipment on, which that copy is provided do not permit any person consulting that copy to search it by electronic means by reference to the name of any person¹² or copy or transmit any part of that copy by electronic means¹³. A person who inspects the copy of the full register held by the library, whether a printed copy or in data form, may not¹⁴ make copies of any part of it¹⁵ or record any particulars included in it¹⁶, otherwise than by means of handwritten notes¹⁷. No person who obtains a copy of the full register (or to whom information contained in it that is not contained in the edited register is disclosed under the circumstances described in heads (a) and (b) above) may supply a copy of it¹⁸, disclose any such information¹⁹ or make use of any such information²⁰, otherwise than for research purposes in compliance with the relevant conditions²¹. The restrictions on supply and disclosure thereby imposed on a recipient of the data apply equally to any person to whom the full register is duly supplied or to whom any information contained in it (that is not contained in the edited register) is duly disclosed as they apply to the original recipient²².

¹ le in England or Wales as the case may be. For the meanings of 'England' and 'Wales' see PARA 13 note 1 ante; and for the meaning of 'registration officer' for these purposes see PARA 154 note 1 ante.

² Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 97(1) (reg 97 added by SI 2002/1871; Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 97(1) amended by SI 2006/752); Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 97A(1), (2) (reg 97A added by SI 2006/752).

Subject to any direction of the Secretary of State under the Representation of the People Act 1983 s 52(1) (as amended) (discharge of registration duties: see PARA 156 ante), any duty on a registration officer to supply data under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt VI (regs 92-115) (as added and amended) imposes only a duty to supply data in the form in which he holds it (reg 92(5) (reg 92 added by SI 2002/1871)); and he must not supply data which includes information not included in the printed version of the full register otherwise than under a provision in an enactment (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 92(6) (as so added)). For these purposes, 'data' means information which is recorded with the intention that it should be processed by means of equipment operating automatically in response to instructions given for that purpose: reg 3(1) (definition substituted by SI 2001/1700). For the meaning of 'enactment' see PARA 176 note 8 ante. For the meaning of 'full register' see PARA 166 note 2 ante. As to the meaning of 'register' see PARA 176 note 1 ante. As to the Secretary of State see PARA 2 ante.

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 97(1)(a) (as added (see note 2 supra); and amended by SI 2006/752); Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 97A(1)(a), (2)(a) (as added: see note 2 supra). The text refers to the revised version of a register published under the Representation of the People Act 1983 s 13(1) or (3) (as substituted) (see PARA 164 ante).

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 97(1)(b) (as added (see note 2 supra); and amended by SI 2006/752); Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 97A(1)(b), (2)(b) (as added: see note 2 supra). For the meaning of 'list of overseas electors' see PARA 156 note 9 ante.

5 Ibid reg 97(1) (as added: see note 2 supra). For these purposes, the national libraries referred to in the text are the British Library and the National Library of Wales (as the case may be). As to the British Library and the National Library of Wales see NATIONAL CULTURAL HERITAGE vol 77 (2010) PARA 906 et seq. The duty of a registration officer in England to supply one copy of any revised version of the register to the National Library of Wales is a duty to supply a data copy unless, prior to publication, the National Library of Wales has requested in writing a printed copy instead: reg 97A(3) (as added: see note 2 supra).

6 Ibid reg 97(2) (as added (see note 2 supra); and amended by SI 2006/752); Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 97A(4) (as added: see note 2 supra). This provision is expressed to be subject to reg 97(5) (as added) or reg 97A(7) (as added) (as the case may be) (see the text and notes 10-11 infra): reg 97(2) (as so added and amended); reg 97A(4) (as so added). For the purposes of Pt VI (as added and amended), any reference to an employee of any person who has access to a copy of the full register is deemed to include any person working or providing services for the purposes of that person or employed by or on behalf of, or working for, any person who is so working or who is supplying such a service: reg 92(3) (as added: see note 2 supra). A person who contravenes reg 97(2) (as added and amended) or reg 97A(4) (as added) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale: see reg 115 (as added and amended); and PARA 737 post. As to the standard scale see PARA 736 note 3 post.

7 Ibid reg 97(2)(a) (as added: see note 2 supra); reg 97A(4)(a) (as added: see note 2 supra). The permitted purpose for which a copy of the full register is made available for inspection under supervision in this way does not include direct marketing: see PARA 176 note 18 ante.

8 Ibid reg 97(2)(b), (3) (as added: see note 2 supra); reg 97A(4)(b) (as added: see note 2 supra). The prohibition on the disclosure of information which is contained in the full register (that is not contained in the edited register) otherwise than by allowing a person using the library to inspect it under supervision is also expressed as a general prohibition in the case of the British Library, subject to reg 97(5) (as added) (see the text and notes 10-11 infra): see reg 97(3) (as so added). For the meaning of 'edited register' see PARA 166 note 4 ante. As to the permitted purpose for which a copy of the full register may be made available see note 7 supra.

9 Ibid reg 97(2)(c) (as added: see note 2 supra); reg 97A(4)(c) (as added: see note 2 supra).

10 Ibid reg 97(5)(a) (reg 97(5) added by SI 2006/752); Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 97A(7)(a) (as added: see note 2 supra). The text refers to that version of the register first published in accordance with reg 43 (as amended) (see PARA 164 note 2 ante).

11 Ibid reg 97(5)(b) (as added: see note 10 supra); reg 97A(7)(b) (as added: see note 2 supra). 'Research purposes' must be construed in accordance with the Data Protection Act 1998 s 33(1) (research, history and statistics: see CONFIDENCE AND DATA PROTECTION vol 8(1) (2003 Reissue) PARA 551); and 'relevant conditions' has the same meaning as in s 33(1): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 92(2)(c), (d) (both definitions added by SI 2006/752).

Any person who has obtained or is entitled to obtain a copy of the full register under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 97(5) (as added) or reg 97A(7) (as added) may supply a copy of the full register to a processor for the purpose of processing the information contained in the register, or he may procure that a processor processes and provides to him any copy of the register which the processor has obtained under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) for use in respect of the purposes for which that person is entitled to obtain such copy or information (as the case may be): reg 92(7) (as added (see note 2 supra); and amended by SI 2006/752). The processor may not disclose the full register or the information contained in it except to the person who supplied it to the processor or an employee of that person or to a person who is entitled to obtain a copy of the full register under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) or any employee of such a person: reg 92(9) (as so added). For these purposes, 'processor' means any person who provides a service which consists of putting information into data form or processing information in data form and any reference to a processor includes a reference to his employees (reg 92(2)(b) (as so added)); and 'data form' means information which is in a form which is capable of being processed by

means of equipment operating automatically in response to instructions given for that purpose: reg 3(1) (definition added by SI 2002/1871). A person who contravenes the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 92(9) (as added) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale: see reg 115 (as added and amended); and PARA 737 post. As to the restriction on the transfer of personal data to a country or territory outside the European Economic Area see CONFIDENCE AND DATA PROTECTION vol 8(1) (2003 Reissue) PARA 517.

12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 97(3A)(a) (reg 97(3A) added by SI 2006/752); Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 97A(5)(a) (as added: see note 2 supra).

13 Ibid reg 97(3A)(b) (as added: see note 12 supra); reg 97A(5)(b) (as added: see note 2 supra). For the meaning of 'available for inspection' see PARA 157 note 19 ante.

14 Ibid reg 97(4) (as added (see note 2 supra); and amended by SI 2006/752); Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 97A(6) (as added: see note 2 supra). A person who contravenes reg 97(4) (as added and amended) or reg 97A(6) (as added) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale: see reg 115 (as added and amended); and PARA 737 post.

15 Ibid reg 97(4)(a) (as added: see note 2 supra); reg 97A(6)(a) (as added: see note 2 supra).

16 Ibid reg 97(4)(b) (as added: see note 2 supra); reg 97A(6)(b) (as added: see note 2 supra).

17 Ibid reg 97(4) (as added: see note 2 supra); reg 97A(6) (as added: see note 2 supra).

18 Ibid reg 97(6)(a) (reg 97(6) added by SI 2006/752); Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 97A(8)(a) (as added: see note 2 supra).

19 Ibid reg 97(6)(b) (as added: see note 18 supra); reg 97A(8)(b) (as added: see note 2 supra).

20 Ibid reg 97(6)(c) (as added: see note 18 supra); reg 97A(8)(c) (as added: see note 2 supra).

21 Ibid reg 97(6) (as added: see note 18 supra); reg 97A(8) (as added: see note 2 supra). A person who contravenes reg 97(6) (as added) or reg 97A(8) (as added) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale: see reg 115 (as added and amended); and PARA 737 post.

22 Ibid reg 92(10) (as added (see note 2 supra); and amended by SI 2006/752).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iv) Records of Electors/E. SUPPLY AND SALE OF ELECTORAL RECORDS AND RESTRICTIONS ON USE/178. Supply of electoral records to public libraries and local authority archives service.

178. Supply of electoral records to public libraries and local authority archives service.

A public library¹ or a local authority archives service² may request the registration officer³ to supply free of charge the relevant part⁴ of any revised version of the register⁵, any notice altering the published register⁶ or any list of overseas electors⁷. Such a request must be made in writing⁸ and must: (1) specify the documents requested⁹; (2) state whether the request is made only in respect of the current documents or whether it includes a request for the supply of any subsequent document on publication¹⁰; and (3) state whether a printed copy of any of the documents is requested instead of the version in data form¹¹. The registration officer must supply the relevant part of any documents so requested in accordance with a request that has been duly made¹². No person employed by the public library or the local authority archives service may¹³: (a) supply a copy of the full register¹⁴ other than to another such person or to a person using the library or the archives service to inspect it under supervision¹⁵; (b) disclose any information contained in it (that is not contained in the edited register¹⁶) otherwise than by allowing a person using the library or the archives service to inspect it under supervision¹⁷; or (c) make use of any such information¹⁸. However, the public library or local authority archives service is not prohibited from supplying a copy of, or disclosing information contained in, a version of the full register where: (i) more than ten years have expired since that version of the register was first published¹⁹; and (ii) the supply or disclosure is for research purposes in compliance with the relevant conditions²⁰.

Where a copy of the full register is made available for inspection²¹ by providing the register on a computer screen or otherwise in data form, the library or the archives service must ensure that the manner in, and equipment on, which that copy is provided do not permit any person consulting that copy to search it by electronic means by reference to the name of any person²² or copy or transmit any part of that copy by electronic means²³. A person who inspects the copy of the full register, whether a printed copy or in data form, may not²⁴ make copies of any part of it²⁵ or record any particulars included in it²⁶, otherwise than by means of handwritten notes²⁷. No person who obtains a copy of the full register (or to whom information contained in it that is not contained in the edited register is disclosed under the circumstances described in heads (i) and (ii) above) may supply a copy of it²⁸, disclose any such information²⁹ or make use of any such information³⁰, otherwise than for research purposes in compliance with the relevant conditions³¹. The restrictions on supply and disclosure thereby imposed on an original recipient of the data apply equally to a person to whom the full register is duly supplied or to whom any information contained in it (that is not contained in the edited register) is duly disclosed as they apply to the original recipient³².

1 For these purposes, 'public library' means a library maintained by a library authority, where 'library authority' has the same meaning as in the Local Government Act 1972 s 206 (as amended) (public libraries and museums (England)) and the Public Libraries and Museums Act 1964 s 4 (as amended) (library authorities and areas) (see NATIONAL CULTURAL HERITAGE vol 77 (2010) PARA 926): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 109A(11) (reg 109A added by SI 2006/752).

2 For these purposes, 'local authority archives service' means an archives service established by a county council, a county borough council, a district council, a London borough council, the Common Council of the City of London, or the Council of the Isles of Scilly, in exercise of its functions under the Local Government (Records) Act 1962 (see LOCAL GOVERNMENT vol 69 (2009) PARA 541): Representation of the People (England and Wales)

Regulations 2001, SI 2001/341, reg 109A(11) (as added: see note 1 supra). As to areas and authorities in England see LOCAL GOVERNMENT vol 69 (2009) PARA 24 et seq; and as to areas and authorities in Wales see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq. As to London boroughs and London borough councils generally see also LONDON GOVERNMENT vol 29(2) (Reissue) PARA 30 et seq; and as to the Common Council of the City of London see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 51 et seq. As to the Council of the Isles of Scilly see LOCAL GOVERNMENT vol 69 (2009) PARA 36.

3 For the meaning of 'registration officer' for these purposes see PARA 154 note 1 ante.

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 109A(1) (as added: see note 1 supra). For these purposes, the relevant part of the documents listed in reg 109A(1) (as added) is so much of them as a public library or local authority archives service has been given responsibility for keeping by a library authority or local authority respectively: reg 109A(2) (as so added).

5 Ibid reg 109A(1)(a) (as added: see note 1 supra). The text refers to the revised version of a register published under the Representation of the People Act 1983 s 13(1) or (3) (as substituted) (see PARA 164 ante).

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 109A(1)(b) (as added (see note 1 supra); and amended by SI 2006/2910). The text refers to a notice of alteration published under the Representation of the People Act 1983 s 13A(2) (as added), s 13B(3) (as added), s 13B(3B) (as added) or s 13B(3D) (as added) (see PARA 175 ante).

7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 109A(1)(c) (as added: see note 1 supra). For the meaning of 'list of overseas electors' see PARA 156 note 9 ante.

8 Ibid reg 109A(3) (as added: see note 1 supra).

9 Ibid reg 109A(3)(a) (as added: see note 1 supra).

10 Ibid reg 109A(3)(b) (as added: see note 1 supra).

11 Ibid reg 109A(3)(c) (as added: see note 1 supra). Unless a request has been made in advance of supply under reg 109A(3)(c) (as added), the copy of a document supplied under reg 109A (as added) is to be in data form: reg 109A(4) (as so added). For the meaning of 'data form' see PARA 177 note 11 ante. As to general aspects of the duty on a registration officer to supply data under Pt VI (regs 92-115) (as added and amended) see PARA 177 note 2 ante.

12 Ibid reg 109A(5) (as added: see note 1 supra).

13 Ibid reg 109A(6) (as added (see note 1 supra). This provision is expressed to be subject to reg 109A(9) (as added) (see the text and notes 19-20 infra): reg 109A(6) (as so added). As to references to employees of any person who has access to a copy of the full register see PARA 177 note 6 ante. A person who contravenes reg 109A(6) (as added), reg 109A(8) (as added) (see the text and notes 24-27 infra) or reg 109A(10) (as added) (see the text and notes 28-31 infra) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale: see reg 115 (as added and amended); and PARA 737 post. As to the standard scale see PARA 736 note 3 post.

14 For the meaning of 'full register' see PARA 166 note 2 ante. As to the meaning of 'register' see PARA 176 note 1 ante.

15 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 109A(6)(a) (as added: see note 1 supra). See note 13 supra. The permitted purpose for which a copy of the full register is made available for inspection under supervision in this way does not include direct marketing: see PARA 176 note 18 ante.

16 For the meaning of 'edited register' see PARA 166 note 4 ante.

17 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 109A(6)(b) (as added: see note 1 supra). See note 13 supra. As to the permitted purpose for which a copy of the full register may be made available see note 15 supra.

18 Ibid reg 109A(6)(c) (as added: see note 1 supra). See note 13 supra.

19 Ibid reg 109A(9)(a) (as added: see note 1 supra). The text refers to that version of the register first published in accordance with reg 43 (as amended) (see PARA 164 note 2 ante).

20 Ibid reg 109A(9)(b) (as added: see note 1 supra). For the meanings of 'research purposes' and 'relevant conditions' see PARA 177 note 11 ante.

21 le in accordance with *ibid* reg 109A(6)(a) (as added) (see the text and notes 14-15 *supra*) or reg 109A(6)(b) (as added) (see the text and notes 16-17 *supra*). For the meaning of 'available for inspection' see *PARA* 157 note 19 *ante*.

22 *Ibid* reg 109A(7)(a) (as added: see note 1 *supra*).

23 *Ibid* reg 109A(7)(b) (as added: see note 1 *supra*).

24 *Ibid* reg 109A(8) (as added: see note 1 *supra*). See note 13 *supra*.

25 *Ibid* reg 109A(8)(a) (as added: see note 1 *supra*). See note 13 *supra*.

26 *Ibid* reg 109A(8)(b) (as added: see note 1 *supra*). See note 13 *supra*.

27 *Ibid* reg 109A(8) (as added: see note 1 *supra*). See note 13 *supra*.

28 *Ibid* reg 109A(10)(a) (as added: see note 1 *supra*). See note 13 *supra*.

29 *Ibid* reg 109A(10)(b) (as added: see note 1 *supra*). See note 13 *supra*.

30 *Ibid* reg 109A(10)(c) (as added: see note 1 *supra*). See note 13 *supra*.

31 *Ibid* reg 109A(10) (as added: see note 1 *supra*).

32 *Ibid* reg 92(10) (reg 92 added by SI 2002/1871). See note 13 *supra*. Any person who has obtained or is entitled to obtain a copy of the full register under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 109A(9) (as added) may supply a copy of the full register to a processor for the purpose of processing the information contained in the register, or he may procure that a processor processes and provides to him any copy of the register which the processor has obtained under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) for use in respect of the purposes for which that person is entitled to obtain such copy or information (as the case may be): see reg 92(7) (as added and amended); and *PARA* 177 note 11 *ante*. For the meaning of 'processor' see *PARA* 177 note 11 *ante*.

UPDATE

178 Supply of electoral records to public libraries and local authority archives service

NOTES--Certain functions under provisions mentioned in this paragraph are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3, see *LOCAL GOVERNMENT* vol 69 (2009) *PARA* 733.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iv) Records of Electors/E. SUPPLY AND SALE OF ELECTORAL RECORDS AND RESTRICTIONS ON USE/179. Supply of electoral records for electoral purposes.

179. Supply of electoral records for electoral purposes.

Each registration officer¹ must supply, free of charge and on publication², one copy of any revised version of the register³ and one copy of any notice altering the published register⁴ to⁵: (1) the returning officer for a non-metropolitan county⁶; (2) the persons or officers who are the returning officers at an election of members of the London Assembly and of the Mayor of London⁷; (3) the returning officer appointed for elections to each parish or community council within the electoral area⁸. As soon as practicable after the relevant event⁹, a registration officer who is not the acting returning officer¹⁰ for a constituency wholly or partly in his registration area must supply free of charge to that officer as many printed copies¹¹ of: (a) the latest revised version of the register¹²; (b) any notice setting out an alteration to that version of the register¹³; and (c) the most recent list of overseas electors¹⁴, as the returning officer may reasonably require for the purposes of a parliamentary election¹⁵. As soon as practicable after the relevant date¹⁶, a registration officer who is not designated as a local returning officer for part of a European parliamentary electoral region¹⁷ which falls wholly or partly in his registration area must supply free of charge to that officer as many printed copies of the documents¹⁸ referred to in heads (a), (b) and (c) above as the local returning officer may reasonably require for the purposes of a European parliamentary election¹⁹. Where a registration officer is not the returning officer for any election to the National Assembly for Wales in respect of any constituency or region²⁰ wholly or partly within his registration area, he must supply free of charge to that officer as many printed copies of the documents referred to in head (a) or head (b) above, together with one copy of each in data form, as the returning officer may reasonably require for the purposes of such an election²¹.

No person to whom a copy of the register has been duly supplied²² may supply a copy of the full register²³, disclose any information contained in it (that is not contained in the edited register)²⁴ or make use of any such information²⁵, other than for the purposes of an election²⁶. The restrictions on supply and disclosure imposed on the original recipient apply equally to any person to whom the full register is duly supplied or to whom any information contained in it (that is not contained in the edited register) is duly disclosed as they apply to the original recipient²⁷.

Whenever the registration officer supplies a copy of the full register, or any part of it, to a returning officer or counting officer²⁸, the registration officer must supply, together with the copy of the register, a copy of the record of anonymous entries²⁹ and, together with any part of the register, a copy of the record so far as it relates to that part³⁰. A registration officer also may supply a copy of the record to a returning officer or counting officer at any other time³¹. No person to whom a copy of the record has been supplied in such a way may supply a copy of the record³², disclose any information contained in it³³ or make use of any such information³⁴, other than for the purposes of an election or referendum (as the case may be)³⁵. Each person supplied with a copy of the record in this way³⁶ must take proper precautions for its safe custody³⁷.

1 For the meaning of 'registration officer' for these purposes see PARA 154 note 1 ante.

2 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 98(1) (reg 98 added by SI 2002/1871). For these purposes, the duty to supply one copy of the register is a duty to supply it in data

form unless, prior to publication, the officer or person to whom it is to be supplied has requested in writing a printed copy instead: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 98(3) (as so added). For the meaning of 'data form' see PARA 177 note 11 ante. As to the meaning of 'register' see PARA 176 note 1 ante. As to general aspects of the duty on a registration officer to supply data under Pt VI (regs 92-115) (as added and amended) see PARA 177 note 2 ante.

3 Ibid reg 98(1)(a) (as added: see note 2 supra). The text refers to the revised version of a register published under the Representation of the People Act 1983 s 13(1) or (3) (as substituted) (see PARA 164 ante).

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 98(1)(b) (as added (see note 2 supra); and amended by SI 2006/2910). The text refers to a notice of alteration published under the Representation of the People Act 1983 s 13A(2) (as added), s 13B(3) (as added), s 13B(3B) (as added) or s 13B(3D) (as added) (see PARA 175 ante).

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 98(1) (as added: see note 2 supra).

6 Ibid reg 98(2)(a) (as added: see note 2 supra). For the meaning of 'non-metropolitan county' see LOCAL GOVERNMENT vol 69 (2009) PARA 24. As to returning officers see PARA 355 et seq post.

7 Ibid reg 98(2)(b) (as added: see note 2 supra). The text refers to the persons or officers appointed under the Representation of the People Act 1983 s 35(2B) (as added) (returning officer at an election of a constituency member of the London Assembly) and s 35(2C) (as added) (returning officer at election of the Mayor of London and the London members of the London Assembly) (see PARA 359 post).

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 98(2)(c) (as added: see note 2 supra). For the meaning of 'electoral area' see PARA 10 ante. The text refers to the officers appointed pursuant to the Representation of the People Act 1983 s 35(1) (as amended) (returning officer for elections of councillors of parishes) and s 35(1A) (as added) (returning officer for elections of councillors of communities) (see PARA 359 post). As to parishes see LOCAL GOVERNMENT vol 69 (2009) PARA 27 et seq; and as to communities see LOCAL GOVERNMENT vol 69 (2009) PARA 41 et seq.

9 For these purposes, the 'relevant event' means either the announcement of Her Majesty's intention to dissolve Parliament (see PARA 196 et seq post) or the occurrence of a vacancy in the relevant constituency (see PARA 198 post): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 98(5)(a) (as added: see note 2 supra).

10 As to returning officers generally see PARA 355 et seq post. For the meaning of 'registration area' see PARA 154 note 1 ante.

11 For these purposes, the duty to supply as many printed copies of the register, notices and list of overseas electors as the returning officer may reasonably require includes a duty to supply one copy of each in data form: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 98(5)(b) (as added: see note 2 supra). For the meaning of 'list of overseas electors' see PARA 156 note 9 ante.

12 Ibid reg 98(4)(a) (as added: see note 2 supra). The text refers to the latest revised version of the register published under either the Representation of the People Act 1983 s 13(1) or (3) (as substituted), as the case may be (see PARA 164 ante).

13 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 98(4)(b) (as added (see note 2 supra); and amended by SI 2006/2910). The text refers to a notice of alteration published under the Representation of the People Act 1983 s 13A(2) (as added), s 13B(3) (as added), s 13B(3B) (as added) or s 13B(3D) (as added) (see PARA 175 ante).

14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 98(4)(c) (as added: see note 2 supra).

15 Ibid reg 98(4) (as added: see note 2 supra).

16 For these purposes, the 'relevant date' means, in the case of a general election of members of the European Parliament, the date which is two months before the day appointed by order of the Secretary of State for the poll (see PARA 229 post) or, where the Secretary of State has made an order appointing a day for the poll at a by-election, the date on which that order was made (or the occurrence of a vacancy in the relevant constituency) (see PARA 225 post): ibid reg 98(7)(a) (as added: see note 2 supra). As to the Secretary of State see PARA 2 ante.

17 As to electoral regions established for these purposes see PARA 76 ante; and as to the designation of local returning officers see PARA 365 post.

18 For these purposes, the duty to supply as many printed copies of the register, notices and list of overseas electors as the local returning officer may reasonably require includes a duty to supply one copy of each in data form: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 98(7)(b) (as added: see note 2 supra).

19 Ibid reg 98(6) (as added: see note 2 supra).

20 For the meanings of 'constituency election' and 'regional election' for these purposes see PARA 3 note 1 ante.

21 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 98(8) (as added: see note 2 supra). Similar provision is made under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended): see art 4(2), Sch 1 paras 1(7), (8), 2-4.

22 Ie supplied under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 98 (as added and amended).

23 Ibid reg 98(9)(a) (as added: see note 2 supra). For the meaning of 'full register' see PARA 166 note 2 ante.

24 Ibid reg 98(9)(b) (as added: see note 2 supra). For the meaning of 'edited register' see PARA 166 note 4 ante.

25 Ibid reg 98(9)(c) (as added: see note 2 supra).

26 Ibid reg 98(9) (as added: see note 2 supra). A person who contravenes reg 98(9) (as added) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale: see reg 115 (as added and amended); and PARA 737 post. As to the standard scale see PARA 736 note 3 post.

27 Ibid reg 92(10) (reg 92 added by SI 2002/1871). However, any person who has obtained or is entitled to obtain a copy of the full register under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 98 (as added and amended) (see the text and notes 1-26 supra) may supply a copy of the full register to a processor for the purpose of processing the information contained in the register, or he may procure that a processor processes and provides to him any copy of the register which the processor has obtained under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) for use in respect of the purposes for which that person is entitled to obtain such copy or information (as the case may be): see reg 92(7) (as added and amended); and PARA 177 note 11 ante. For the meaning of 'processor' see PARA 177 note 11 ante.

28 Ibid reg 45C(1) (reg 45C added by SI 2006/2910). For the meaning of 'counting officer' see PARA 176 note 20 ante.

29 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 45C(2)(a) (as added: see note 28 supra).

30 Ibid reg 45C(2)(b) (as added: see note 28 supra).

31 Ibid reg 45C(3) (as added: see note 28 supra).

32 Ibid reg 45C(4)(a) (as added: see note 28 supra).

33 Ibid reg 45C(4)(b) (as added: see note 28 supra).

34 Ibid reg 45C(4)(c) (as added: see note 28 supra).

35 Ibid reg 45C(4) (as added: see note 28 supra).

36 Ie under ibid reg 45C (as added).

37 Ibid reg 45C(5) (as added: see note 28 supra).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iv) Records of Electors/E. SUPPLY AND SALE OF ELECTORAL RECORDS AND RESTRICTIONS ON USE/180. Supply of electoral records to Electoral Commission.

180. Supply of electoral records to Electoral Commission.

Each registration officer¹ must supply, free of charge and on publication², one copy of any revised version of the register³, one copy of any notice altering the published register⁴ and one copy of any list of overseas electors⁵ to the Electoral Commission⁶.

Neither the Electoral Commissioners⁷ nor any person employed by the Electoral Commission may⁸ supply a copy of the full register⁹ other than to an Electoral Commissioner or another such person¹⁰, disclose any information contained in it (that is not contained in the edited register¹¹) otherwise than in accordance with heads (1) and (2) below¹² or make use of any such information otherwise than in connection with their statutory functions¹³. The full register or any information contained in it and not in the edited register may not be disclosed otherwise than¹⁴: (1) where necessary to carry out the Electoral Commission's duties in relation to the statutory rules on permissible donors¹⁵; or (2) by publishing information about electors which does not include the name or address of any elector¹⁶. The restrictions on supply and disclosure imposed on the Electoral Commissioners and on any person employed by the Electoral Commission¹⁷ apply equally to any person to whom the full register is duly supplied or to whom any information contained in it (that is not contained in the edited register) is duly disclosed as they apply to the Electoral Commissioners and to employees of the Electoral Commission¹⁸.

1 For the meaning of 'registration officer' for these purposes see PARA 154 note 1 ante.

2 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 100(1) (reg 100 added by SI 2002/1871). For these purposes, the duty to supply is a duty to supply in data form unless, prior to publication, the Electoral Commission has requested in writing a printed copy instead: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 100(2) (as so added). For the meaning of 'data form' see PARA 177 note 11 ante. As to the Electoral Commission see PARA 31 et seq ante; and as to general aspects of the duty on a registration officer to supply data under Pt VI (regs 92-115) (as added and amended) see PARA 177 note 2 ante.

3 Ibid reg 100(1)(a) (as added: see note 2 supra). The text refers to the revised version of a register published under the Representation of the People Act 1983 s 13(1) or (3) (as substituted) (see PARA 164 ante). As to the meaning of 'register' see PARA 176 note 1 ante.

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 100(1)(b) (as added (see note 2 supra); and amended by SI 2006/2910). The text refers to a notice of alteration published under the Representation of the People Act 1983 s 13A(2) (as added), s 13B(3) (as added), s 13B(3B) (as added) or s 13B(3D) (as added) (see PARA 175 ante).

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 100(1)(c) (as added: see note 2 supra). For the meaning of 'list of overseas electors' see PARA 156 note 9 ante.

6 Ibid reg 100(1) (as added: see note 2 supra).

7 For these purposes, 'Electoral Commissioner' includes a Deputy Electoral Commissioner and an Assistant Electoral Commissioner: ibid reg 100(4) (as added: see note 2 supra). As to the Electoral Commissioners see PARA 32 et seq ante; and as to the appointment of Deputy Electoral Commissioners and Assistant Electoral Commissioners see PARA 61 ante.

8 Ibid reg 100(3) (as added: see note 2 supra). As to references to employees of any person who has access to a copy of the full register see PARA 177 note 6 ante. A person who contravenes reg 100(3) (as added) is guilty

of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale: see reg 115 (as added and amended); and PARA 737 post. As to the standard scale see PARA 736 note 3 post.

9 For the meaning of 'full register' see PARA 166 note 2 ante.

10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 100(3)(a) (as added: see note 2 supra). See note 8 supra.

11 For the meaning of 'edited register' see PARA 166 note 4 ante.

12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 100(3)(b) (as added: see note 2 supra). See note 8 supra.

13 Ibid reg 100(3)(c) (as added: see note 2 supra). See note 8 supra. The text refers to the functions of the Electoral Commissioners and of any person employed by the Electoral Commission under, or by virtue of, the Political Parties, Elections and Referendums Act 2000 (as to which see PARA 46 et seq ante).

14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 100(5) (as added: see note 2 supra). A person who contravenes reg 100(5) (as added) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale: see reg 115 (as added and amended); and PARA 737 post.

15 Ibid reg 100(5)(a) (as added: see note 2 supra). The text refers to the duties of the Electoral Commission in relation to the rules on permissible donors in the Political Parties, Elections and Referendums Act 2000 (as to which see PARA 293 et seq post). As to related offences see note 14 supra.

16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 100(5)(b) (as added: see note 2 supra). As to related offences see note 14 supra.

17 Ie the restriction contained in ibid reg 100(3) (as added) (see the text and notes 7-13 supra).

18 Ibid reg 92(10) (reg 92 added by SI 2002/1871). However, any person who has obtained or is entitled to obtain a copy of the full register under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 100 (as added and amended) may supply a copy of the full register to a processor for the purpose of processing the information contained in the register, or he may procure that a processor processes and provides to him any copy of the register which the processor has obtained under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) for use in respect of the purposes for which that person is entitled to obtain such copy or information (as the case may be): see reg 92(7) (as added and amended); and PARA 177 note 11 ante. For the meaning of 'processor' see PARA 177 note 11 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iv) Records of Electors/E. SUPPLY AND SALE OF ELECTORAL RECORDS AND RESTRICTIONS ON USE/181. Supply of electoral records to Boundary Commissions.

181. Supply of electoral records to Boundary Commissions.

Each registration officer in England¹ must supply, free of charge and on publication², one copy of any revised version of the register³, one copy of any notice altering the published register⁴ and one copy of any list of overseas electors⁵ to the Boundary Commission for England⁶; and each registration officer in Wales must similarly supply copies to the Boundary Commission for Wales⁷ and the Local Government Boundary Commission for Wales⁸. Neither a member of the Commission in question⁹, a person appointed to assist the Commission in question to carry out its functions¹⁰, nor any person employed by the Commission in question¹¹ may supply a copy of the full register¹² other than to another such person¹³, disclose any information contained in it (that is not contained in the edited register¹⁴) otherwise than by publishing information about electors which does not include the name and address of any elector¹⁵, or process or make use of any such information other than in connection with their statutory functions¹⁶.

The restrictions on supply and disclosure imposed on a member of such a Commission or on any person appointed to assist it or on any person employed by it¹⁷ apply to any person to whom the full register is duly supplied or to whom any information contained in it (that is not contained in the edited register) is duly disclosed as they apply to any such member or to any such person¹⁸.

1 For the meaning of 'registration officer' for these purposes see PARA 154 note 1 ante. For the meaning of 'England' see PARA 13 note 1 ante.

2 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 101(1) (reg 101 added by SI 2002/1871). For these purposes, the duty to supply is a duty to supply in data form unless, prior to publication, the Commission to whom it is to be supplied has requested in writing a printed copy instead: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 101(4) (as so added). For the meaning of 'data form' see PARA 177 note 11 ante. As to general aspects of the duty on a registration officer to supply data under Pt VI (regs 92-115) (as added and amended) see PARA 177 note 2 ante.

3 Ibid reg 101(1), (2), (3)(a) (as added: see note 2 supra). The text refers to the revised version of a register published under the Representation of the People Act 1983 s 13(1) or (3) (as substituted) (see PARA 164 ante). As to the meaning of 'register' see PARA 176 note 1 ante.

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 101(1), (2), (3)(b) (reg 101 as added (see note 2 supra); and reg 101(3)(b) amended by SI 2006/2910). The text refers to a notice of alteration published under the Representation of the People Act 1983 s 13A(2) (as added), s 13B(3) (as added), s 13B(3B) (as added) or s 13B(3D) (as added) (see PARA 175 ante).

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 101(1), (2), (3)(c) (as added: see note 2 supra). For the meaning of 'list of overseas electors' see PARA 156 note 9 ante.

6 As to the Boundary Commission for England see PARA 67 ante. As to the transfer and prospective transfer of functions and property from the Boundary Commissions established under the Parliamentary Constituencies Act 1986 see PARA 64 et seq ante.

7 As to the Boundary Commission for Wales see PARA 67 ante; and see note 6 supra. For the meaning of 'Wales' see PARA 13 note 1 ante.

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 101(2) (as added: see note 2 supra). As to the Local Government Boundary Commission for Wales see PARA 71 ante.

9 Ibid reg 101(5)(a), (6) (as added: see note 2 supra). A person who contravenes reg 101(6) (as added) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale: see reg 115 (as added and amended); and PARA 737 post. As to the standard scale see PARA 736 note 3 post.

10 Ibid reg 101(5)(b), (6) (as added: see note 2 supra). As to related offences see note 9 supra.

11 Ibid reg 101(5)(c), (6) (as added: see note 2 supra). As to related offences see note 9 supra. As to references to employees of any person who has access to a copy of the full register see PARA 177 note 6 ante.

12 For the meaning of 'full register' see PARA 166 note 2 ante.

13 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 101(6)(a) (as added: see note 2 supra). As to related offences see note 9 supra.

14 For the meaning of 'edited register' see PARA 166 note 4 ante.

15 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 101(6)(b) (as added: see note 2 supra). As to related offences see note 9 supra.

16 Ibid reg 101(6)(c) (as added: see note 2 supra). As to related offences see note 9 supra.

17 I.e. the restriction contained in ibid 101(6) (as added) (see the text and notes 12-16 supra).

18 Ibid reg 92(10) (reg 92 added by SI 2002/1871). However, any person who has obtained or is entitled to obtain a copy of the full register under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 101 (as added and amended) (see the text and notes 1-16 supra) may supply a copy of the full register to a processor for the purpose of processing the information contained in the register, or he may procure that a processor processes and provides to him any copy of the register which the processor has obtained under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) for use in respect of the purposes for which that person is entitled to obtain such copy or information (as the case may be): see reg 92(7) (as added and amended); and PARA 177 note 11 ante. For the meaning of 'processor' see PARA 177 note 11 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iv) Records of Electors/E. SUPPLY AND SALE OF ELECTORAL RECORDS AND RESTRICTIONS ON USE/182. Supply of electoral records to specified persons or organisations.

182. Supply of electoral records to specified persons or organisations.

Certain persons or organisations¹ may request the registration officer² to supply free of charge the relevant part³ of a revised version of the register⁴, any notice altering the published register⁵ or a list of overseas electors⁶. Such a request must be made in writing⁷ and must: (1) specify the documents requested⁸; (2) state whether the request is made only in respect of the current documents or whether it includes a request for the supply of any subsequent document on publication for as long as the person making the request falls within the category of person entitled to receive such copies⁹; and (3) state whether a printed copy of any of the documents is requested instead of the version in data form¹⁰. The following persons or organisations may make such a request:

- 265 (a) the member of Parliament for any constituency wholly or partly within the registration area¹¹;
- 266 (b) each member of the European Parliament for an electoral region in which the registration area is situated¹²;
- 267 (c) each member of the National Assembly for Wales for any constituency or region wholly or partly within the registration area¹³;
- 268 (d) each councillor for an electoral area falling within the registration area¹⁴;
- 269 (e) the Mayor of London and the London members of the London Assembly, where the registration area falls wholly or partly within Greater London¹⁵;
- 270 (f) the constituency members of the London Assembly, where the registration area falls wholly or partly within an Assembly constituency¹⁶;
- 271 (g) an elected mayor¹⁷ where the registration area falls wholly or partly within the area of the local authority for which the mayor is elected¹⁸;
- 272 (h) the holder of an elective office which is subject to the statutory controls relating to donations¹⁹;
- 273 (i) a candidate for election at a parliamentary, local government or London Authority election²⁰;
- 274 (j) any person nominated by the registered nominating officer²¹ of a registered political party to act for the purpose of requesting such documents on behalf of a particular constituency²²;
- 275 (k) a registered political party, other than a minor party²³;
- 276 (l) a recognised third party, other than a registered political party²⁴;
- 277 (m) a permitted participant, other than a registered political party²⁵;
- 278 (n) the local authority by which the registration officer was appointed²⁶;
- 279 (o) a local authority whose area falls wholly or partly within the registration area of that local authority, other than a parish council or community council²⁷;
- 280 (p) a parish council or community council²⁸;
- 281 (q) a candidate at a parliamentary or European parliamentary election²⁹, an election to the National Assembly of Wales³⁰, a local government election³¹ and an election of a mayor under the Local Government Act 2000³², where any part of the area in respect of which the candidate stands for election includes the whole or part of a registration area³³; and
- 282 (r) any police force in Great Britain³⁴, the Serious Organised Crime Agency³⁵, the Police Information Technology Organisation³⁶, any body of constables established

under an Act of Parliament³⁷, the Security Service³⁸, the Government Communications Headquarters³⁹ and the Secret Intelligence Service⁴⁰.

In accordance with any such request that has been duly made, the registration officer must supply the relevant part of the document or documents⁴¹. A person who obtains a copy of any document in this way may use it for any purpose for which that person would be entitled to obtain that document⁴² but any restrictions which apply for that purpose⁴³ apply to any such use⁴⁴. The restrictions imposed on the original recipient⁴⁵ apply to a person to whom the full register⁴⁶ is duly supplied or to whom any information contained in it (that is not contained in the edited register) is duly disclosed as they apply to the original recipient⁴⁷.

No such person as is mentioned in heads (a) to (g) above may supply a copy of the full register to any person⁴⁸, disclose any information contained in it that is not contained in the edited register⁴⁹ or make use of any such information⁵⁰, otherwise than for purposes in connection with the office by virtue of which he is entitled to the full register or for electoral purposes⁵¹. No person to whom either head (h) or head (i) above applies may supply a copy of the full register to any person⁵², disclose any information contained in it that is not contained in the edited register⁵³ or make use of any such information⁵⁴, otherwise than for the purpose of complying with the statutory controls on donations⁵⁵. No person to whom head (j) above applies may supply a copy of the full register to any person⁵⁶, disclose any information contained in it that is not contained in the edited register⁵⁷ or make use of any such information⁵⁸, otherwise than for electoral purposes or the purposes of electoral registration⁵⁹. No person employed by, or assisting (whether or not for reward) a party to which head (k) or head (l) above applies and to which a copy of the register has been supplied may supply a copy of the full register to any person⁶⁰, disclose any information contained in it that is not contained in the edited register⁶¹ or make use of any such information⁶², otherwise than for electoral purposes⁶³ or for the purpose of complying with the controls on donations to registered parties⁶⁴. No person employed by, or assisting (whether or not for reward) a participant to which head (m) above applies and to which a copy of the register has been supplied may supply a copy of the full register to any person⁶⁵, disclose any information contained in it that is not contained in the edited register⁶⁶ or make use of any such information⁶⁷, otherwise than for purposes in connection with the campaign in respect of the referendum⁶⁸ or for the purpose of complying with the controls on donations to permitted participants⁶⁹.

No councillor or employee of a local authority mentioned in either head (n) or head (o) above may supply a copy of the full register to any person other than to another councillor or employee of the same local authority⁷⁰, disclose any information contained in it that is not included in the edited register⁷¹ or make use of any such information⁷². No parish or community councillor, person employed by or otherwise assisting (whether or not for reward) a parish or community council mentioned in head (p) above and to which a copy of the register has been supplied may supply a copy of the full register to any person⁷³, disclose any information contained in it that is not contained in the edited register⁷⁴ or make use of any such information⁷⁵, otherwise than for the purpose of establishing whether any person is entitled to attend and participate in a meeting of, or take any action on behalf of, the parish or community, as the case may be, or for the purposes of a local poll under the Local Government Act 2003⁷⁶.

No candidate or election agent to whom a copy of the register has been supplied by virtue of head (q) above may supply a copy of the full register to any person⁷⁷, disclose any information contained in it that is not contained in the edited register⁷⁸ or make use of any such information⁷⁹, other than for electoral purposes⁸⁰.

No person serving whether as a constable, officer or employee in any of the forces and organisations mentioned in head (r) above may supply a copy of the full register to any person⁸¹, disclose any information contained in it that is not contained in the edited register⁸² or make use of any such information⁸³, otherwise than (in the case of the security and intelligence

services mentioned in head (r) above⁸⁴) for purposes connected with the carrying out of any of their statutory functions⁸⁵ or (in the case of the other forces and organisations mentioned in head (r) above) for the purposes of the prevention and detection of crime and the enforcement of the criminal law (whether in England and Wales or elsewhere)⁸⁶ or for the vetting of a constable or officer or prospective constable or officer of the force or organisation or an employee of, or applicant for employment by, the force or organisation, for the purpose of safeguarding national security⁸⁷.

Where the registration officer supplies a copy of the full register to the Security Service, the Government Communications Headquarters or the Secret Intelligence Service⁸⁸, the registration officer must supply a copy of the record of anonymous entries together with the register⁸⁹. No person serving as an officer or employee in the Security Service, the Government Communications Headquarters or the Secret Intelligence Service may supply to any person a copy of the record⁹⁰, disclose any information contained in it⁹¹ or make use of any such information⁹², otherwise than for purposes connected with the carrying out of any of their statutory functions⁹³. Each person supplied with a copy of the record in this way⁹⁴ must take proper precautions for its safe custody⁹⁵.

The registration officer must also supply a copy of the record of anonymous entries, at the request in writing of a senior officer⁹⁶, to any police force in Great Britain⁹⁷, the Police Information Technology Organisation⁹⁸, any body of constables established under an Act of Parliament⁹⁹ or the Serious Organised Crime Agency¹⁰⁰. No person serving as a constable, officer or employee of any such force or organisation may supply to any person a copy of the record¹⁰¹, disclose any information contained in it¹⁰² or make use of any such information¹⁰³, otherwise than for the purposes of¹⁰⁴ the prevention and detection of crime and the enforcement of the criminal law (whether in England and Wales or elsewhere)¹⁰⁵ or the vetting of a relevant person¹⁰⁶ for the purpose of safeguarding national security¹⁰⁷. Each person supplied with a copy of the record in this way¹⁰⁸ must take proper precautions for its safe custody¹⁰⁹.

1 le persons or organisations falling within the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 103-109 (as added and amended) (see heads (a)-(r) in the text).

2 For the meaning of 'registration officer' for these purposes see PARA 154 note 1 ante.

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 102(1) (reg 102 added by SI 2002/1871). The relevant part of a document is defined discretely for each of the purposes in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 103-109 (as added and amended) (see the text and notes 11-40 infra).

4 Ibid reg 102(1)(a) (as added: see note 3 supra). The text refers to the revised version of a register published under the Representation of the People Act 1983 s 13(1) or (3) (as substituted) (see PARA 164 ante). As to the meaning of 'register' see PARA 176 note 1 ante.

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 102(1)(b) (as added (see note 3 supra); and amended by SI 2006/2910). The text refers to a notice of alteration published under the Representation of the People Act 1983 s 13A(2) (as added), s 13B(3) (as added), s 13B(3B) (as added) or s 13B(3D) (as added) (see PARA 175 ante).

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 102(1)(c) (as added: see note 3 supra). For the meaning of 'list of overseas electors' see PARA 156 note 9 ante.

7 Ibid reg 102(2) (as added: see note 3 supra).

8 Ibid reg 102(2)(a) (as added: see note 3 supra).

9 Ibid reg 102(2)(b) (as added: see note 3 supra). A person falling within reg 108 (as added) (ie a candidate at a specified election: see head (q) in the text) may not make a request for the supply of any subsequent document on publication: reg 102(5) (as so added).

10 Ibid reg 102(2)(c) (as added: see note 3 supra). Unless a request has been made in advance of supply under reg 102(2)(c) (as added), the copy of a document supplied under reg 102 (as added and amended) is to

be in data form: reg 102(3) (as so added). For the meaning of 'data form' see PARA 177 note 11 ante. As to general aspects of the duty on a registration officer to supply data under Pt VI (regs 92-115) (as added and amended) see PARA 177 note 2 ante.

11 Ibid reg 103(1)(a) (reg 103 added by SI 2002/1871). In the case of a member of Parliament, the relevant part of the documents for the purposes of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 102(1) (as added and amended) (see the text and notes 1-6 supra) is so much of them as relates to the whole or any part of the constituency which he represents as falls within the registration area: reg 103(2)(a) (as so added). For the meaning of 'registration area' see PARA 154 note 1 ante. As to members of Parliament and parliamentary constituencies see PARA 9 ante.

12 Ibid reg 103(1)(b) (as added: see note 11 supra). In the case of a member of the European Parliament, the relevant part of the documents for the purposes of reg 102(1) (as added and amended) (see the text and notes 1-6 supra) is all parts of them: reg 103(2)(b) (as so added). As to members of the European Parliament and electoral regions established for the purposes of European parliamentary elections see PARA 13 et seq ante.

13 Ibid reg 103(1)(c) (as added: see note 11 supra). In the case of a member of the National Assembly for Wales, the relevant part of the documents for the purposes of reg 102(1) (as added and amended) (see the text and notes 1-6 supra) is so much of them as relates to the whole or any part of the region which he represents as falls within the registration area: reg 103(2)(a) (as so added). Similar provision for the registration officer, on request, to supply free of charge to the Assembly member for an Assembly constituency, or an Assembly member for an Assembly electoral region, so much of the register as relates to that constituency or, as the case may be, electoral region is made by the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended): see art 4(2), Sch 1 paras 1(1), (2), 2-4. As to members of the National Assembly for Wales and Assembly constituencies and regions see PARA 12 ante.

14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 103(1)(d) (as added: see note 11 supra). In the case of a councillor for an electoral area, the relevant part of the documents for the purposes of reg 102(1) (as added and amended) (see the text and notes 1-6 supra) is so much of them as relates to that area: reg 103(2)(c) (as so added). For the meaning of 'electoral area' see PARA 10 ante.

15 Ibid reg 103(1)(e) (as added: see note 11 supra). In the case of the Mayor of London and a London member of the London Assembly, the relevant part of the documents for the purposes of reg 102(1) (as added and amended) (see the text and notes 1-6 supra) is so much of them as relates to the Greater London area: reg 103(2)(d) (as so added). As to the election of the Mayor of London and London members of the London Assembly see PARA 206 et seq post. As to the administrative area of Greater London see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 29 et seq.

16 Ibid reg 103(1)(f) (as added: see note 11 supra). The text refers to an Assembly constituency within the meaning of the Greater London Authority Act 1999: see s 2(4), (5) (s 2(4) as amended); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 93. In the case of a constituency member of the London Assembly, the relevant part of the documents for the purposes of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 102(1) (as added and amended) (see the text and notes 1-6 supra) is so much of them as relates to any part of the Assembly constituency which he represents as falls within the registration area: reg 103(2)(e) (as so added).

17 Ie within the meaning of the Local Government Act 2000 s 39(1) (see LOCAL GOVERNMENT vol 69 (2009) PARA 320).

18 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 103(1)(g) (as added: see note 11 supra). In the case of a mayor falling within reg 103(1)(g) (as added), the relevant part of the documents for the purposes of reg 102(1) (as added and amended) (see the text and notes 1-6 supra) is so much of them as relates to any part of the area of the local authority for which he is elected as falls within the registration area: reg 103(2)(f) (as so added).

19 Ibid reg 104(1)(a) (reg 104 added by SI 2002/1871). The text refers to the holder of a relevant elective office within the meaning of the Political Parties, Elections and Referendums Act 2000 s 71, Sch 7 para 1(8) (as amended) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS). In the case of such a person, the relevant part of the documents for the purposes of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 102(1) (as added and amended) (see the text and notes 1-6 supra) is the whole of them: reg 104(2) (as so added).

20 Ibid reg 104(1)(b) (as added: see note 19 supra). For these purposes, 'candidate' has the same meaning as in the Representation of the People Act 1983 s 118A (as added) (see PARA 237 post): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 3(1) (definition substituted by SI 2002/1871). In the case of such a candidate, the relevant part of the documents for the purposes of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 102(1) (as added and amended) (see the text

and notes 1-6 supra) is the whole of them: reg 104(2) (as so added). For the meaning of 'Authority election' see PARA 10 ante.

21 Ibid within the meaning of the Political Parties, Elections and Referendums Act 2000 s 24 (as amended) (see PARA 260 post; and CONSTITUTIONAL LAW AND HUMAN RIGHTS).

22 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 105(1) (reg 105 added by SI 2002/1871). Not more than one person for the same constituency may be nominated under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 105(1) (as added) in respect of the same registered political party and registration area: reg 105(2) (as so added). In the case of a person duly nominated, the relevant part of the documents for the purposes of reg 102(1) (as added and amended) (see the text and notes 1-6 supra) is so much of them as relates to the whole or any part of the constituency in question as falls within the registration area: reg 105(3) (as so added).

23 Ibid reg 106(1)(a) (reg 106 added by SI 2002/1871). The text refers to a registered political party other than a minor party within the meaning of the Political Parties, Elections and Referendums Act 2000 s 160(1) (see PARA 260 post). In the case of such a party, the relevant part of the documents for the purposes of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 102(1) (as added and amended) (see the text and notes 1-6 supra) is the whole of them: reg 106(2) (as so added).

24 Ibid reg 106(1)(b) (reg 106 as added: see note 23 supra). The text refers to a 'recognised third party' within the meaning of the Political Parties, Elections and Referendums Act 2000 s 85(5) (control of expenditure by third parties in national parliamentary election campaigns: see PARA 318 note 15 post). In the case of such a party, the relevant part of the documents for the purposes of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 102(1) (as added and amended) (see the text and notes 1-6 supra) is the whole of them: reg 106(2) (as so added).

25 Ibid reg 106(1)(c) (reg 106 as added: see note 23 supra). The text refers to a 'permitted participant' within the meaning of the Political Parties, Elections and Referendums Act 2000 s 105(1) (permitted participant for the purpose of referendums: see PARA 521 post). In the case of such a participant, the relevant part of the documents for the purposes of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 102(1) (as added and amended) (see the text and notes 1-6 supra) is the whole of them: reg 106(2) (as so added).

26 Ibid reg 107(1)(a) (reg 107 added by SI 2002/1871; and the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 107(1) substituted by SI 2006/752). The relevant part of the documents for the purposes of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 102(1) (as added and amended) (see the text and notes 1-6 supra) is so much of them as relates to the area of the local authority concerned: reg 107(2) (as so added; and amended by SI 2006/752). For this purpose, 'local authority' has the meaning given by the Local Government Act 2003 s 116 (see PARA 559 note 1 post): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 107(5) (as so added; and amended by SI 2006/752).

27 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 107(1)(b) (as added and substituted: see note 26 supra). The relevant part of the documents for the purposes of reg 102(1) (as added and amended) (see the text and notes 1-6 supra) is so much of them as relates to the area of the local authority concerned: reg 107(2) (as added and amended: see note 26 supra). As to parishes and their councils see LOCAL GOVERNMENT vol 69 (2009) PARA 27 et seq; and as to communities and their councils see LOCAL GOVERNMENT vol 69 (2009) PARA 41 et seq.

28 Ibid reg 107(6) (as added: see note 26 supra). The text refers to parish councils as established by the Local Government Act 1972 s 9(4) (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 28) and community councils as referred to in s 27(2) (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 41). The relevant part of the documents for the purposes of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 102(1) (as added and amended) (see the text and notes 1-6 supra) is so much of them as relates to the parish or community concerned: reg 107(7) (as so added).

29 Ibid reg 108(1)(a) (reg 108 added by SI 2002/1871).

30 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 108(1)(b) (as added: see note 29 supra). Similar provision in connection with a person's prospective candidature as an individual candidate at an election for an Assembly electoral region or as a party list candidate at an election for an Assembly electoral region is made by the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended): see art 4(2), Sch 1 paras 1(3)-(6), 2-4.

31 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 108(1)(c) (as added: see note 29 supra).

32 Ibid reg 108(1)(d) (as added: see note 29 supra). The text refers to an election under the Local Government Act 2000 Pt II (ss 10-48) (as amended) for the return of an elected mayor (see PARA 205 et seq post).

33 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 108(1) (reg 108 as added: see note 29 supra). For these purposes, 'candidate' includes a candidate at an election of a mayor under the Local Government Act 2000 Pt II (as amended) (see PARA 205 et seq post) and an individual candidate at a European parliamentary election or an election in an electoral region for the National Assembly for Wales: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 108(2) (as so added). In the case of a registered political party which submits a list of candidates at a European parliamentary election, an election of the London members of the London Assembly or an election in an electoral region for the National Assembly for Wales, the entitlement otherwise conferred by reg 108 (as added) on a candidate is conferred on the election agent of that party: reg 108(3) (as so added). In relation to the candidates mentioned in head (q) in the text, the relevant part of the documents for the purposes of reg 102(1) (as added and amended) (see the text and notes 1-6 supra) is so much of them as relate to the area for which the candidate is standing: reg 108(4) (as so added). As to candidates and election agents generally see PARA 237 et seq post. As to individual candidates and list candidates in European parliamentary elections, elections of the London members of the London Assembly and elections in an electoral region for the National Assembly for Wales see PARA 345 et seq post.

34 Ibid reg 109(1)(a) (reg 109 added by SI 2002/1871). In relation to any police force in Great Britain, the relevant part of the documents for the purposes of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 102(1) (as added and amended) (see the text and notes 1-6 supra) is the whole of them: reg 109(2) (as so added). As to police authorities and areas see POLICE vol 36(1) (2007 Reissue) PARA 136 et seq.

35 Ibid reg 109(1)(c) (reg 109 as added (see note 34 supra); and reg 109(1)(c) substituted by SI 2006/594). In relation to the Serious Organised Crime Agency, the relevant part of the documents for the purposes of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 102(1) (as added and amended) (see the text and notes 1-6 supra) is the whole of them: reg 109(2) (as so added). As to the Serious Organised Crime Agency see POLICE vol 36(1) (2007 Reissue) PARA 430 et seq.

36 Ibid reg 109(1)(e) (reg 109 as added (see note 34 supra); and reg 109(1)(e) amended by SI 2006/752). In relation to the Police Information Technology Organisation, the relevant part of the documents for the purposes of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 102(1) (as added and amended) (see the text and notes 1-6 supra) is the whole of them: reg 109(2) (as so added). As to the Police Information Technology Organisation see POLICE vol 36(1) (2007 Reissue) PARAS 222-227.

37 Ibid reg 109(1)(f) (reg 109 as added: see note 34 supra). In relation to any body of constables established under an Act of Parliament, the relevant part of the documents for the purposes of reg 102(1) (as added and amended) (see the text and notes 1-6 supra) is the whole of them: reg 109(2) (as so added). As to police constables see POLICE vol 36(1) (2007 Reissue) PARA 102 et seq.

38 Ibid reg 109(1)(g) (reg 109 as added (see note 34 supra); and reg 109(1)(g) added by SI 2006/752). In relation to the Security Service, the relevant part of the documents for the purposes of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 102(1) (as added and amended) (see the text and notes 1-6 supra) is the whole of them: reg 109(2) (as so added). As to the Security Service see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 471.

39 Ibid reg 109(1)(h) (reg 109 as added (see note 34 supra); and reg 109(1)(h) added by SI 2006/752). In relation to the Government Communications Headquarters, the relevant part of the documents for the purposes of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 102(1) (as added and amended) (see the text and notes 1-6 supra) is the whole of them: reg 109(2) (as so added). As to the Government Communications Headquarters see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 473.

40 Ibid reg 109(1)(i) (reg 109 as added (see note 34 supra); and reg 109(1)(i) added by SI 2006/752). In relation to the Secret Intelligence Service, the relevant part of the documents for the purposes of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 102(1) (as added and amended) (see the text and notes 1-6 supra) is the whole of them: reg 109(2) (as so added). As to the Secret Intelligence Service see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 472.

41 Ibid reg 102(4) (as added: see note 3 supra).

42 In any entitlement under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended). This means that the data supplied to a recipient for one of the authorised purposes may be used by that recipient for any other of the authorised purposes without any further notification being made.

43 le any restrictions which apply for the purpose under whichever of *ibid* regs 103-109 (as added and amended) (see the text and notes 11-40 *supra*) entitles that person to obtain that document.

44 *Ibid* reg 102(6) (as added: see note 3 *supra*).

45 le the restrictions contained in *ibid* reg 103(3) (as added) (see the text and notes 46-51 *infra*), reg 104(3) (as added) (see the text and notes 52-55 *infra*), reg 105(4) (as added) (see the text and notes 56-59 *infra*), reg 106(3) (as added) (see the text and notes 60-69 *infra*), reg 107(3) (as added and amended) (see the text and notes 70-72 *infra*), reg 107(8) (as added and amended) (see the text and notes 73-76 *infra*), reg 108(5) (as added) (see the text and notes 77-80 *infra*) and reg 109(3) (as added and amended) (see the text and notes 81-87 *infra*).

46 For the meaning of 'full register' see *PARA* 166 note 2 *ante*.

47 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 92(10) (reg 92 added by SI 2002/1871). However, any person who has obtained or is entitled to obtain a copy of the full register under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 103 (as added), reg 105 (as added), reg 106 (as added) or reg 109 (as added and amended) may supply a copy of the full register to a processor for the purpose of processing the information contained in the register, or he may procure that a processor processes and provides to him any copy of the register which the processor has obtained under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) for use in respect of the purposes for which that person is entitled to obtain such copy or information (as the case may be): see reg 92(7) (as added and amended); and *PARA* 177 note 11 *ante*. For the meaning of 'processor' see *PARA* 177 note 11 *ante*.

48 *Ibid* reg 103(3)(a) (as added: see note 11 *supra*). A person who contravenes reg 103(3) (as added) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale: see reg 115 (as added and amended); and *PARA* 737 *post*. As to the standard scale see *PARA* 736 note 3 *post*.

49 *Ibid* reg 103(3)(b) (as added: see note 11 *supra*). As to relevant offences see note 48 *supra*. For the meaning of 'edited register' see *PARA* 166 note 4 *ante*.

50 *Ibid* reg 103(3)(c) (as added: see note 11 *supra*). As to relevant offences see note 48 *supra*.

51 *Ibid* reg 103(3) (as added: see note 11 *supra*). As to relevant offences see note 48 *supra*.

52 *Ibid* reg 104(3)(a) (as added: see note 19 *supra*). A person who contravenes reg 104(3) (as added) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale: see reg 115 (as added and amended); and *PARA* 737 *post*.

53 *Ibid* reg 104(3)(b) (as added: see note 19 *supra*) As to relevant offences see note 52 *supra*.

54 *Ibid* reg 104(3)(c) (as added: see note 19 *supra*) As to relevant offences see note 52 *supra*.

55 *Ibid* reg 104(3), (4) (as added: note 19 *supra*) As to relevant offences see note 52 *supra*. The text refers to the controls on donations contained in the Representation of the People Act 1983 s 71A, Sch 2A (as added) (see *PARA* 291 *et seq post*) or the Political Parties, Elections and Referendums Act 2000 Sch 7 (as amended) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS), as the case may be.

56 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 105(4)(a) (as added: see note 22 *supra*). A person who contravenes reg 105(4) (as added) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale: see reg 115 (as added and amended); and *PARA* 737 *post*.

57 *Ibid* reg 105(4)(b) (as added: see note 22 *supra*). As to relevant offences see note 56 *supra*.

58 *Ibid* reg 105(4)(c) (as added: see note 22 *supra*). As to relevant offences see note 56 *supra*.

59 *Ibid* reg 105(4) (as added: see note 22 *supra*). As to relevant offences see note 56 *supra*.

60 *Ibid* reg 106(3)(a) (as added: see note 23 *supra*). As to references to employees of any person who has access to a copy of the full register see *PARA* 177 note 6 *ante*. A person who contravenes reg 106(3) (as added) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale: see reg 115 (as added and amended); and *PARA* 737 *post*.

61 *Ibid* reg 106(3)(b) (as added: see note 23 *supra*). As to relevant offences see note 60 *supra*.

- 62 Ibid reg 106(3)(c) (as added: see note 23 supra). As to relevant offences see note 60 supra.
- 63 Ibid reg 106(3), (4)(a)(i) (as added: see note 23 supra). As to relevant offences see note 60 supra.
- 64 Ibid reg 106(3), (4)(a)(ii) (as added: see note 23 supra). As to relevant offences see note 60 supra. The text refers to the controls on donations under the Political Parties, Elections and Referendums Act 2000 Pt IV (ss 50-71) (as amended) (control of donations to registered parties, individuals and members associations: see CONSTITUTIONAL LAW AND HUMAN RIGHTS) or, as the case may be, s 95, Sch 11 (as amended) (control of donations to recognised third parties: see PARA 330 et seq post).
- 65 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 106(3)(a) (as added: see note 23 supra). As to relevant offences see note 60 supra.
- 66 Ibid reg 106(3)(b) (as added: see note 23 supra). As to relevant offences see note 60 supra.
- 67 Ibid reg 106(3)(c) (as added: see note 23 supra). As to relevant offences see note 60 supra.
- 68 Ibid reg 106(3), (4)(b)(i) (as added: see note 23 supra). As to relevant offences see note 60 supra. The text refers to the referendum identified in the declaration made to the Electoral Commission by the participant under the Political Parties, Elections and Referendums Act 2000 s 106 (see PARA 521 post). As to the Electoral Commission see PARA 31 et seq ante.
- 69 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 106(3), (4)(b)(ii) (as added: see note 23 supra). As to relevant offences see note 60 supra. The text refers to the controls on donations under the Political Parties, Elections and Referendums Act 2000 s 119, Sch 15 (control of donations to permitted participants: see PARA 538 et seq post).
- 70 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 107(3)(a) (reg 107 as added (see note 26 supra); and reg 107(3)(a) amended by SI 2006/752). A councillor or employee of the local authority may supply a copy of the register, or disclose or make use of information contained in it that is not contained in the edited register: (1) where necessary for the discharge of a statutory function of the local authority or any other local authority relating to security, law enforcement and crime prevention; or (2) for the purposes of a poll under the Local Government Act 2003 s 116 (local poll: see PARA 559 et seq post); or (3) for statistical purposes, in which case no information is to be disclosed which includes the name and address of any elector (whether that name or address appears in the edited register or only in the full register): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 107(4) (as so added; and amended by SI 2006/752). A person who contravenes the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 107(3) (as added and amended) or reg 107(8) (as added and amended) (see the text and notes 71-76 infra) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale: see reg 115 (as added and amended); and PARA 737 post.
- 71 Ibid reg 107(3)(b) (as added: see note 26 supra). As to relevant offences see note 70 supra.
- 72 Ibid reg 107(3)(c) (as added: see note 26 supra). As to relevant offences see note 70 supra.
- 73 Ibid reg 107(8)(a) (as added: see note 26 supra). As to relevant offences see note 70 supra.
- 74 Ibid reg 107(8)(b) (as added: see note 26 supra). As to relevant offences see note 70 supra.
- 75 Ibid reg 107(8)(c) (as added: see note 26 supra). As to relevant offences see note 70 supra.
- 76 Ibid reg 107(8) (as added (see note 26 supra); and amended by SI 2006/752). As to relevant offences see note 70 supra. The text refers to a local poll under the Local Government Act 2003 s 116 (local polls: see PARA 559 et seq post).
- 77 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 108(5)(a) (as added: see note 29 supra). A person who contravenes reg 108(5) (as added) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale: see reg 115 (as added and amended); and PARA 737 post.
- 78 Ibid reg 108(5)(b) (as added: see note 29 supra). As to relevant offences see note 77 supra.
- 79 Ibid reg 108(5)(c) (as added: see note 29 supra). As to relevant offences see note 77 supra.
- 80 Ibid reg 108(5) (as added: see note 29 supra). As to relevant offences see note 77 supra.

81 Ibid reg 109(3)(a) (as added: see note 34 supra). A person who contravenes reg 109(3) (as added) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale: see reg 115 (as added and amended); and PARA 737 post.

82 Ibid reg 109(3)(b) (as added: see note 34 supra). As to relevant offences see note 81 supra.

83 Ibid reg 109(3)(c) (as added: see note 34 supra). As to relevant offences see note 81 supra.

84 Ie the Security Service, the Government Communications Headquarters and the Secret Intelligence Service.

85 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 109(3), (4)(b) (reg 109 as added (see note 34 supra); and reg 109(3) amended, and reg 109(4), (5) added, by SI 2006/752). As to relevant offences see note 81 supra.

86 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 109(3), (4)(a)(i) (reg 109(3) as added and amended (see notes 34, 85 supra); and reg 109(4) as added (see note 85 supra)). As to relevant offences see note 81 supra.

87 Ibid reg 109(3), (4)(a)(ii), (5) (reg 109(3) as added and amended (see notes 34, 85 supra); and reg 109(4), (5) as added (see note 85 supra)). As to relevant offences see note 81 supra.

88 Ibid reg 45E(1) (reg 45E added by SI 2006/2910).

89 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 45E(2) (as added: see note 88 supra). As to the duty of the registration officer to keep a record of anonymous entries see PARA 156 et seq ante.

90 Ibid reg 45E(3)(a) (as added: see note 88 supra).

91 Ibid reg 45E(3)(b) (as added: see note 88 supra).

92 Ibid reg 45E(3)(c) (as added: see note 88 supra).

93 Ibid reg 45E(3) (as added: see note 88 supra).

94 Ie under ibid reg 45E (as added).

95 Ibid reg 45E(4) (as added: see note 88 supra).

96 Ibid reg 45F(1) (reg 45F added by SI 2006/2910). In the case of any police force in Great Britain, the Police Information Technology Organisation and any body of constables established under an Act of Parliament, 'senior officer' means, for these purposes, an officer of a rank senior to that of superintendent and, in the case of the Serious Organised Crime Agency, it means the Director General of that Agency: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 45F(2) (as so added).

97 Ibid reg 45F(1)(a) (as added: see note 96 supra).

98 Ibid reg 45F(1)(c) (as added: see note 96 supra).

99 Ibid reg 45F(1)(d) (as added: see note 96 supra).

100 Ibid reg 45F(1)(e) (as added: see note 96 supra).

101 Ibid reg 45F(3)(a) (as added: see note 96 supra).

102 Ibid reg 45F(3)(b) (as added: see note 96 supra).

103 Ibid reg 45F(3)(c) (as added: see note 96 supra).

104 Ibid reg 45F(3) (as added: see note 96 supra).

105 Ibid reg 45F(4)(a) (as added: see note 96 supra).

106 For these purposes, 'relevant person' means either a constable or officer or prospective constable or officer of the force or organisation or an employee of, or applicant for employment by, the force or organisation: ibid reg 45F(5) (as added: see note 96 supra).

107 Ibid reg 45F(4)(b) (as added: see note 96 supra).

108 Ie under ibid reg 45F (as added).

109 Ibid reg 45F(6) (as added: see note 96 supra).

UPDATE

182 Supply of electoral records to specified persons or organisations

TEXT AND NOTES 38-40--Head (r). As to the supply of the register to the Security Service, the Government Communications Headquarters and the Secret Intelligence Service, see now SI 2001/341 reg 108A (added by Counter-Terrorism Act 2008 Sch 1 para 2(4)). SI 2001/341 reg 109(1(g)-(i) revoked: Counter-Terrorism Act 2008 Sch 1 para 2(5)(a), Sch 9 Pt 2.

TEXT AND NOTES 43, 44--SI 2001/341 reg 102(6) amended: Counter-Terrorism Act 2008 Sch 1 para 2(3).

TEXT AND NOTES 85, 86--SI 2001/341 reg 109(4) amended: Counter-Terrorism Act 2008 Sch 1 para 2(5)(b), Sch 9 Pt 2.

TEXT AND NOTES 90-95--Revoked: Counter-Terrorism Act 2008 Sch 1 para 2(2), Sch 9 Pt 2.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iv) Records of Electors/E. SUPPLY AND SALE OF ELECTORAL RECORDS AND RESTRICTIONS ON USE/183. Supply of electoral records to Office for National Statistics.

183. Supply of electoral records to Office for National Statistics.

Each registration officer¹ must supply, free of charge and on publication², one copy of any revised version of the register³, one copy of any notice altering the published register⁴ and one copy of any list of overseas electors⁵ to the Office for National Statistics⁶. No person employed by the Office may⁷ supply a copy of the full register other than to another such person⁸, disclose any information contained in it (that is not contained in the edited register⁹) otherwise than in accordance with heads (1) and (2) below¹⁰, or make use of any such information other than for statistical purposes¹¹. No information which is contained in the full register and not in the edited register may be disclosed otherwise than¹²: (1) by allowing a person using the premises of the Office to inspect it under supervision¹³; and (2) by publishing information about electors which does not include the name or address of any elector¹⁴. However, a person employed by the Office is not prohibited from supplying a copy of, or disclosing information contained in, a version of the full register where: (a) more than ten years have expired since that version of the register was first published¹⁵; and (b) the supply or disclosure is for research purposes in compliance with the relevant conditions¹⁶.

Where a copy of the full register is made available for inspection by providing the register on a computer screen or otherwise in data form, the Office must ensure that the manner in, and equipment on, which that copy is provided do not permit any person consulting that copy to search it by electronic means by reference to the name of any person¹⁷ or to copy or transmit any part of that copy by electronic means¹⁸. A person who inspects the copy of the full register held by the Office, whether a printed copy or in data form, may not¹⁹ make copies of any part of it²⁰ or record any particulars included in it²¹, otherwise than by means of handwritten notes²². No person who obtains a copy of the full register (or to whom information contained in it that is not contained in the edited register is disclosed under the circumstances described in heads (a) and (b) above) may supply a copy of it²³, disclose any such information²⁴ or make use of any such information²⁵, otherwise than for research purposes in compliance with the relevant conditions²⁶.

1 For the meaning of 'registration officer' for these purposes see PARA 154 note 1 ante.

2 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 99(1) (reg 99 added by SI 2002/1871). For these purposes, the duty to supply is a duty to supply in data form unless, prior to publication, the Office for National Statistics has requested in writing a printed copy instead: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 99(2) (as so added). For the meaning of 'data form' see PARA 177 note 11 ante. As to general aspects of the duty on a registration officer to supply data under Pt VI (regs 92-115) (as added and amended) see PARA 177 note 2 ante. As to the Office for National Statistics see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 516, 528.

3 Ibid reg 99(1)(a) (as added: see note 2 supra). The text refers to the revised version of a register published under the Representation of the People Act 1983 s 13(1) or (3) (as substituted) (see PARA 164 ante). As to the meaning of 'register' see PARA 176 note 1 ante.

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 99(1)(b) (as added (see note 2 supra); and amended by SI 2006/2910). The text refers to a notice of alteration published under the Representation of the People Act 1983 s 13A(2) (as added), s 13B(3) (as added), s 13B(3B) (as added) or s 13B(3D) (as added) (see PARA 175 ante).

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 99(1)(c) (as added: see note 2 supra). For the meaning of 'list of overseas electors' see PARA 156 note 9 ante.

6 Ibid reg 99(1) (as added: see note 2 supra).

7 Ibid reg 99(3) (as added (see note 2 supra); and amended by SI 2006/752). This provision is expressed to be subject to the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 99(6) (as added) (see the text and notes 15-16 infra): reg 99(3) (as so added and amended). As to references to employees of any person who has access to a copy of the full register see PARA 177 note 6 ante. A person who contravenes reg 99(3) (as added and amended) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale: see reg 115 (as added and amended); and PARA 737 post. As to the standard scale see PARA 736 note 3 post.

8 Ibid reg 99(3)(a) (as added: see note 2 supra). See note 7 supra. For the meaning of 'full register' see PARA 166 note 2 ante.

9 For the meaning of 'edited register' see PARA 166 note 4 ante.

10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 99(3)(b) (as added: see note 2 supra). See note 7 supra.

11 Ibid reg 99(3)(c) (as added: see note 2 supra). See note 7 supra.

12 Ibid reg 99(4) (as added (see note 2 supra); and amended by SI 2006/752). This provision is expressed to be subject to the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 99(6) (as added) (see the text and notes 15-16 infra): reg 99(4) (as so added and amended).

13 Ibid reg 99(4)(a) (as added: see note 2 supra). The permitted purpose for which a copy of the full register is made available for inspection under supervision in this way does not include direct marketing: see PARA 176 note 18 ante.

14 Ibid reg 99(4)(b) (as added: see note 2 supra).

15 Ibid reg 99(6)(a) (reg 99 as added (see note 2 supra); and reg 99(6) added by SI 2006/752). The text refers to that version of the register first published in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 43 (as amended) (see PARA 164 note 2 ante).

16 Ibid reg 99(6)(b) (as added: see notes 2, 15 supra). For the meanings of 'research purposes' and 'relevant conditions' see PARA 177 note 11 ante.

17 Ibid reg 99(4A)(a) (reg 99 as added (see note 2 supra); and reg 99(4A) added by SI 2006/752). For the meaning of 'available for inspection' see PARA 157 note 19 ante.

18 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 99(4A)(b) (as added: see notes 2, 17 supra).

19 Ibid reg 99(5) (as added (see note 2 supra); and amended by SI 2006/752). A person who contravenes the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 99(5) (as added and amended) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale: see reg 115 (as added and amended); and PARA 737 post.

20 Ibid reg 99(5)(a) (as added: see note 2 supra). As to relevant offences see note 19 supra.

21 Ibid reg 99(5)(b) (as added: see note 2 supra). As to relevant offences see note 19 supra.

22 Ibid reg 99(5) (as added: see note 2 supra). As to relevant offences see note 19 supra.

23 Ibid reg 99(7)(a) (reg 99 as added (see note 2 supra); and reg 99(7) added by SI 2006/752). A person who contravenes the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 99(7) (as added) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale: see reg 115 (as added and amended); and PARA 737 post.

24 Ibid reg 99(7)(b) (as added: see notes 2, 23 supra).

25 Ibid reg 99(7)(c) (as added: see notes 2, 23 supra).

26 Ibid reg 99(7) (as added: see notes 2, 23 supra).

UPDATE

183 Supply of electoral records to [Statistics Board]

TEXT AND NOTES 1-22--For 'Office for National Statistics' and 'Office' read 'Statistics Board' and 'Board': SI 2001/341 reg 99(1)-(3), (4)(a), (4A), (6) (amended by SI 2009/725). As to the Statistics Board see REGISTRATION CONCERNING THE INDIVIDUAL vol 39(2) (Reissue) PARA 605.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iv) Records of Electors/E. SUPPLY AND SALE OF ELECTORAL RECORDS AND RESTRICTIONS ON USE/184. Sale of edited and full versions of register etc.

184. Sale of edited and full versions of register etc.

The registration officer¹ must supply a copy of the edited register² to any person on payment of a fee³. However, the registration officer may not sell a copy of the full register⁴, any notice altering the register ('a relevant notice')⁵, or the list of overseas electors⁶, except to a person who is entitled⁷ to purchase them⁸. A fee is payable for any sale of the full register⁹.

A request for a copy of the full register, or of any published notice altering that register, as the case may be, must be made in writing¹⁰ and must: (1) specify the documents requested¹¹; (2) state whether the request is made only in respect of the current documents or whether it includes a request for the supply of any subsequent documents on publication for as long as the person making the request pays for them¹²; and (3) state whether a printed copy of any of the documents is requested instead of the version in data form¹³. However, the registration officer must not supply a printed copy of the full register if to do so would result in his having insufficient copies of it for the purposes of any requirement made by or under any enactment¹⁴. Subject to this proviso, the registration officer must supply, on request and on payment of a fee¹⁵, a copy of a relevant document to¹⁶:

- 283 (a) a government department¹⁷;
- 284 (b) the Environment Agency¹⁸;
- 285 (c) the Financial Services Authority¹⁹;
- 286 (d) any body not falling within heads (a) to (c) above which carries out the vetting of any person for the purpose of safeguarding national security²⁰;
- 287 (e) a credit reference agency which is registered under Part III of the Consumer Credit Act 1974²¹ and which is carrying on the business of providing credit reference services²².

No person in an organisation mentioned in heads (a) to (e) above to which a copy of the register has been supplied²³ may supply a copy of the full register to any person²⁴, disclose any information contained in it that is not contained in the edited register²⁵ or make use of any such information²⁶, other than for the purpose set out in the provision by virtue of which the full register has been supplied²⁷. These restrictions ('the relevant restrictions') apply to a person to whom a copy of the full register is duly supplied or to whom information contained in it is duly disclosed as they apply to the original recipient in the organisation to which the copy of the full register was supplied under the provision in question²⁸.

In the case of a body falling within heads (a) to (c) above, the relevant restrictions apply except for the purpose of the prevention and detection of crime and the enforcement of the criminal law (whether in England and Wales or elsewhere)²⁹, the vetting of employees and applicants for employment where such vetting is required pursuant to any enactment³⁰, the vetting of any person where such vetting is for the purpose of safeguarding national security³¹, and the supply and disclosure of information by a government department to an authorised person³². In the case of a body falling within head (d) above, the relevant restrictions apply except for the purpose of the vetting of any person where such vetting is for the purpose of safeguarding national security³³. In the case of an agency falling within head (e) above, the relevant restrictions apply except for the purpose of vetting applications for credit³⁴ or applications that

can result in the giving of credit or the giving of any guarantee, indemnity or assurance in relation to the giving of credit³⁵, meeting any obligations contained in statutory provisions or rules relating to money laundering³⁶, and statistical analysis of credit risk assessment in a case where no person whose details are included in the full register is referred to by name or necessary implication³⁷.

1 For the meaning of 'registration officer' for these purposes see PARA 154 note 1 ante.

2 For the meaning of 'edited register' see PARA 166 note 4 ante. As to the meaning of 'register' see PARA 176 note 1 ante.

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 110(1) (reg 110 added by SI 2002/1871). The fee is calculated in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 110(2) (as added): reg 110(1) (as so added). In the case of the register in data form, the fee is at the rate of £20 plus £1.50 for each 1,000 entries (or remaining part of 1,000 entries) in it: reg 110(2)(a) (as so added). In the case of the register in printed form, the fee is at the rate of £10 plus £5 for each 1,000 entries (or remaining part of 1,000 entries) in it: reg 110(2)(b) (as so added). For the meaning of 'data form' see PARA 177 note 11 ante. As to general aspects of the duty on a registration officer to supply data under Pt VI (regs 92-115) (as added and amended) see PARA 177 note 2 ante.

4 Ibid reg 111(1)(a) (reg 111 added by SI 2002/1871). For the meaning of 'full register' see PARA 166 note 2 ante.

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 111(1)(b) (as added (see note 4 supra); and amended by SI 2006/2910). The text refers to a notice of alteration published under the Representation of the People Act 1983 s 13A(2) (as added), s 13B(3) (as added), s 13B(3B) (as added) or s 13B(3D) (as added) (see PARA 175 ante).

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 111(1)(c) (as added: see note 4 supra). For the meaning of 'list of overseas electors' see PARA 156 note 9 ante.

7 Ie entitled under ibid reg 113 (as added and amended) (see heads (a)-(d) in the text) or reg 114 (as added and amended) (see head (e) in the text).

8 Ibid reg 111(1) (as added: see note 4 supra).

9 Ibid reg 111(2) (as added: see note 4 supra). The fee for such sale is to be calculated in accordance with reg 111(3)-(6) (as added): reg 111(2) (as so added). In the case of the register or a relevant notice in data form, the fee is at the rate of £20 plus £1.50 for each 1,000 entries (or remaining part of 1,000 entries) in it: reg 111(5)(a) (as so added). In the case of the register or a relevant notice in printed form, the fee is at the rate of £10 plus £5 for each 1,000 entries (or remaining part of 1,000 entries) in it: reg 111(5)(b) (as so added). Where a person purchases the full register together with any relevant notices which are published at that time altering the register, the register and the notices must be treated as the same document for the purposes of the calculations set out in reg 111(5) (as added): reg 111(3) (as so added). Accordingly, any entry in the register which is deleted by a notice must be ignored for the purposes of the calculation: reg 111(3) (as so added). However, where a person purchases a relevant notice separately from the full register, the calculations set out in reg 111(5) (as added) must be applied to that notice: reg 111(4) (as so added). In the case of the list of overseas electors in data form, the fee is at the rate of £20 plus £1.50 for each 100 entries (or remaining part of 100 entries) in it: reg 111(6)(a) (as so added). In the case of the list of overseas electors in printed form, the fee is at the rate of £10 plus £5 for each 100 entries (or remaining part of 100 entries) in it: reg 111(6)(b) (as so added).

10 Ibid reg 112(1), (7) (reg 112 added by SI 2002/1871).

11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 112(7)(a) (as added: see note 10 supra).

12 Ibid reg 112(7)(b) (as added: see note 10 supra).

13 Ibid reg 112(7)(c) (as added: see note 10 supra).

14 Ibid reg 112(2) (as added: see note 10 supra). For the meaning of 'enactment' see PARA 176 note 8 ante.

15 Ie a fee calculated in accordance with ibid reg 111 (as added and amended) (as to which see note 9 supra).

16 Ibid regs 113(1), 114(1) (regs 113, 114 added by SI 2002/1871). For the purposes of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 113 (as added and amended) and reg 114 (as added and amended) (see the text and notes 21-22, 34-37 *infra*), a 'relevant document' means the full register published under the Representation of the People Act 1983 s 13(1) or (3) (as substituted) (see PARA 164 *ante*), any notice published under s 13A(2) (as added), s 13B(3) (as added), s 13B(3B) (as added) or s 13B(3D) (as added) (see PARA 175 *ante*) amending that register, and the list of overseas electors: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 112(6) (as added (see note 10 *supra*); and amended by SI 2006/2910). In any copy of the full register or any copy of a notice under the Representation of the People Act 1983 s 13A(2) (as added), s 13B(3) (as added), s 13B(3B) (as added) or s 13B(3D) (as added) which is sold in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 112-114 (as added and amended), the letter 'Z' must be placed against the entry of any person whose entry is not included in the edited version of the register: reg 111(7) (as added (see note 4 *supra*); and amended by SI 2006/752; SI 2006/2910).

17 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 113(1)(a) (as added (see note 16 *supra*); and substituted by SI 2006/752).

18 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 113(1)(b) (as added (see note 16 *supra*); and substituted by SI 2006/752).

19 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 113(1)(c) (as added (see note 16 *supra*); and substituted by SI 2006/752).

20 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 113(1)(d) (as added (see note 16 *supra*); and substituted by SI 2006/752). The Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 113(1) (as added and amended) does not apply to a force or organisation to which reg 109(1) (as added and amended) (see PARA 182 *ante*) applies: reg 113(1) (as so added; and amended by SI 2006/752).

21 I.e. a credit reference agency registered under the Consumer Credit Act 1974 Pt III (ss 21-41A) (as amended; prospectively further amended), by virtue of s 147 (as amended; prospectively further amended) (see CONSUMER CREDIT vol 9(1) (Reissue) PARA 276).

22 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 114(1) (as added: see note 16 *supra*). The registration officer may require a credit reference agency to provide such evidence that it is carrying on the business of providing credit reference services as he reasonably requires: reg 114(4) (as so added). For these purposes, 'credit reference services' means the furnishing of persons with information relevant to the financial standing of individuals, which is information collected by the person furnishing it for the purpose of so furnishing it: reg 114(5) (as so added). A company running a low cost identity verification and credit-vetting service which did not fall within reg 114 (as added and amended) applied for judicial review seeking, *inter alia*, declaratory relief to the effect that, if it were to modify its business, it would come within that regulation; however, the application was dismissed on the ground, *inter alia*, that declaratory relief directed to the company's proposals would be contrary to principle: see *R (on the application of I-CD Publishing Ltd) v Office of the Deputy Prime Minister* [2003] EWHC 1761 (Admin), (2003) Times, 11 August, [2003] All ER (D) 343 (Jul). The sale of the full register to credit reference agencies has been held not to violate the right to vote by reference to the Convention for the Protection of Human Rights and Fundamental Freedoms (Rome, 4 November 1950; TS 71 (1953); Cmd 8969), First Protocol (Paris, 20 March 1952; Cmd 9221) art 3 (see PARA 7 *ante*): *R (on the application of Robertson) v Lord Chancellor's Department* [2003] EWHC 1760 (Admin), (2003) Times, 11 August, [2003] All ER (D) 340 (Jul) (it was permissible to conclude that the public interest in the facilitation of credit and in the control of fraud outweighed the very modest interference with the right to vote involved with the sale of the full register to credit reference agencies). The sale of full registers for direct marketing purposes is not permitted, however: see PARA 176 note 18 *ante*.

23 I.e. supplied under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 113 (as added and amended) or reg 114 (as added and amended) (see the text and notes 15-22 *supra*).

24 Ibid reg 112(4)(a) (as added: see note 10 *supra*).

25 Ibid reg 112(4)(b) (as added: see note 10 *supra*).

26 Ibid reg 112(4)(c) (as added: see note 10 *supra*).

27 Ibid reg 112(4) (as added: see note 10 *supra*). However, any person who has obtained or is entitled to obtain a copy of the full register under reg 113 (as added and amended) (see heads (a)-(d) in the text) or reg 114 (as added and amended) (see head (e) in the text) may supply a copy of the full register to a processor for the purpose of processing the information contained in the register, or he may procure that a processor processes and provides to him any copy of the register which the processor has obtained under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) for use in

respect of the purposes for which that person is entitled to obtain such copy or information (as the case may be): see reg 92(7) (as added and amended); and PARA 177 note 11 ante. For the meaning of 'processor' see PARA 177 note 11 ante. A person who contravenes reg 112(4) (as added) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale: see reg 115 (as added and amended); and PARA 737 post. As to the standard scale see PARA 736 note 3 post.

28 Ibid reg 112(3), (5) (as added: see note 10 supra). A person who contravenes reg 112(5) (as added) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale: see reg 115 (as added and amended); and PARA 737 post.

29 Ibid reg 113(2)(a)(i) (reg 113 as added (see note 16 supra); and reg 113(2) substituted by SI 2006/752).

30 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 113(2)(a)(ii) (as added and substituted: see notes 16, 29 supra).

31 Ibid reg 113(2)(a)(iii) (as added and substituted: see notes 16, 29 supra).

32 Ibid reg 113(2)(a)(iv) (as added and substituted: see notes 16, 29 supra). The supply and disclosure mentioned in the text must take place in accordance with reg 113(3)-(6) (as added and amended): reg 113(2)(a)(iv) (as so added and substituted). A government department, other than one mentioned in reg 109(1)(g)-(i) (as added) (see PARA 182 ante), may supply, whether or not on payment, a copy of the full register to a person ('an authorised person'), who may only disclose information contained in the full register to any person falling within regs 103-108 (as added and amended) (see PARA 182 ante) and for use for the purposes for which such a person could obtain a register under the regulation concerned: reg 113(3), (5) (reg 113 as so added; and reg 113(3) amended by SI 2006/752). The restrictions in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 103-108 (as added and amended) apply to a person to whom information contained in the full register is disclosed under reg 113(5) (as added) as it applies to a person to whom a copy of the register is supplied under regs 103-108 (as added and amended): reg 113(6) (as so added). The Queen's Printers copy of reg 113(6) (as added) refers to 'a person to whom a copy of the register is applied' but it is submitted that 'a person to whom a copy of the register is supplied' is intended. For these purposes, any reference to an authorised person includes a reference to his employees: reg 113(4) (as so added). As to references to employees of any person who has access to a copy of the full register see PARA 177 note 6 ante. A person who contravenes reg 113(5) (as added) or reg 113(6) (as added) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale: see reg 115 (as added and amended); and PARA 737 post.

33 Ibid reg 113(2)(b) (as added and substituted: see notes 16, 29 supra).

34 For these purposes, 'application for credit' includes an application to refinance or reschedule an existing credit agreement; and 'credit' includes a cash loan and any other form of financial accommodation: ibid reg 114(5) (as added: see note 16 supra).

35 Ibid reg 114(2), (3)(a) (as added: see note 16 supra).

36 Ibid reg 114(2), (3)(b) (reg 114 as added (see note 16 supra); and reg 114(3)(b) amended by SI 2003/3075). The text refers to the Money Laundering Regulations 2003, SI 2003/3075 (as amended) (see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(2) (2006 Reissue) PARA 789 et seq) and any money laundering rules made pursuant to the Financial Services and Markets Act 2000 s 146 (see FINANCIAL SERVICES AND INSTITUTIONS vol 48 (2008) PARA 30).

37 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 114(2), (3)(c) (as added: see note 16 supra).

UPDATE

184 Sale of edited and full versions of register etc

NOTES--Certain functions under provisions mentioned in this paragraph are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 733. Certain persons or indorsements mentioned in this paragraph are specified for the purposes of Regulatory Enforcement and Sanctions Act 2008 s 37, Schs 5, 6 (meaning of 'regulator' for the purposes of imposing civil sanctions): see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) PARA 196A.

NOTE 20--SI 2001/341 reg 113(1) does not apply to a department to which reg 108A (see PARA 182) applies: reg 113(1) (amended by Counter-Terrorism Act 2008 Sch 1 para 2(6)(a)).

NOTE 32--Reference to SI 2001/341 reg 109(1)(g)-(i) is now to reg 108A: reg 113(3) (amended by Counter-Terrorism Act 2008 Sch 1 para 2(6)(b)).

NOTE 36--Reference to SI 2003/3075 is now to Money Laundering Regulations 2007, SI 2007/2157: SI 2001/341 reg 114(3)(b) (amended by SI 2007/2157).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iv) Records of Electors/F. CO-ORDINATED ON-LINE RECORD OF ELECTORS/185. Establishment of schemes in connection with the co-ordinated on-line record of electors ('CORE').

F. CO-ORDINATED ON-LINE RECORD OF ELECTORS

185. Establishment of schemes in connection with the co-ordinated on-line record of electors ('CORE').

The Electoral Administration Act 2006¹ provides that the Secretary of State¹ may² by order make provision for the establishment of one or more schemes ('CORE schemes')³ in connection with the keeping and use of specified electoral registration information by a person designated by a scheme (the 'CORE keeper')⁴. The specified electoral registration information is a copy of such of the following information as is specified in the CORE scheme⁵: (1) the register of electors for any election⁶; (2) any list or other record relating to such a register which the electoral registration officer is required or authorised to keep under or by virtue of any enactment⁷; (3) any other information relating to a person who has an entry on such a register which is required for electoral purposes or in connection with jury service⁸; (4) such other information as the Secretary of State specifies being information which he thinks is necessary or expedient to facilitate the effective operation of the scheme⁹.

A CORE scheme may make provision:

- 288 (a) as to circumstances in which a payment is to be made either by the CORE keeper to an electoral registration officer whose area is specified in the scheme¹⁰ or by such an electoral registration officer to the CORE keeper¹¹;
- 289 (b) as to circumstances in which the CORE keeper and such an electoral registration officer may agree that functions of one of them may be exercised by the other¹²;
- 290 (c) for functions of the CORE keeper to be exercised by such an electoral registration officer¹³, or for functions of such an electoral registration officer to be exercised by the CORE keeper¹⁴;
- 291 (d) as to the circumstances in which the CORE keeper may make a charge for the provision of services or information to any person¹⁵ and as to the level of any such charge¹⁶;
- 292 (e) as to the steps to be taken by the CORE keeper in circumstances where a constituency¹⁷ is not wholly situated in the area for which an electoral registration officer whose area is specified in the scheme acts¹⁸.

Any provision of a CORE scheme which authorises or requires the CORE keeper to supply information to another person may specify the form and manner in which the information is to be supplied¹⁹.

The electoral registration officer who acts for an area specified in a scheme must provide the CORE keeper with the specified electoral registration information relating to the area²⁰. A scheme must require the electoral registration officer both to provide the CORE keeper with the information²¹, and to update the information²², at such times and in such manner as is provided for by the scheme²³. In particular, a scheme may require the electoral registration officer to provide the information and update it in a specified electronic form²⁴.

The CORE keeper must keep the information in such form and by such means as is specified by or under the scheme²⁵. In particular, a scheme may require the CORE keeper to maintain the information in a specified electronic form²⁶ and may specify how other information required by or under any enactment to be kept in connection with the information is to be recorded and stored in that form²⁷. Subject to anything in the CORE scheme in respect of which he is designated, a CORE keeper may make such arrangements as he thinks appropriate with any other person for the provision of any service relating to the exercise of his functions either under the statutory provisions regarding the co-ordinated on-line record of electors²⁸ or under the CORE scheme itself²⁹. The Secretary of State may provide to a CORE keeper such facilities and equipment as he thinks are necessary or expedient to enable the keeper to carry out his functions under the scheme³⁰, and the Secretary of State may pay a grant to a CORE keeper towards expenditure incurred or to be incurred by him in connection with the exercise of his functions under the scheme³¹.

The Secretary of State may by order terminate a CORE scheme and such an order may make such provision as the Secretary of State thinks necessary or expedient in connection with the termination of the scheme³².

1 The Electoral Administration Act 2006 s 1 (except s 1(2), (5)), ss 3-6 (except s 5(10)) and s 8 came into force on 11 July 2006 (ie the day on which the Act was passed) (s 77(1)) and the excepted provisions are to come into force on such day as the Secretary of State may by order made by statutory instrument appoint (s 77(2)). However, at the date at which this volume states the law, no such day had been appointed.

2 As to the Secretary of State see PARA 2 ante.

3 The schemes established in connection with the co-ordinated on-line record of electors. The power to make an order under the Electoral Administration Act 2006 s 1 is exercisable by statutory instrument: s 6(1). Such an order must not be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament: s 6(2). Such an order may make different provision for different purposes: s 6(3). An order establishing or varying a CORE scheme must not be made unless the Secretary of State first consults the Electoral Commission, the Information Commissioner, the electoral registration officer who acts for each area proposed to be specified in the scheme and the electoral registration officer who acts for an area the specification of which the Secretary of State proposes to remove from the scheme: ss 6(4), 8(1), (4). However, s 6(4) does not apply if the effect of a variation is only to terminate any aspect of the scheme, other than the removal of the specification of an area in pursuance of s 1(8)(b) (as to which see note 10 infra): s 6(5). For these purposes, a 'CORE scheme' is a scheme established under s 1: s 8(1), (2). See note 1 supra. As to the Electoral Commission see PARA 31 et seq ante; and as to electoral registration officers see PARA 154 ante. As to the Information Commissioner see CONFIDENCE AND DATA PROTECTION vol 8(1) (2003 Reissue) PARA 518 et seq.

4 Ibid s 1(1). For these purposes, a 'CORE keeper' is a person designated for the purposes of a CORE scheme: s 8(1), (3). The person designated as a CORE keeper must be a public authority: s 1(10). For the purposes of s 1, the Electoral Commission may be designated as a CORE keeper: see the Political Parties, Elections and Referendums Act 2000 s 20A (added by the Electoral Administration Act 2006 s 4(1)); and PARA 59 ante. See note 1 supra.

5 Ibid s 1(11). See note 1 supra. As to restrictions imposed on access to and the use of CORE information see PARA 186 post.

6 Ibid s 1(11)(a). See note 1 supra.

7 Ibid ss 1(11)(b), 8(1), (4). If a CORE keeper obtains any information which an electoral registration officer is required or authorised to obtain for the purposes of any provision of the Representation of the People Act 1983 s 10 (as substituted) (maintenance of registers (annual canvass): see PARA 163 ante), s 10A (as added and amended) (maintenance of the registers (registration of electors): see PARA 167 ante), s 13A (as added and amended) (alteration of registers: see PARA 175 ante) or the Representation of the People Act 2000 s 12, Sch 4 (as amended) (absent voting in Great Britain: see PARA 368 et seq post), the CORE scheme may provide that any requirement of that provision for a person to provide a personal identifier in the form of the person's signature is to be treated for the purposes of that information as a requirement to provide such other evidence of identity as is specified in the scheme: Electoral Administration Act 2006 ss 5(6), 8(1), (4). See note 1 supra.

8 Ibid s 1(11)(c). See note 1 supra.

9 Ibid s 1(11)(d). See note 1 supra.

10 Ibid ss 5(1)(a), 8(1), (4). The area for which an electoral registration officer acts must not be specified in more than one scheme at the same time: ss 1(7), 8(1), (4). The Secretary of State may by order vary a scheme: (1) by specifying a new area (s 1(8)(a)); (2) by removing the specification of an area (s 1(8)(b)); (3) in such other respects as he thinks appropriate (s 1(8)(c)). See note 1 supra.

11 Ibid ss 5(1)(b), 8(1), (4). See note 1 supra.

12 Ibid ss 5(2)(a), 8(1), (4). See note 1 supra.

13 Ibid ss 5(2)(b), 8(1), (4). See note 1 supra.

14 Ibid ss 5(2)(c), 8(1), (4). See note 1 supra.

15 Ibid s 5(3)(a). See note 1 supra.

16 Ibid s 5(3)(b). See note 1 supra.

17 For the meaning of 'constituency' for these purposes see PARA 9 ante.

18 Electoral Administration Act 2006 ss 5(4), 8(1), (4). Such provision may apply, with such modifications as are specified in the scheme, regulations made in pursuance of the Representation of the People Act 1983 s 53 (as amended), Sch 2 para 1(1) (as amended) (see PARA 127 ante) or may make provision as to the arrangements to be made in relation to the exercise by the CORE keeper of his functions under the scheme in the circumstances mentioned therein: Electoral Administration Act 2006 s 5(5). See note 1 supra.

19 Ibid s 5(7). See note 1 supra.

20 Ibid s 1(2) (not yet in force), s 8(1), (4). See note 1 supra. As to restrictions imposed on electoral registration officers regarding access to information from outside their area see PARA 186 post.

21 Ibid ss 1(3)(a), 8(1), (4). See note 1 supra.

22 Ibid ss 1(3)(b), 8(1), (4). See note 1 supra.

23 Ibid ss 1(3), 8(1), (4). See note 1 supra.

24 Ibid ss 1(4), 8(1), (4). See note 1 supra.

25 Ibid s 1(5) (not yet in force). See note 1 supra.

26 Ibid s 1(6)(a). See note 1 supra.

27 Ibid s 1(6)(b). See note 1 supra.

28 Ie under ibid Pt 1 (ss 1-8).

29 Ibid s 5(10) (not yet in force). See note 1 supra.

30 Ibid s 5(8). The Secretary of State may make the provision of such facilities and equipment subject to such conditions (including conditions as to the circumstances in which the facilities or equipment must be returned to the Secretary of State) as he thinks fit: s 5(9). See note 1 supra.

31 Ibid s 3(1). The amount of such a grant and the manner of its payment are to be such as the Secretary of State decides: s 3(2). Such a grant may be paid subject to such conditions as the Secretary of State decides (s 3(3)); and the conditions may include conditions as to the circumstances in which the whole or any part of the grant is to be repaid (s 3(4)). If the Secretary of State designates the Electoral Commission as a 'CORE keeper' (see note 4 supra), any grant which is paid to the Commission in pursuance of s 3 must be treated as income received by the Commission for the purposes of the Political Parties, Elections and Referendums Act 2000 Sch 1 para 14(1) (see PARA 39 ante): Electoral Administration Act 2006 s 4(2). See note 1 supra.

32 Ibid s 1(9). See note 1 supra.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(iv) Records of Electors/F. CO-ORDINATED ON-LINE RECORD OF ELECTORS/186. Use of CORE information.

186. Use of CORE information.

The Electoral Administration Act 2006¹ provides that a CORE scheme² may authorise or require a CORE keeper³ to take such steps as are specified in the scheme in relation to information kept by him in pursuance of the scheme⁴. The CORE keeper must, in accordance with the scheme, inform an electoral registration officer⁵ if he thinks that any of the following circumstances have arisen in relation to either a person who is registered in respect of an address on a register which the electoral registration officer is required to maintain⁶, or an address in relation to which there is an entry on such a register⁷, namely if:

- 293 (1) a person who is registered in respect of an address on a register which the electoral registration officer is required to maintain is also registered on a register in respect of another address (whether on the same or a different register)⁸;
- 294 (2) more than such number of postal votes as is specified in the scheme is requested for the same redirection address⁹;
- 295 (3) the same person acts as proxy for more than two electors¹⁰;
- 296 (4) a person votes more than once (other than as proxy) at the same election¹¹.

If a CORE scheme makes provision which allows an elector to have access to information relating to him which is kept by the CORE keeper, the scheme must also make provision to enable the elector to request any changes to the information¹². The CORE keeper must pass any such request to every electoral registration officer¹³ whose register he thinks may fall to be altered in consequence of the request¹⁴. A CORE scheme must not permit an elector to request a change to information relating to any other elector¹⁵, but may permit an elector who is resident at the same address as another elector to confirm for the purposes of an annual canvass¹⁶ that the information relating to the other elector is correct¹⁷.

Except in the circumstances provided for under heads (1) to (4) above¹⁸ or for the purposes of dealing with a request for changes to an elector's information¹⁹, a CORE scheme must not authorise an electoral registration officer to have access to information provided to the CORE keeper by a different electoral registration officer²⁰.

1 The Electoral Administration Act 2006 s 2 (except s 2(2), (4)-(9), (12)) and s 8 came into force on 11 July 2006 (ie the day on which the Act was passed) (s 77(1)) and the excepted provisions are to come into force on such day as the Secretary of State may by order made by statutory instrument appoint (s 77(2)). At the date at which this volume states the law, no such day had been appointed.

2 For the meaning of 'CORE scheme' see PARA 185 note 3 ante.

3 For the meaning of 'CORE keeper' see PARA 185 note 4 ante.

4 Electoral Administration Act 2006 s 2(1). Regulations under the Representation of the People Act 1983 s 53(4) (as added) (see PARA 127 ante) or Sch 2 paras 10A, 10B (as added), Sch 2 para 11 (as substituted), Sch 2 para 11A (as added and amended) (see PARA 127 ante), or Sch 2 para 13 (as amended) so far as relating to Sch 2 paras 10A-11A (as added and amended) (see PARA 127 ante), have effect in relation to a CORE keeper and any information kept by him in pursuance of a CORE scheme as they have effect in relation to an electoral registration officer and any registers he is required to maintain under the Representation of the People Act 1983: Electoral Administration Act 2006 s 2(2) (not yet in force), s 8(1), (4). A CORE scheme may make provision such as is mentioned in s 2(2) (not yet in force) in respect of information kept in pursuance of a CORE scheme and may make such modifications of provision made under s 2(2) (not yet in force) in relation to such

information as the Secretary of State thinks appropriate: s 2(3). As to the Secretary of State see PARA 2 ante; and as to electoral registration officers see PARA 154 ante. The provisions relating to access to election documents other than parliamentary election documents (ie s 42) (see PARA 504 post) apply to a CORE keeper as if he were a relevant officer within the meaning of s 44 (see PARA 504 post) and as if the information kept by him which consists in copies of relevant election documents within the meaning of s 44 (see PARA 504 post) were documents relating to an election which he is required by or under any enactment to retain for any period: s 2(4) (not yet in force). See note 1 supra.

5 In ibid s 2(5)-(7) (not yet in force) (see the text and notes 6-11 infra), an electoral registration officer includes an electoral registration officer who acts for an area which is not specified in a CORE scheme: s 2(12) (not yet in force), s 8(1), (4). See note 1 supra.

6 Ibid s 2(5)(a) (not yet in force), s 8(1), (4). The CORE keeper must provide the electoral registration officer with other information of such description as is specified in the scheme relating to a person mentioned in s 2(5) (a) (not yet in force) and may provide the electoral registration officer with such other information relating to the person as he thinks is relevant to the exercise by the electoral registration officer of his functions: s 2(7) (not yet in force), s 8(1), (4). See notes 1, 5 supra. As to registers which the electoral registration officer is required to maintain see PARA 156 ante.

7 Ibid s 2(5)(b) (not yet in force). See note 1 supra.

8 Ibid s 2(6)(a) (not yet in force), s 8(1), (4). See notes 1, 5 supra.

9 Ibid s 2(6)(b) (not yet in force). A 'redirection address' is an address in respect of which the person is not registered: s 2(13). See note 1 supra. As to applications to vote by post see PARA 372 et seq post.

10 Ibid s 2(6)(c) (not yet in force). See note 1 supra. As to applications to vote by proxy see PARA 372 et seq post.

11 Ibid s 2(6)(d) (not yet in force). See note 1 supra.

12 Ibid s 2(8) (not yet in force). See note 1 supra.

13 In ibid s 2(9) (not yet in force), an electoral registration officer includes an electoral registration officer who acts for an area which is not specified in a CORE scheme: s 2(12) (not yet in force). See note 1 supra.

14 Ibid s 2(9) (not yet in force), s 8(1), (4). See note 1 supra.

15 Ibid s 2(10)(a). See note 1 supra.

16 Ie under the Representation of the People Act 1983 s 10 (as substituted) (see PARA 163 ante).

17 Electoral Administration Act 2006 s 2(10)(b) (amended in relation to Northern Ireland by the Northern Ireland (Miscellaneous Provisions) Act 2006 s 30(1), Sch 4 para 8). See note 1 supra.

18 Ie except for the purposes of the Electoral Administration Act 2006 s 2(5)-(7) (not yet in force) (see the text and notes 5-11 supra).

19 Ie except for the purposes of ibid s 2(9) (not yet in force) (see the text and notes 13-14 supra).

²⁰ Ibid ss 2(11), 8(1), (4). See note 1 supra.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(v) Termination of Entitlement to Registration/187. Termination of entitlement to be registered as parliamentary or local government elector.

(v) Termination of Entitlement to Registration

187. Termination of entitlement to be registered as parliamentary or local government elector.

Where a person ('the elector') is entered in a register in respect of any address¹, the elector is entitled to remain registered in the register in respect of that address until such time as the registration officer² concerned³:

- 297 (1) determines⁴, on the conclusion of an annual canvass⁵, that the elector was not resident⁶ at that address on the 15 October in question⁷, or that because either the form used for the purposes of the canvass⁸ was not returned in respect of that address⁹ or for any other reason, insufficient information was obtained as to whether the elector was resident at that address on that date¹⁰, the registration officer is unable to satisfy himself that the elector was then so resident at that address¹¹; or
- 298 (2) determines that the elector was not entitled to be registered in respect of that address or that he has ceased to be resident at that address or has otherwise ceased to satisfy the conditions for registration as a parliamentary or local government elector¹².

Where the entitlement of a person to remain registered in a register in respect of any address terminates by virtue of heads (1) and (2) above¹³, the registration officer concerned must remove that person's entry from the register once the officer has satisfied any prescribed requirements applying in relation to the removal of that entry¹⁴. However, this duty to remove a person's entry from the register of parliamentary or local government electors does not apply in circumstances where¹⁵:

- 299 (a) on the conclusion of an annual canvass¹⁶ the registration officer is unable to satisfy himself that a person duly entered in a register in respect of any address was, on the 15 October in question, resident at that address because the form used for the purposes of the canvass¹⁷ was not returned in respect of that address or, for any other reason, insufficient information was obtained as to whether that person was resident at that address on that date¹⁸;
- 300 (b) the registration officer has no information which suggests that that person is no longer so resident¹⁹; and
- 301 (c) that person was registered at that address otherwise than by virtue of notional residence as a patient in a mental hospital²⁰ or as a person remanded in custody²¹ or in pursuance of a declaration of local connection, a service declaration or an overseas elector's declaration²².

Where the circumstances set out in heads (a) to (c) above apply, the registration officer is authorised to retain the entry of the person concerned in such a register for the period expiring with the publication of a revised version of the register²³ in the year next following that in which the canvass referred to in head (a) above was conducted²⁴.

If a person has an anonymous entry in a register²⁵, his entitlement to remain registered in pursuance of an application for an anonymous entry²⁶ terminates either at the end of the period of 12 months beginning with the date when the entry in the register first takes effect²⁷ or, if the declaration made for the purposes of an application for an anonymous entry is cancelled at any time before the expiry of that 12 month period²⁸, at the time when the declaration is cancelled²⁹. If a person's entitlement to remain registered terminates in such a way, the registration officer concerned must remove that person's entry from the register, unless he is entitled to remain registered with an anonymous entry in pursuance of a further application for registration accompanied by a further application for an anonymous entry³⁰.

1 As to the entitlement to be registered as an elector generally see PARA 128 et seq ante.

2 As to registration officers and the areas for which they act see PARA 154 ante.

3 Representation of the People Act 1983 s 10A(5) (s 10A added by the Representation of the People Act 2000 s 8, Sch 1 paras 1, 4; and the Representation of the People Act 1983 s 10A(5) amended by the Electoral Administration Act 2006 ss 10(2), 12(5)(a), 74(2), Sch 1 paras 2, 6(1), (3), Sch 2). Nothing in the Representation of the People Act 1983 s 10A(5) (as added and amended) or s 10A(6) (as added) (see the text and notes 13-14 infra) applies in relation to the registration of persons in pursuance of: (1) applications for registration made by virtue of s 7(2) (as substituted) (notional residence of patients in mental hospitals who are not detained offenders or on remand: see PARA 134 ante) or s 7A(2) (as added) (notional residence of persons remanded in custody: see PARA 135 ante) (s 10A(8)(a) (as so added)); or (2) declarations falling within s 10(3)(b) (as substituted) (see PARA 163 ante), namely a declaration of local connection, a service declaration or an overseas elector's declaration (s 10A(8)(b) (as so added)). For the meaning of 'overseas elector's declaration' see PARA 162 note 14 ante. As to registration in the register of parliamentary electors in pursuance of an overseas elector's declaration see PARA 129 et seq ante; as to declarations of local connection see PARA 136 et seq ante; and as to service declarations see PARA 140 et seq ante. As to the termination of registration made by virtue of head (1) or head (2) supra see PARA 188 post.

4 For this purpose, 'determine' means determine in accordance with regulations: *ibid* s 10A(9) (as added: see note 3 supra). As to the annual canvass see PARA 163 ante; and as to the regulations made in connection with the annual canvass see PARA 167 et seq ante. As to the making of regulations under the Representation of the People Act 1983 generally see PARA 24 note 16 ante.

5 *Ie* under *ibid* s 10 (as substituted) (see PARA 163 ante).

6 For this purpose, 'resident' means resident for the purposes of *ibid* s 4 (as substituted) (entitlement to be registered as parliamentary or local government elector: see PARA 128 ante); s 10A(9) (as added: see note 3 supra).

7 *Ibid* s 10A(5)(a) (as added: see note 3 supra). The date mentioned in the text (*ie* 15 October) is the date in relation to which the annual canvass takes place: see PARA 163 ante.

8 *Ie* the form mentioned in *ibid* s 10(4) (as substituted) (see PARA 163 ante).

9 *Ibid* s 10A(5)(a)(i) (as added: see note 3 supra).

10 *Ibid* s 10A(5)(a)(ii) (as added: see note 3 supra). As to residence generally see PARA 132 et seq ante.

11 *Ibid* s 10A(5)(a) (as added: see note 3 supra).

12 *Ibid* s 10A(5)(b) (s 10A as added (see note 3 supra); and s 10A(5)(b) substituted by the Electoral Administration Act 2006 s 12(5)(b)). The text refers to the conditions for registration set out in the Representation of the People Act 1983 s 4 (as substituted) (entitlement to be registered as parliamentary or local government elector: see PARA 128 ante). A registration officer may, for the purpose of obtaining any information relevant to a determination under s 10A(5)(b) (as added and substituted), make such house to house inquiries as he thinks fit: s 10A(5B) (added by the Electoral Administration Act 2006 s 12(6)).

A registration officer must discharge his function under the Representation of the People Act 1983 s 10A(5)(b) (as added and substituted) (*ie* the function of determining whether a person either was entitled to be registered or has ceased to be resident at the address in respect of which he is entered in the register or otherwise ceased to satisfy the conditions for registration set out in s 4 (as substituted)) in accordance with the procedure set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 31C-31F (as added): reg 31B(1), (2)(b) (regs 31B, 31C added by SI 2006/2910). However, the registration officer may determine whether a person has ceased to be resident at the address in respect of which he is entered in the

register or otherwise ceased to satisfy the conditions for registration set out in the Representation of the People Act 1983 s 4 (as substituted) without following the procedure set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 31D-31F (as added) (ie the procedure for reviewing entitlement to registration in respect of a person entered in the register: see PARA 188 post) (reg 31C(1) (as so added)) in circumstances where the registration officer: (1) has received an application under reg 26 (as amended) (see PARA 168 ante) which includes a statement that the applicant has ceased to reside at any address in respect of which the applicant is currently registered as an elector (ie a statement under reg 26(1)(c): see PARA 168 ante) (reg 31C(2)(a) (as so added)); (2) has received a notice under reg 37 (ie where the address given in accordance with reg 26(1)(c) is in an area for which another registration officer acts: see PARA 168 ante) (reg 31C(2)(b) (as so added)); (3) has been given information by the elector that he has ceased to reside at the address in question or has otherwise ceased to satisfy the conditions for registration set out in the Representation of the People Act 1983 s 4 (as substituted) (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 31C(2)(c) (as so added)); (4) has been notified by a relative or executor of the elector or by the registrar of births and deaths that the elector has died (reg 31C(2)(d) (as so added)). For these purposes, 'elector' means a person who is duly entered in a register in respect of an address; and 'relative' means a spouse, civil partner, parent, grandparent, brother, sister, child or grandchild: reg 31C(3) (as so added).

13 Ie by virtue of the Representation of the People Act 1983 s 10A(5) (as added and amended): see the text and notes 1-12 supra.

14 Ibid s 10A(6) (as added: see note 3 supra).

15 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 34(1). The Representation of the People Act 1983 s 10A(6) (as added) (see the text and notes 13-14 supra) does not apply if, or to the extent that, regulations so provide in relation to any prescribed circumstances; and regulations may, in particular, authorise a registration officer to retain entries in his registers for the prescribed period if he thinks fit in cases where the form mentioned in s 10(4) (as substituted) (ie the form used for the purposes of the canvass: see PARA 163 ante) has not been returned in respect of any address: s 10A(7) (as added: see note 3 supra).

16 Ie under ibid s 10 (as substituted) (see PARA 163 ante).

17 Ie the form mentioned in ibid s 10(4) (as substituted) (see PARA 163 ante).

18 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 34(2)(a).

19 Ibid reg 34(2)(b).

20 Ie in pursuance of an application made by virtue of the Representation of the People Act 1983 s 7(2) (as substituted) (notional residence of patients in mental hospitals who are not detained offenders or on remand: see PARA 134 ante).

21 Ie in pursuance of an application made by virtue of ibid s 7A(2) (as added) (notional residence of persons remanded in custody: see PARA 135 ante).

22 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 34(2)(c) (substituted by SI 2006/2910).

23 Ie as published under the Representation of the People Act 1983 s 13(1) (as substituted) (see PARA 164 ante).

24 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 34(3).

25 For the meaning of 'anonymous entry' in relation to a register of electors see PARA 174 ante.

26 Ie the application mentioned in the Representation of the People Act 1983 s 9B(1) (as added) (see PARA 170 ante).

27 Ibid s 9C(1)(a) (s 9C added by the Electoral Administration Act 2006 s 10(1)).

28 Representation of the People Act 1983 s 9C(1)(b) (as added: see note 27 supra).

29 Ibid s 9C(1) (as added: see note 27 supra). This does not affect the application of any other provision of the Representation of the People Act 1983 or of the Representation of the People Act 1985 which has the effect that the person's entitlement to registration terminates before the expiry of the 12-month period mentioned in the Representation of the People Act 1983 s 9C(1) (as added) or before the cancellation of the declaration made for the purposes of s 9B (as added) (as to which see PARA 170 ante): s 9C(2) (as so added).

30 Ibid s 9C(3) (as added: see note 27 supra).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/(v) Termination of Entitlement to Registration/188. Termination of entitlement to be registered by virtue of notional residence or in pursuance of voter's declaration.

188. Termination of entitlement to be registered by virtue of notional residence or in pursuance of voter's declaration.

A person registered in the register of electors¹ in pursuance of an application for registration made by virtue of deemed residence as a patient in a mental hospital² or deemed residence as a person remanded in custody³ or in pursuance of a declaration of local connection⁴ or a service declaration⁵ or an overseas elector's declaration⁶ is entitled to remain so registered until⁷:

- 302 (1) the end of the period of 12 months beginning with the date when the entry in the register first takes effect⁸;
- 303 (2) the registration officer⁹ determines in accordance with regulations¹⁰ that the person was not entitled to be registered¹¹;
- 304 (3) another entry made in respect of him in any register of electors takes effect¹²; or
- 305 (4) in the case of registration in pursuance of a declaration of local connection or a service declaration or an overseas elector's declaration, the declaration is cancelled¹³,

whichever first occurs¹⁴. For the purposes of making a determination in accordance with head (2) above, a registration officer may conduct a review in respect of a person entered in the register¹⁵. Where the registration officer is not satisfied that the subject of the review is entitled to be registered, he must send to that person such notice¹⁶ as he considers appropriate¹⁷, enter the review in the list kept of such reviews¹⁸ and make his determination either with a hearing¹⁹ or, in certain circumstances, without a hearing²⁰.

Where the entitlement of a person to remain registered terminates in accordance with any of heads (1) to (4) above²¹, the registration officer concerned must remove that person's entry from the register, unless he is entitled to remain registered in pursuance of a further application for registration made by virtue of deemed residence²² or in pursuance of a further declaration of local connection or a further service declaration or a further overseas elector's declaration (whichever applies)²³. The registration officer must send to a person registered in pursuance of a declaration of local connection, a service declaration or an overseas elector's declaration a reminder of the need to make a fresh declaration if he wishes to remain registered as an elector in pursuance of such a declaration²⁴.

A relevant citizen of the Union²⁵ registered in a register of electors maintained in the register of relevant citizens of the Union entitled to vote at European parliamentary elections²⁶ is entitled to remain so registered until²⁷:

- 306 (a) the end of the period of 12 months beginning with the date when the entry in the register first takes effect²⁸;
- 307 (b) the declaration which accompanies any application for such registration²⁹ is cancelled³⁰;
- 308 (c) the citizen applies for his name to be removed³¹;
- 309 (d) any entry made in respect of him in any other register of electors³² takes effect³³,

whichever occurs first³⁴. Where the entitlement of such a person to remain registered terminates in such a way³⁵, the registration officer concerned must remove that person's entry from the register, unless he is entitled to remain registered in pursuance of a further application and declaration³⁶. The registration officer also must remove the name of a relevant citizen of the Union from the register of relevant citizens of the Union entitled to vote at European parliamentary elections³⁷ if the Secretary of State³⁸ sends to that officer a copy of any information provided by the member state of which that citizen is a national to show that he has lost the right to vote there³⁹.

1 Ie the register of parliamentary or local government electors. As to the register of electors see PARA 160 et seq ante.

2 Ie an application for registration in the register of parliamentary or local government electors made by virtue of the Representation of the People Act 1983 s 7(2) (as substituted) (notional residence of patients in mental hospitals who are not detained offenders or on remand: see PARA 134 ante).

3 Ie an application for registration in the register of parliamentary or local government electors made by virtue of ibid s 7A(2) (as added) (notional residence of persons remanded in custody: see PARA 135 ante).

4 As to registration in the register of parliamentary or local government electors in pursuance of a declaration of local connection see PARA 136 et seq ante.

5 As to registration in the register of parliamentary or local government electors in pursuance of a service declaration see PARA 140 et seq ante.

6 For the meaning of 'overseas elector's declaration' see PARA 162 note 14 ante. As to registration in the register of parliamentary electors in pursuance of an overseas elector's declaration see PARA 129 et seq ante.

7 Representation of the People Act 1983 s 7(3) (s 7 substituted by the Representation of the People Act 2000 s 4); Representation of the People Act 1983 s 7A(3) (s 7A added by the Representation of the People Act 2000 s 5); Representation of the People Act 1983 s 7C(2) (s 7C added by the Representation of the People Act 2000 s 6); Representation of the People Act 1983 s 15(2) (s 15(2), (3) substituted by the Representation of the People Act 2000 s 8, Sch 1 paras 1, 8(1), (2)); Representation of the People Act 1985 s 2(2) (s 2 substituted by the Representation of the People Act 2000 Sch 2 paras 1, 3).

For the purpose of extending the rights of peers who (subject to the requirement of registration) may vote at European parliamentary elections, the Representation of the People Act 1985 s 2 (as substituted) is applied with modifications (see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(4), Sch 4; and PARA 116 note 7 ante); for the purposes of extending the rights of relevant citizens of the Union who (subject to the requirement of registration) may vote at European parliamentary elections, the Representation of the People Act 1983 s 7 (as substituted and amended) and ss 7A-7C (as added and amended) are applied with modifications (see the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule; and PARA 117 note 5 ante); and for the purposes of extending the rights of citizens and nationals of accession states who (subject to the requirement of registration) may vote at local government and European parliamentary elections, the Representation of the People Act 1983 s 7B (as added) and s 15 (as amended) are applied with modifications (see the Local and European Parliamentary Elections (Registration of Citizens of Accession States) Regulations 2003, SI 2003/1557, reg 2(1), (3)(b)-(d)).

8 Representation of the People Act 1983 s 7(3)(a) (as substituted: see note 7 supra); s 7A(3)(a) (as added: see note 7 supra); s 7C(2)(a) (as added: see note 7 supra); s 15(2)(a) (as substituted: see note 7 supra); Representation of the People Act 1985 s 2(2)(a) (as substituted: see note 7 supra). The Secretary of State may by order provide that, in relation to a person who is a member of the forces or who is the spouse or civil partner of a member of the forces (ie a person who is mentioned in the Representation of the People Act 1983 s 14(1) (a) or s 14(1)(d) (as amended): see PARA 140 ante), s 15(2)(a) (as substituted) has effect as if for the period of 12 months there were substituted such other period (not exceeding five years) as he thinks appropriate: s 15(9) (s 15(9)-(12) added by the Electoral Administration Act 2006 s 13(1)). The power to make such an order is exercisable by statutory instrument, which may contain such incidental or consequential provision as the Secretary of State thinks appropriate: Representation of the People Act 1983 s 15(10) (as so added). However, no order may be made unless the Secretary of State first consults the Electoral Commission and unless a draft of the instrument containing the order is laid before, and approved by a resolution of, each House of Parliament: s 15(11) (as so added). If the period substituted by such an order is longer than the period for the time being in force, the longer period has effect in relation to any person who immediately before the order was made was entitled to remain in a register by virtue of s 15(2) (as substituted and amended): s 15(12) (as so added).

Accordingly, s 15(2)(a) (as substituted) has effect as regards the persons mentioned in s 14(1)(a) or s 14(1)(d) (as amended) as if for 'the period of 12 months' there were substituted 'the period of 3 years': Service Voters' Registration Period Order 2006, SI 2006/3406, art 2.

As to the application and modification of these provisions see note 7 supra.

9 As to registration officers and the areas for which they act see PARA 154 ante.

10 The regulations referred to in the text are the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 31B-31F (as added) (see the text and notes 11, 15-20 infra). As to the making of regulations under the Representation of the People Act 1983 generally (and, by virtue of the Representation of the People Act 1985 s 27(2), under the Representation of the People Act 1985) see PARA 24 note 16 ante.

11 Representation of the People Act 1983 s 7(3)(aa) (added by the Electoral Administration Act 2006 s 12(1)); Representation of the People Act 1983 s 7A(3)(aa) (added by the Electoral Administration Act 2006 s 12(2)); Representation of the People Act 1983 s 7C(2)(aa) (added by the Electoral Administration Act 2006 s 12(3)); Representation of the People Act 1983 s 15(2)(aa) (added by the Electoral Administration Act 2006 s 12(7)); Representation of the People Act 1985 s 2(2)(aa) (added by the Electoral Administration Act 2006 s 12(9)). As to the application and modification of these provisions see note 7 supra. A registration officer must discharge his function of determining whether a person was entitled to be registered under the Representation of the People Act 1983 s 7(3)(aa) (as added), s 7A(3)(aa) (as added), s 7C(2)(aa) (as added), s 15(2)(aa) (as added) or under the Representation of the People Act 1985 s 2(2)(aa) (as added) in accordance with the procedure set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 31D-31F (as added) (see the text and notes 15-20 infra): reg 31B(1), (2)(a) (regs 31B, 31D-31F added by SI 2006/2910). A registration officer must also discharge his function under the Representation of the People Act 1983 s 10A(5)(b) (as added and substituted) in accordance with the procedure set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 31D-31F (as added), unless reg 31C (as added) applies: see reg 31B(1), (2)(b); and PARA 187 ante.

12 Representation of the People Act 1983 s 7(3)(b) (as substituted: see note 7 supra); s 7A(3)(b) (as added: see note 7 supra); s 7C(2)(c) (as added: see note 7 supra); s 15(2)(c) (as substituted: see note 7 supra); Representation of the People Act 1985 s 2(2)(c) (as substituted: see note 7 supra). As to the application and modification of these provisions see note 7 supra. The text refers to another entry taking effect whether or not in pursuance of an application for registration made by virtue of deemed residence or in pursuance of a declaration of local connection or a service declaration; and, in the case of an overseas elector's declaration, it refers to another entry taking effect otherwise than in pursuance of an overseas elector's declaration.

13 Representation of the People Act 1983 s 7C(2)(b) (as added: see note 7 supra); s 15(2)(b) (as substituted: see note 7 supra); Representation of the People Act 1985 s 2(2)(b) (as substituted: see note 7 supra). As to the application and modification of these provisions see note 7 supra. The text refers to a cancellation under the Representation of the People Act 1983 s 7B(9) (as added) (cancellation of declaration of local connection: see PARA 136 ante), s 15(7) (as amended) (cancellation of service declaration: see PARA 141 ante) or the Representation of the People Act 1985 s 2(5) (as substituted) (cancellation of overseas elector's declaration: see PARA 147 ante).

14 Representation of the People Act 1983 s 7(3) (as substituted: see note 7 supra); s 7A(3) (as added: see note 7 supra); s 7C(2) (as added: see note 7 supra); s 15(2) (as substituted: see note 7 supra); Representation of the People Act 1985 s 2(2) (as substituted: see note 7 supra). As to the application and modification of these provisions see note 7 supra.

15 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 31D(1) (as added: see note 11 supra). For these purposes, 'review' must be construed in accordance with reg 31D(1) (as added); and the 'subject of the review' means the person in respect of whom the review is conducted: reg 31D(10) (as so added).

16 Ie of a kind specified in *ibid* reg 31D(4) (as added): see reg 31D(2) (as added: see note 11 supra). A notice is specified for the purposes of reg 31D(4) (as added) if it: (1) states that the registration officer is of the opinion that the subject of the review is not entitled to be registered and the grounds for his opinion (reg 31D(4) (a) (as so added)); (2) states the reason for the review and requires the subject of the review to provide such further information as might be specified in the notice or requires him to make a declaration under reg 24 (evidence as to age or nationality: see PARA 157 ante) or both (reg 31D(4)(b) (as so added)); or (3) states the reason for the review and that the registration officer intends to conduct a hearing of it (reg 31D(4)(c) (as so added)). Where the registration officer determines that a hearing of the review should be conducted, the notice given under reg 31D(4)(c) (as added) must also state the time and place at which he proposes to hear the review: reg 31F(1) (as so added).

17 *Ibid* reg 31D(2)(a) (as added: see note 11 supra).

18 Ibid reg 31D(2)(b) (as added: see note 11 supra). This provision does not apply where the subject of the review has an anonymous entry: reg 31D(3) (as so added). The text refers to the list kept in pursuance of reg 31E (as added), which the registration officer must keep: reg 31E(1) (as so added). The list must contain, in relation to each review, the full name of the subject of the review, his electoral number, his qualifying address, and the reason for the review (reg 31E(2) (as so added)); and the list must be made available for inspection at the registration officer's office (reg 31E(3) (as so added)). However, reg 31E (as added) does not apply to any review where the subject of the review has an anonymous entry: reg 31E(4) (as so added). As to a person's electoral number see PARA 160 ante; and as to applications for an anonymous entry in the register see PARA 170 ante.

19 Ie in accordance with ibid reg 31F (as added). Where the subject of the review requires the review to be heard, the registration officer must send to that person a notice stating the time and place at which he proposes to hear the review: reg 31F(2) (as added: see note 11 supra). The time fixed for the hearing must not be earlier than the third day after the date of the notice in which that time is stated (reg 31F(3) (as so added)); and the persons entitled to appear and be heard are the subject of the review and any other person who appears to the registration officer to be interested (reg 31F(4) (as so added)). The procedure which applies to the hearing of an application for registration or objection (ie reg 31(2)-(4): see PARA 173 ante) applies to the hearing of a review: see reg 31F(5) (as so added). The registration officer may determine that the subject of the review was not entitled to be registered or, as the case may be, has ceased to satisfy the conditions for registration set out in the Representation of the People Act 1983 s 4 (as substituted) (entitlement to be registered as parliamentary or local government elector: see PARA 128 ante), despite the failure of that person (or any other person entitled to appear and be heard) to attend: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 31F(6) (as so added). In making a determination under reg 31F(6) (as added), the registration officer must take into account any written representations made to him by the subject of the review and may take into account the written representations of any other person who appears to him to be interested: reg 31F(7) (as so added).

20 Ie in accordance with reg 31D(5)-(9) (as added). Where the registration officer sends to the subject of the review a notice in the form specified in reg 31D(4)(a) (as added) (see note 16 head (1) supra), and that person does not, within 14 days beginning with the date of that notice, notify the registration officer that he requires the review to be heard, the registration officer may determine without a hearing that the subject of the review was not entitled to be registered or, as the case may be, has ceased to satisfy the conditions for registration set out in the Representation of the People Act 1983 s 4 (as substituted) (entitlement to be registered as parliamentary or local government elector: see PARA 128 ante): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 31D(5) (as added: see note 11 supra).

Where the registration officer sends to the subject of the review a notice in the form specified in reg 31D(4)(b) (as added) (see note 16 head (2) supra), and that person does not respond to the registration officer's satisfaction, or at all, within the period of 28 days beginning with the date of that notice (reg 31D(6) (as so added)), the registration officer may send a notice to the subject of the review which states that he is not satisfied that that person is entitled to be registered, and the grounds for his opinion (reg 31D(7) (as so added)). Where the registration officer sends to the subject of the review a notice in pursuance of reg 31D(7) (as added) and the subject of the review does not, within the period of 14 days beginning with the date of that notice, notify the registration officer that he requires the review to be heard, the registration officer may determine without a hearing that the subject of the review was not entitled to be registered or, as the case may be, has ceased to satisfy the conditions for registration set out in the Representation of the People Act 1983 s 4 (as substituted) (see PARA 128 ante): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 31D(8) (as so added).

In making a determination under either reg 31D(5) (as added) or reg 31D(8) (as added), the registration officer must take into account any written representations made to him by the subject of the review and may take into account the written representations of any other person who appears to him to be interested: reg 31D(9) (as so added).

21 Ie by virtue of the Representation of the People Act 1983 s 7(3) (as substituted and amended), s 7A(3) (as added and amended), s 7C(2) (as added and amended), s 15(2) (as substituted and amended), or the Representation of the People Act 1985 s 2(2) (as substituted and amended) (as the case may be): see the text and notes 1-14 supra.

22 Ie a further application made by virtue of the Representation of the People Act 1983 s 7(2) (as substituted) (deemed residence of patients in mental hospitals who are not detained offenders or on remand: see PARA 134 ante) or s 7A(2) (as added) (deemed residence of persons remanded in custody: see PARA 135 ante).

23 Ibid s 7(4) (as substituted: see note 7 supra); s 7A(4) (as added: see note 7 supra); s 7C(3) (as added: see note 7 supra); s 15(3) (as substituted: see note 7 supra); Representation of the People Act 1985 s 2(2) (as substituted: see note 7 supra). As to the application and modification of these provisions see note 7 supra.

24 See the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 25; and PARA 156 ante.

25 For the meaning of 'relevant citizen of the Union' for these purposes see PARA 117 note 4 ante.

26 Ie the register maintained under the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 5(2) (see PARA 156 ante).

27 Ibid reg 10(2). For the purposes of extending the rights of citizens and nationals of accession states who (subject to the requirement of registration) may vote at local government and European parliamentary elections, reg 10 is applied with modifications: see the Local and European Parliamentary Elections (Registration of Citizens of Accession States) Regulations 2003, SI 2003/1557, reg 6, Sch 1 para 7.

28 European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 10(2)(a). As to the application and modification of this provision see note 27 supra.

29 Ie the declaration under ibid reg 6(2) (see PARA 169 ante).

30 Ibid reg 10(2)(b). The text refers to cancellation under reg 10(1) (see PARA 169 ante). As to the application and modification of this provision see note 27 supra.

31 Ibid reg 10(2)(c). As to the application and modification of this provision see note 27 supra.

32 Ie any other register maintained under ibid reg 5(2) (see PARA 156 ante).

33 Ibid reg 10(2)(d). As to the application and modification of this provision see note 27 supra.

34 Ibid reg 10(2). As to the application and modification of this provision see note 27 supra.

35 Ie by virtue of ibid reg 10(2) (see the text and notes 25-34 supra).

36 Ibid reg 10(3). The text refers to a further application and declaration under reg 6(1), (2) (see PARA 169 ante). As to the application and modification of this provision see note 27 supra.

37 Ie the register maintained under ibid reg 5(2) (see PARA 156 ante).

38 As to the Secretary of State see PARA 2 ante.

39 European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 10(4). As to the application and modification of this provision see note 27 supra.

UPDATE

188 Termination of entitlement to be registered by virtue of notional residence or in pursuance of voter's declaration

NOTE 8--For 'for the period of 3 years' read 'for the period of 5 years': SI 2006/3406 art 2 replaced: Service Voters' Registration Period Order 2010, SI 2010/882 art 2.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/ (vi) Registration Appeals/189. Decision from which appeal lies.

(vi) Registration Appeals

189. Decision from which appeal lies.

An appeal lies to the county court¹ from:

- 310 (1) any decision of the registration officer² under the Representation of the People Act 1983 on any application for registration or objection to a person's registration made to and considered by him³;
- 311 (2) any decision under the Representation of the People Act 1983 of the registration officer (other than on an application for registration or objection to a person's registration) that a person registered in respect of any address was not entitled to be registered in respect of that address or that he has ceased to be resident at that address or has otherwise ceased to satisfy the conditions for registration as a parliamentary or local government elector⁴;
- 312 (3) a determination of the registration officer on an application for an anonymous entry in the register of electors⁵;
- 313 (4) any decision of the registration officer under the Representation of the People Act 1983 disallowing a person's application to vote by proxy or by post as elector or to vote by post as proxy in any case where the application is not made for a particular election only⁶.

No appeal lies where a person desiring to appeal has not availed himself of a prescribed⁷ right to be heard by, or make representations to, the registration officer on the matter which is the subject of the appeal⁸ or has not given the prescribed notice of appeal within the prescribed time⁹.

1 The appeal lies to the court of the district in which the qualifying premises are situated: CPR Sch 2 CCR Ord 45 r 2(2). For this purpose, 'qualifying premises' means the premises in respect of which: (1) the person whose right to be registered in the register of electors is in question on the appeal is entered on the electors' list or is registered or claims to be entitled to be registered; or (2) the person whose right to vote by proxy or by post is in question on the appeal is or will be registered in the register of electors; or (3) the elector whose proxy's right to vote by post is in question on the appeal is or will be registered in the register of electors, as the case may be: CPR Sch 2 CCR Ord 45 r 2(2).

2 As to registration officers and the areas for which they act see PARA 154 ante.

3 Representation of the People Act 1983 s 56(1)(a) (amended by the Representation of the People Act 2000 s 8, Sch 1 paras 1, 14(1), (2)(a)). As to such decisions see PARA 167 et seq ante.

For the purposes of extending the rights of peers and of relevant citizens of the Union who (subject to the requirement of registration) may vote at European parliamentary elections, the Representation of the People Act 1983 s 56 (as amended) is applied with modifications: see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(4), Sch 4 (cited in PARA 116 note 7 ante); and the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule (cited in PARA 117 note 5 ante).

4 Representation of the People Act 1983 s 56(1)(aa) (added by the Electoral Administration Act 2006 s 12(8)). As to the application and modification of this provision see note 3 supra. The text refers to the conditions for registration set out in the Representation of the People Act 1983 s 4 (as substituted) (entitlement to be registered as parliamentary or local government elector: see PARA 128 ante).

5 Ibid s 56(1)(ab) (added by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 2, 8). As to the application and modification of this provision see note 3 supra. The text refers to a determination of the registration officer under the Representation of the People Act 1983 s 9B(2) (as added) (see PARA 170 ante).

6 Ibid s 56(1)(b) (amended by the Representation of the People Act 1985 s 11, Sch 2 para 1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 5(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 21(1). As to the application and modification of this provision see note 3 supra. As to applications to vote by proxy or by post (other than for a particular election) see PARA 372 et seq post; and as to applications to vote by post as proxy (other than for a particular election) see PARA 383 post. This provision, as enacted, applies to such applications for parliamentary or local government elections since the provisions in the Representation of the People Act 1985 which concern such applications have effect as if contained in the Representation of the People Act 1983 Pt I (ss 1-66A) (as amended): Representation of the People Act 1985 s 27(2). For the meaning of 'election' see PARA 3 note 1 ante. The National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 5(1) applies where the application is not made for a particular Assembly election only: art 5(1). As to the application with modifications of CPR Sch 2 CCR Ord 45 r 2 to such appeals see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 5(7). For the meaning of 'Assembly election' for these purposes see PARA 3 note 1 ante.

7 le prescribed by regulations: Representation of the People Act 1983 s 202(1). As to the regulations so made see notes 8-9 infra. As to the making of regulations under the Representation of the People Act 1983 generally see PARA 24 note 16 ante.

8 As to the right to be heard or make representations on the hearing of a claim or objection with respect to the right to be registered see PARA 173 ante.

9 Representation of the People Act 1983 s 56(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 21(2). As to the application and modification of this provision see note 3 supra. As to the giving of notice of appeal see PARA 190 post.

It has been held that the appeal must be brought by the person affected: *Registration Officer for the Parliamentary County of Hants v Ainslie* (1933) 148 LT 496, CA. That appeal, however, turned on the wording of the county court rules for registration appeals then in force.

UPDATE

189-192 Decision from which appeal lies ... Hearing of appeal and costs

CPR Sch 2 CCR Ord 45 revoked: SI 2007/2204.

189 Decision from which appeal lies

TEXT AND NOTES 1-6--SI 2004/293 reg 21(1) substituted: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/ (vi) Registration Appeals/190. Notice of appeal.

190. Notice of appeal.

A person desiring to appeal: (1) from the decision of a registration officer¹ regarding an application for registration made to and considered by him²; or (2) from the decision of a registration officer³ that a person was not entitled to be registered or, as the case may be, has ceased to satisfy the conditions for registration⁴; or (3) from a determination of the registration officer made in relation to an application for an anonymous entry in the register⁵; or (4) against the decision of a registration officer disallowing a person's application to vote by proxy or by post as elector (or to vote by post as proxy in any case where the application is not made for a particular election only)⁶, must give notice of appeal to the registration officer⁷: (a) in the case of an application for registration, when the decision is given or within 14 days thereafter⁸; or (b) in the case of an application for an absent vote, within 14 days of the receipt of the notice refusing such an application⁹. The grounds of such an appeal must be specified¹⁰. No appeal lies if the prescribed notice of appeal is not given within the time mentioned above¹¹.

The respondents to the appeal are the registration officer and the party (if any) in whose favour the decision of the registration officer was given¹².

Where the prescribed notice of appeal from a decision of a registration officer is duly given, the registration officer must, within seven days after receipt of the notice by him, forward it by post to the court in which the appeal is required to be brought¹³, together with a statement of the material facts which in his opinion have been established in the case and of his decision upon the whole case, and on any point which may be specified as a ground of appeal¹⁴.

1 As to registration officers and the areas for which they act see PARA 154 ante.

2 *Ie* under the Representation of the People Act 1983 s 56(1)(a) (as amended) (see PARA 189 ante): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 32(1)(a) (reg 32 substituted by SI 2006/2910). By virtue of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(6), (7), reg 32 (as amended) applies to registration in pursuance of a European parliamentary overseas elector's declaration as it applies to registration in pursuance of an overseas elector's declaration (see PARA 116 note 7 ante); and for the purposes of extending the rights of relevant citizens of the Union who (subject to the requirements of registration) may vote at European parliamentary elections, reg 32 (as amended) is applied with modifications (see the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule; and PARA 117 note 5 ante).

3 *Ie* made in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 31C-31F (as added) (see PARAS 187-188 ante).

4 *Ie* under the Representation of the People Act 1983 s 56(1)(aa) (as added) (see PARA 189 ante): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 32(1)(b) (as substituted: see note 2 supra). As to the application and modification of reg 32 (as amended) see note 2 supra. The text refers to the conditions for registration set out in the Representation of the People Act 1983 s 4 (as substituted) (entitlement to be registered as parliamentary or local government elector: see PARA 128 ante).

5 *Ie* under *ibid* s 56(1)(ab) (as added) (see PARA 189 ante): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 32(1)(c) (as substituted: see note 2 supra). As to the application and modification of reg 32 (as amended) see note 2 supra. The text refers to a determination under the Representation of the People Act 1983 s 9B(2) (as added) (see PARA 170 ante), made under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 31H (as added) (see PARA 170 ante).

6 *Ie* under the Representation of the People Act 1983 s 56(1)(b) (as amended) (see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 58(1)) or under the National Assembly for

Wales (Representation of the People) Order 2003, SI 2003/284, art 5(1) (see reg 14(2), Sch 2 para 8(1)) or under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 21(1) (see reg 10, Sch 2 para 21(1)). See PARA 189 ante. As to applications to vote by proxy or by post (other than for a particular election) see PARA 372 et seq post.

7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 32(2)(a), 58(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 8(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 21(1). As to the application and modification of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 32 (as amended) see note 2 supra.

8 Ibid reg 32(2)(a). In such a case, notice of appeal must be given also to the opposite party (if any): reg 32(2)(a). As to the application and modification of reg 32 (as amended) see note 2 supra.

9 Ibid reg 58(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(2), Sch 2 para 8(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 21(1). The notice referred to in the text is the notice given under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4) or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(2), Sch 2 para 7(4) or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(3) (as the case may be) (see PARA 372 post).

10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 32(2)(b), 58(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 8(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 21(1). As to the application and modification of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 32 (as amended) see note 2 supra.

11 Representation of the People Act 1983 s 56(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 21(1); and see PARA 189 ante. In *Game v City of London Deputy Registration Officer* [1950] CLY 1309, it was held that the county court had no power to extend the prescribed time for giving notice of appeal to the registration officer.

12 CPR Sch 2 CCR Ord 45 r 2(3); Representation of the People Act 1983 s 56(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 5(6); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 21(6). As to the application with modifications of CPR Sch 2 CCR Ord 45 r 2 to appeals brought in relation to Assembly elections see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 5(7).

Where a person wishes to appeal against the inclusion of names in the register, the appeal can only bind those persons who have been made respondents to the appeal: *R v Judge Hurst, ex p Smith* [1960] 2 QB 133, [1960] 2 All ER 385, DC.

13 See PARA 189 ante.

14 CPR Sch 2 CCR Ord 45 r 2(1); Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 32(3), 58(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 8(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 21(2). As to the application and modification of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 32 (as amended) see note 2 supra; and as to CPR Sch 2 CCR Ord 45 r 2 see note 12 supra.

UPDATE

189-192 Decision from which appeal lies ... Hearing of appeal and costs

CPR Sch 2 CCR Ord 45 revoked: SI 2007/2204.

190 Notice of appeal

NOTES--SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/ (vi) Registration Appeals/191. Consolidation of appeals and test cases.

191. Consolidation of appeals and test cases.

Where it appears to the registration officer¹ that any notices of appeal given to him² are based on similar grounds, he must inform the county court of the fact for the purpose of enabling the court, if it thinks fit, to consolidate the appeals or select one of them as a test case³.

Where two or more appeals involve the same point of law, the judge may direct that one appeal is to be heard in the first instance as a test case⁴. The court must then send to the parties to the selected appeal, and to the parties to the other appeals a notice of the direction⁵. If within seven days after service of such notice on him, any party to an appeal other than the selected appeal gives notice to the proper officer that he desires the appeal to which he is a party to be heard, the appeal must be heard after the selected appeal is disposed of⁶. If no such notice is given within that time, the decision on the selected appeal binds the parties to each appeal, without prejudice to their right to appeal to the Court of Appeal⁷, and an order similar to that in the selected appeal must be made in each other appeal without further hearing⁸.

1 As to registration officers and the areas for which they act see PARA 154 ante.

2 As to the giving of notice of appeal see PARA 190 ante.

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 32(4), 58(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, reg 14(2), Sch 2 para 8(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 21(4).

By virtue of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(6), (7), reg 32 applies to registration in pursuance of a European parliamentary overseas elector's declaration as it applies to registration in pursuance of an overseas elector's declaration (see PARA 116 note 7 ante); and for the purposes of extending the rights of relevant citizens of the Union who (subject to the requirements of registration) may vote at European parliamentary elections, reg 32 is applied with modifications (see the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule; and PARA 117 note 5 ante).

4 CPR Sch 2 CCR Ord 45 r 3(1).

5 CPR Sch 2 CCR Ord 45 r 3(1).

6 CPR Sch 2 CCR Ord 45 r 3(2)(a). In such circumstances the court must give the parties to the appeal notice of the day on which it will be heard: CPR Sch 2 CCR Ord 45 r 3(2)(b).

7 CPR Sch 2 CCR Ord 45 r 3(3)(a).

8 CPR Sch 2 CCR Ord 45 r 3(3)(b).

UPDATE

189-192 Decision from which appeal lies ... Hearing of appeal and costs

CPR Sch 2 CCR Ord 45 revoked: SI 2007/2204.

191 Consolidation of appeals and test cases

NOTE 3--SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/ (vi) Registration Appeals/192. Hearing of appeal and costs.

192. Hearing of appeal and costs.

On the hearing of the appeal¹, the statement forwarded to the court by the registration officer² and any document containing information furnished to the court by the registration officer³ are admitted as evidence of the facts stated therein⁴. The judge has power to draw all inferences of fact which might have been drawn by the registration officer, and to give any decision and make any order which ought to have been given or made by the registration officer⁵.

A respondent to an appeal, other than the registration officer, is not liable for or entitled to costs, unless he appears before the court in support of the registration officer's decision⁶. Any expenses properly incurred by the registration officer arising out of an appeal are included in the registration expenses payable to him⁷.

In test cases⁸, the party to each other appeal which is in the same interest as the unsuccessful party to the selected appeal is liable for the costs of the selected appeal in the same manner and to the same extent as the unsuccessful party to that appeal and an order directing him to pay such costs may be made and enforced accordingly⁹. Any party who has desired a separate hearing¹⁰ after the hearing of the selected appeal is not entitled to receive any costs occasioned by the separate hearing of the appeal to which he is a party, unless the judge otherwise directs¹¹.

1 As to the decisions from which an appeal lies see PARA 189 ante.

2 As to registration officers and the areas for which they act see PARA 154 ante.

3 I.e. pursuant to regulations made under the Representation of the People Act 1983 s 53 (as amended), Sch 2 (as amended) (see PARA 127 ante). As the regulations make provision only for a statement, quaere whether a document containing information provided by the registration officer, other than the statement given pursuant to regulations, is admissible as evidence of the facts stated therein.

4 CPR Sch 2 CCR Ord 45 r 2(4)(a).

5 CPR Sch 2 CCR Ord 45 r 2(4)(b).

6 CPR Sch 2 CCR Ord 45 r 2(5).

7 Representation of the People Act 1983 s 56(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 5(6); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 21(6). As to the payment of the expenses of registration see PARA 158 ante.

For the purposes of the extension of the rights of peers and of relevant citizens of the Union who (subject to the requirement of registration) may vote at European parliamentary elections, the Representation of the People Act 1983 s 56 (as amended) is applied with modifications: see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(4), Sch 4 (cited in PARA 116 note 7 ante); and the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule (cited in PARA 117 note 5 ante).

8 As to the court's power to select a test case see PARA 191 ante.

9 CPR Sch 2 CCR Ord 45 r 3(3)(c).

10 As to the procedure where separate hearing is desired see PARA 191 ante.

11 CPR Sch 2 CCR Ord 45 r 3(2)(c).

UPDATE

189-192 Decision from which appeal lies ... Hearing of appeal and costs

CPR Sch 2 CCR Ord 45 revoked: SI 2007/2204.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/ (vi) Registration Appeals/193. Appeal to Court of Appeal.

193. Appeal to Court of Appeal.

If any party to the proceedings¹ in a county court is dissatisfied with the determination of the judge, he may appeal from it to the Court of Appeal².

No appeal lies from the decision of the Court of Appeal on appeal from a decision of the county court on a registration appeal³.

1 A person who is not a party to the proceedings might apply to the High Court for judicial review where the county court has acted without jurisdiction: *R v Judge Hurst, ex p Smith* [1960] 2 QB 133, [1960] 2 All ER 385, DC (where a county court judge had ordered that the names of 90 members of a college, who were not parties to the proceedings, should be struck off the register after allowing an objection in respect of four other members of that college who had been parties, he had acted without jurisdiction and his directions were quashed on an application for an order of certiorari).

2 County Courts Act 1984 s 77(1). The right to appeal is subject to the provisions of Pt IV (ss 77-84) (as amended) and to any order made under the Access to Justice Act 1999 s 56(1) (see CIVIL PROCEDURE vol 12 (2009) PARA 1657) and the appeal must be made in such manner and subject to such conditions as may be provided by civil procedure rules: County Courts Act 1984 s 77(1) (amended by the Civil Procedure Act 1997 s 10, Sch 2 para 2(7); and by the Access to Justice Act 1999 (Destination of Appeals) Order 2000, SI 2000/1071, art 8). As to appeals from a decision of a county court generally see CIVIL PROCEDURE vol 12 (2009) PARA 1679. Apart from the provision prohibiting an appeal to the House of Lords, the general rules applicable to appeals to the Court of Appeal apply to registration appeals.

3 Representation of the People Act 1983 s 56(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 5(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 21(3). The decisions referred to in the text are those in relation to registration as a parliamentary or local government elector under the Representation of the People Act 1983 s 56 (as amended), those in relation to registration as a Welsh Assembly elector under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 5 or those in relation to registration as a European parliamentary elector under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 21 (whichever applies) (see PARA 189 ante).

For the purposes of the extension of the rights of peers and of relevant citizens of the Union who (subject to the requirement of registration) may vote at European parliamentary elections, the Representation of the People Act 1983 s 56 (as amended) is applied with modifications: see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(4), Sch 4 (cited in PARA 116 note 7 ante); and the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule (cited in PARA 117 note 5 ante).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/ (vi) Registration Appeals/194. Appeals pending when notice of election given.

194. Appeals pending when notice of election given.

An appeal to the county court or Court of Appeal as to a registration officer's decision¹ which is pending when notice of an election is given² does not prejudice the operation, as respects the election, of the decision appealed against, and anything done in pursuance of the decision is as good as if no such appeal had been brought and is not affected by the decision of the appeal³. This rule does not apply where, as a result of the decision on the appeal, an alteration in the register of electors is made⁴ on or before the date of the poll⁵.

1 Ie by virtue of, in relation to a parliamentary or local government election, the Representation of the People Act 1983 s 56 (as amended) or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 5 or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 21 (whichever applies) (see PARA 189 ante). As to registration officers and the areas for which they act see PARA 154 ante.

2 As to the date when notice of election is to be given at a parliamentary election see PARA 203 post; as to notice of the date at a local government election see PARA 218 post; as to notice of the date at a Welsh Assembly election see PARA 223 post; and as to notice of the date at a European parliamentary election see PARA 230 post.

3 Representation of the People Act 1983 s 56(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 5(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 21(4).

For the purposes of the extension of the rights of peers and of relevant citizens of the Union who (subject to the requirement of registration) may vote at European parliamentary elections, the Representation of the People Act 1983 s 56 (as amended) is applied with modifications: see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(4), Sch 4 (cited in PARA 116 note 7 ante); and the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule (cited in PARA 117 note 5 ante).

4 Ie an alteration in the register made in pursuance of the Representation of the People Act 1983 s 56(4) (as amended) (see PARA 195 post) taking effect under s 13(5) (as substituted) (see PARA 164 ante), s 13A(2) (as added) (see PARA 175 ante), s 13B(3) (as added) (see PARA 175 ante) or s 13B(3B) (as added) (see PARA 175 ante).

5 Ibid s 56(4A) (added by the Representation of the People Act 1985 s 24, Sch 4 para 16(b); and amended by the Representation of the People Act 2000 s 8, Sch 1 paras 1, 14(1), (4); and the Electoral Administration Act 2006 s 11(1), (5)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, arts 4(1), 5(5). As to the application and modification of this provision see note 3 supra. As to the last day on which nomination papers nominating candidates at an election may be delivered at an election see PARA 267 post.

Any amendment made by the Electoral Administration Act 2006 s 11 does not have effect in relation to any election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(i) Initiating a Parliamentary Election/A. PARLIAMENTARY GENERAL ELECTION/196. Commanding of elections for new parliament.

5. PROCEDURE FOR CONDUCTING ELECTIONS

(1) INITIATING AN ELECTION

(i) Initiating a Parliamentary Election

A. PARLIAMENTARY GENERAL ELECTION

196. Commanding of elections for new parliament.

An old Parliament is dissolved and a new one summoned by means of a royal proclamation made upon the advice of the Privy Council¹. A proclamation which summons Parliament requires writs to be issued from the office of the Clerk of the Crown in Chancery² commanding an election to be duly held of a member to serve in Parliament for each constituency³.

¹ See PARLIAMENT vol 78 (2010) PARA 998. As to royal proclamations see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 917.

² As to the Clerk of the Crown in Chancery see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 921.

³ As to the issue and conveyance of writs for parliamentary elections see PARA 199 post. For the meaning of 'constituency' for the purposes of parliamentary elections see PARA 9 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(i) Initiating a Parliamentary Election/A. PARLIAMENTARY GENERAL ELECTION/197. Effect of demise of the Crown after proclamation summoning a new Parliament.

197. Effect of demise of the Crown after proclamation summoning a new Parliament.

Where a proclamation summoning a new Parliament has been given¹, the demise of the Crown does not affect the summoning of the new Parliament in pursuance of the proclamation or its duration except that², where the demise of the Crown occurs at any time after the proclamation is given and before the date of the poll at the ensuing parliamentary general election, the timetable which governs proceedings at that election³ is to have effect for the purposes of the Representation of the People Acts⁴, in relation to anything which at the time of the demise has not been done and was not required to be done before that time, as if the proclamation given, and any proceeding referred to in that timetable (including the receipt of the writ⁵) which has taken place, had been given or taken place on the day following the end of the period of 14 days beginning with the day on which it was given or took place⁶. Where the day on or before which or before a certain time in which or between certain times in which anything is required to be done under the Representation of the People Acts⁷ is thereby postponed⁸, any notice⁹ or other document, being a document referring to the original day, is to have effect as if it referred instead to the day thereby determined¹⁰. Where the date of the poll at any election is postponed upon the demise of the Crown¹¹, the provisions which limit the amount of election expenses incurred by an individual or party candidate¹² have effect in relation to any candidate at the election as if the maximum amount specified¹³ were increased by one-half¹⁴.

1 As to a royal proclamation summoning a new Parliament see PARA 196 ante.

2 Representation of the People Act 1985 s 20(1).

3 I.e. the timetable contained in the Representation of the People Act 1983 s 23(1), Sch 1 r 1. As to the date of the poll at a parliamentary general election see PARA 202 post.

4 For the meaning of 'the Representation of the People Acts' see PARA 3 note 1 ante.

5 As to receipt of the writ see PARA 201 post.

6 Representation of the People Act 1985 s 20(2)(b). This and the other provisions in s 20 replace the provisions of the Meeting of Parliament Act 1797 ss 3, 4, 5, which provisions are repealed by the Representation of the People Act 1985 s 28, Sch 5. As to the postponement of the day appointed in the royal proclamation for the meeting of Parliament on the demise of the Crown see s 20(2)(a); and PARLIAMENT vol 78 (2010) PARAS 1014-1015. Where the meeting of Parliament is so postponed, any writ of election issued or to be issued in pursuance of the proclamation has effect as if, instead of the date appointed in the proclamation for the meeting of Parliament, it specified the date to which the meeting is postponed in accordance with s 20(2)(a): s 20(3). Any writ still to be issued may specify the latter date: s 20(3).

7 Eg when applications for an absent vote at a particular election must be received by the registration officer: see PARA 376 post.

8 I.e. in accordance with the Representation of the People Act 1985 s 20(2)(a) (as to which see note 6 supra).

9 Eg the notice of an election which must specify the date by which applications for an absent vote (see note 7 supra) must be made: see PARA 203 post.

10 Representation of the People Act 1985 s 20(4). However, a document may specify the postponed day: s 20(4).

- 11 le in accordance with *ibid* s 20(2)(a) (as to which see note 6 *supra*).
- 12 le the Representation of the People Act 1983 s 76 (as amended) (see *PARA 278 post*).
- 13 le the maximum amount specified in *ibid* s 76(2)(a) (as amended) (see *PARA 278 post*).
- 14 Representation of the People Act 1985 s 20(5).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(i) Initiating a Parliamentary Election/B. PARLIAMENTARY BY-ELECTION/198. Power of House of Commons to fill vacant seats.

B. PARLIAMENTARY BY-ELECTION

198. Power of House of Commons to fill vacant seats.

When the House of Commons is sitting and a seat becomes vacant by reason of the death of a member, or for any other cause¹, the House, upon motion made, orders the Speaker to issue his warrant empowering the Clerk of the Crown in Chancery to make out a new writ to fill the vacancy². Where a vacancy is caused during a prorogation of Parliament or adjournment of the House of Commons, the procedure for issuing the warrant is subject to special provision³.

1 As to methods of retirement from the House of Commons see PARLIAMENT vol 78 (2010) PARA 894.

2 See PARLIAMENT vol 78 (2010) PARA 1094.

3 See the Recess Elections Act 1975; and PARLIAMENT vol 78 (2010) PARA 1095.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(i) Initiating a Parliamentary Election/C. WRITS AND NOTICE OF PARLIAMENTARY ELECTION/199. Issue and conveyance of writs for parliamentary elections.

C. WRITS AND NOTICE OF PARLIAMENTARY ELECTION

199. Issue and conveyance of writs for parliamentary elections.

Writs for a parliamentary general election must be issued as soon as practicable after the issue of the royal proclamation summoning a new Parliament¹; the writ for a parliamentary by-election must be issued as soon as practicable after the issue of the warrant for the writ².

Each writ must be issued in the prescribed form³ and must be directed to the returning officer in each constituency⁴ in which an election is to be held by the title of his office (and not by his name) and must be conveyed to him⁵. Delivery of the writ to a person for the time being authorised by law to act as deputy for the officer who by virtue of his office is returning officer is as good as delivery to the returning officer⁶. For a parliamentary election in a constituency in England⁷ and Wales⁸, the writ is conveyed to the acting returning officer if: (1) the returning officer⁹ has, by notice in the form prescribed¹⁰, so requested and the notice is received by the Clerk of the Crown in Chancery one month or more before the issue of the writ¹¹; and (2) the notice has not been revoked by a further notice in the form prescribed¹² and received within such time¹³. Such a notice has effect in relation to all constituencies of which the person giving the notice is returning officer at the time of giving it¹⁴ or of which he or a successor in office becomes returning officer by virtue of that office¹⁵.

1 Representation of the People Act 1983 s 23(1), Sch 1 r 1. As to the royal proclamation summoning a new Parliament see PARA 196 ante. Writs continue to be sealed and issued in accordance with the practice of the office of the Clerk of the Crown in Chancery existing when the Representation of the People Act 1983 was enacted: Sch 1 r 3(1). In the Representation of the People Act 1983, the expression 'Clerk of the Crown' means the Clerk of the Crown in Chancery: s 202(1). As to the Clerk of the Crown in Chancery see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 921.

2 Ibid Sch 1 r 1. As to the issue of the warrant for the writ in the case of a by-election see PARA 198 ante.

Where a vacancy occurs before or immediately after the first meeting of a new Parliament, the writ to fill the vacancy will not be issued until the time for presenting election petitions has expired; and if an election petition claiming the seat is pending, the writ will not be issued until after the petition has been tried or withdrawn: see PARLIAMENT vol 78 (2010) PARA 1094.

3 Ibid Sch 1 r 3(2). The form of the writ is set out in Sch 1, Appendix of Forms (Form of writ). Any form in the Appendix may be adapted so far as circumstances require: Sch 1, Appendix of Forms (Note).

4 For the meaning of 'constituency' for the purposes of parliamentary elections see PARA 9 ante. As to returning officers for parliamentary elections generally see PARA 355 et seq post.

5 Representation of the People Act 1983 Sch 1 r 3(2), Appendix of Forms (Form of writ; Label or direction of writ). Her Majesty may by Order in Council: (1) specify the manner in which writs are to be conveyed, whether by post, by an officer appointed by the Lord Chancellor or otherwise, and make different provision for different classes of writs (Sch 1 r 3(3)(a)); and (2) provide for the giving of receipts for writs by persons to whom they are delivered or who may receive them in the course of their conveyance (Sch 1 r 3(3)(b)). Such an order may: (a) require a returning officer to provide an address to which writs are to be conveyed and any change of that address (Sch 1 r 3(5)(a)); and (b) provide for recording those addresses (Sch 1 r 3(5)(b)); and (c) provide that the delivery of a writ to a person found in and for the time being in charge of a place so recorded as the office of a returning officer is as good as delivery to that returning officer (Sch 1 r 3(5)(c)). A draft of such an order must be laid before Parliament, and any such order may provide for any incidental or supplemental matter: Sch

1 r 3(7). As to the order made see the Parliamentary Writs Order 1983, SI 1983/605 (as amended); the text and notes 10-12 infra; and PARAS 200-201 post.

Where by virtue of the Representation of the People Act 1983 Sch 1 r 4 (see the text and notes 7-15 infra) writs are conveyed to the acting returning officer, Sch 1 r 3(5) applies in relation to him as it applies in relation to a returning officer: Sch 1 r 4(3).

6 Ibid Sch 1 r 3(4).

7 For the meaning of 'England' see PARA 13 note 1 ante.

8 For the meaning of 'Wales' see PARA 13 note 1 ante.

9 Representation of the People Act 1983 Sch 1 r 4(1). Any duty imposed on a returning officer for a parliamentary election under Sch 1 r 3 (see the text and notes 1-6 supra) is not to be discharged by the registration officer as acting returning officer (see s 28(2)(a); and PARA 356 post) but Sch 1 r 4 provides for the conveyance of a writ to the acting returning officer in certain cases notwithstanding anything set out in Sch 1 r 3 (see Sch 1 r 4(1)). See also note 5 head (c) supra; and the text and note 6 supra.

10 Ie by notice in the form prescribed by an Order in Council under ibid Sch 1 r 3. The form of notice by a returning officer requesting that the writ be conveyed to the acting returning officer is prescribed by the Parliamentary Writs Order 1983, SI 1983/605, art 3(1), Schedule para 1 (amended in relation to England by SI 2002/1057). A form to the like effect may be used: Parliamentary Writs Order 1983, SI 1983/605, art 3(1).

Any notice which was given under the Parliamentary Writs Order 1944, SR & O 1944/334 (revoked by the Parliamentary Writs Order 1983, SI 1983/605, art 12(1)), which was in force at the coming into operation of the Parliamentary Writs Order 1983, SI 1983/605, continues to have effect as if made under the latter order: art 12(2).

11 Representation of the People Act 1983 Sch 1 r 4(1)(a). The returning officer must forthwith send a copy of the notice to the appropriate acting returning officer so that the latter may comply with the duty in the Parliamentary Writs Order 1983, SI 1983/605, art 5(2) (as amended) to provide to the relevant universal postal service provider an address at which the writ may be conveyed: art 4. As to the duty to provide such an address see PARA 200 post.

12 The form of notice by a returning officer revoking the notice requesting that the writ be conveyed to the acting returning officer is prescribed by ibid art 3(2), Schedule para 2 (amended in relation to England by SI 2002/1057). A form to the like effect may be used: Parliamentary Writs Order 1983, SI 1983/605, art 3(2).

13 Representation of the People Act 1983 Sch 1 r 4(1)(b). See also note 10 supra.

14 Ibid Sch 1 r 4(2)(a).

15 Ibid Sch 1 r 4(2)(b).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(i) Initiating a Parliamentary Election/C. WRITS AND NOTICE OF PARLIAMENTARY ELECTION/200. Parliamentary writs list.

200. Parliamentary writs list.

Every returning officer for a constituency¹ must provide to the relevant universal postal service provider² an address at which the writ for a parliamentary election may be conveyed to him³, if he is requested by the relevant universal postal service provider so to do⁴ or on the revocation of any notice requesting the writ to be conveyed to the acting returning officer⁵. Where the writ is to be conveyed to the acting returning officer by virtue of such a notice⁶, he must, on being informed that it has been given⁷ or if requested by the relevant universal postal service provider so to do⁸, provide to the relevant universal postal service provider such an address⁹. On any change of that address, the returning officer or, as the case may be, acting returning officer must as soon as possible provide to the relevant universal postal service provider a new address at which the writ may be conveyed¹⁰.

The relevant universal postal service provider is required to keep a list called the 'parliamentary writs list' setting out¹¹, by the title of his office, each returning officer¹² or acting returning officer¹³ to whom a writ is required to be conveyed and recording as the office of that officer the address last provided by him¹⁴. The relevant universal postal service provider must also assign to an appointed postal official, in respect of each returning officer or acting returning officer set out in the parliamentary writs list, the duty of securing the delivery of any writ required to be delivered to that officer¹⁵. The designation and address of the official so appointed is to be entered in the list together with a reference to the officer to whom he is required to secure the delivery of any such writ¹⁶. As soon as practicable after a new parliamentary writs list has been prepared¹⁷, or alterations have been made to such a list¹⁸, the relevant universal postal service provider must send a copy of the list or, as the case may be, the alterations to the Clerk of the Crown in Chancery¹⁹.

1 For the meaning of 'constituency' for the purposes of parliamentary elections see PARA 9 ante. As to returning officers for parliamentary elections generally see PARA 355 et seq post.

2 For these purposes, the 'relevant universal postal service provider' means the universal service provider within the meaning of the Postal Services Act 2000 (see s 4(3), (4); and POST OFFICE) responsible for conveying writs: Parliamentary Writs Order 1983, SI 1983/605, art 2 (definition added by SI 2001/1149).

3 Parliamentary Writs Order 1983, SI 1983/605, art 5(1) (amended by SI 2001/1149). As to the issue and conveyance of writs for parliamentary elections see PARA 199 ante.

4 Parliamentary Writs Order 1983, SI 1983/605, art 5(1)(a) (amended by SI 2001/1149).

5 Parliamentary Writs Order 1983, SI 1983/605, art 5(1)(b). The text refers to a notice given under the Representation of the People Act 1983 s 23(1), Sch 1 r 4(1)(a) which may be revoked by a notice under Sch 1 r 4(1)(b) (see PARA 199 ante).

6 I.e. a notice given under ibid Sch 1 r 4(1)(a) (see PARA 199 ante).

7 Parliamentary Writs Order 1983, SI 1983/605, art 5(2)(a). The returning officer is required forthwith to copy the notice to the acting returning officer so that the duty in art 5(2) (as amended) may be complied with: see PARA 199 note 11 ante.

8 Ibid art 5(2)(b) (amended by SI 2001/1149).

9 Parliamentary Writs Order 1983, SI 1983/605, art 5(2) (amended by SI 2001/1149).

10 Parliamentary Writs Order 1983, SI 1983/605, art 5(1), (2) (amended by SI 2001/1149).

11 Parliamentary Writs Order 1983, SI 1983/605, art 6 (amended by SI 2001/1149). For these purposes, 'parliamentary writs list' means the list prepared and kept in accordance with the Parliamentary Writs Order 1983, SI 1983/605, art 6 (as amended): art 2.

12 le in respect of whom a notice given under the Representation of the People Act 1983 Sch 1 r 4(1)(a) is not in force (see PARA 199 ante).

13 le in respect of whom a notice given under ibid Sch 1 r 4(1)(a) is in force (see PARA 199 ante).

14 Parliamentary Writs Order 1983, SI 1983/605, art 6. The text refers to the last address provided by the returning officer under art 5(1) (as amended) (see the text and notes 1-5, 10 supra) or by the acting returning officer under art 5(2) (as amended) (see the text and notes 6-10 supra), as the case may be.

15 Ibid art 7(1) (amended by SI 2001/1149). The text refers to any writ for a parliamentary election required to be conveyed to the officer under the Representation of the People Act 1983 Sch 1 r 3 or Sch 1 r 4 (see PARA 199 ante).

16 Parliamentary Writs Order 1983, SI 1983/605, art 7(2).

17 Ibid art 8(a).

18 Ibid art 8(b).

19 Ibid art 8 (amended by SI 2001/1149). As to the Clerk of the Crown in Chancery see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 921.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(i) Initiating a Parliamentary Election/C. WRITS AND NOTICE OF PARLIAMENTARY ELECTION/201. Conveyance of writs for parliamentary elections.

201. Conveyance of writs for parliamentary elections.

As soon as may be after the issue of a writ for a parliamentary election¹, the Clerk of the Crown in Chancery² must cause to be sent by the registered post service of the relevant universal postal service provider³ to the postal official appearing from the parliamentary writs list to be charged with the duty of securing the delivery of the writ (the 'appropriate official')⁴, a package containing the writ⁵, instructions from the relevant universal postal service provider to him as to the delivery of the writ⁶ and a form of receipt to be signed by the person to whom the writ is delivered⁷. On receipt of this package, the appropriate official must forthwith convey the writ, or cause it to be conveyed, to the returning officer⁸ or, as the case may be, acting returning officer⁹ to whom it is addressed¹⁰. The person to whom the writ is so delivered is required to sign the form of receipt and deliver the receipt to the appropriate official or the person acting on his behalf¹¹. He must also endorse the writ with a statement signed by him as to the date on which he received it¹². The appropriate official must as soon as practicable send by the registered post service of the relevant universal postal service provider to the Clerk of the Crown in Chancery the receipt for the delivery of the writ¹³.

1 As to the issue and conveyance of writs for parliamentary elections see PARA 199 ante.

2 As to the Clerk of the Crown in Chancery see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 921.

3 For these purposes, 'registered post service' has the same meaning as in the Postal Services Act 2000 (see s 125(1); and POST OFFICE): Parliamentary Writs Order 1983, SI 1983/605, art 2 (definition added by SI 2001/1149). For the meaning of 'relevant universal postal service provider' see PARA 200 note 2 ante.

4 As to the appointment of postal officials see PARA 200 ante.

5 Parliamentary Writs Order 1983, SI 1983/605, arts 9, 10(1) (amended by SI 2001/1149).

6 Parliamentary Writs Order 1983, SI 1983/605, arts 9, 10(2)(a) (amended by SI 2001/1149).

7 Parliamentary Writs Order 1983, SI 1983/605, arts 9, 10(2)(b).

8 As to returning officers for parliamentary elections generally see PARA 355 et seq post.

9 As to the appointment of acting returning officers to whom the writ must be conveyed see PARA 199 ante.

10 Parliamentary Writs Order 1983, SI 1983/605, arts 9, 11(1). Delivery of the writ to a person found in or for the time being in charge of the place which is recorded in the parliamentary writs lists as being the office of the returning officer or, as the case may be, acting returning officer is as good as delivery to that officer: arts 9, 11(1).

11 Ibid arts 9, 11(2).

12 Representation of the People Act 1983 s 23(1), Sch 1 r 3(6), Appendix of Forms (Endorsement).

13 Parliamentary Writs Order 1983, SI 1983/605, arts 9, 11(3) (art 11(3) amended by SI 2001/1149).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(i) Initiating a Parliamentary Election/C. WRITS AND NOTICE OF PARLIAMENTARY ELECTION/202. Date of poll at parliamentary election.

202. Date of poll at parliamentary election.

In the case of a parliamentary general election, the day of polling falls on the eleventh day after the last day for delivery of nomination papers¹. In the case of a parliamentary by-election, the day of polling is fixed by the returning officer² and must not be earlier than the ninth nor later than the eleventh day after the last day for delivery of nomination papers³.

1 Representation of the People Act 1983 s 23(1), Sch 1 r 1 (amended by the Representation of the People Act 1985 s 24, Sch 4 para 73). As to the delivery of nomination papers see PARA 267 post.

2 As to returning officers for parliamentary elections generally see PARA 355 et seq post.

3 Representation of the People Act 1983 Sch 1 r 1 (as amended: see note 1 supra).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(i) Initiating a Parliamentary Election/C. WRITS AND NOTICE OF PARLIAMENTARY ELECTION/203. Notice of election at parliamentary election.

203. Notice of election at parliamentary election.

Not later than 4 pm on the second day after that on which the writ for a parliamentary general election or parliamentary by-election is received¹, the returning officer² must publish notice of the election³. The notice must state: (1) the place and times at which nomination papers are to be delivered⁴ and that forms of nomination papers may be obtained at that place and those times⁵; (2) the date of the poll in the event of a contest⁶; (3) the date by which⁷ applications to vote by post or by proxy⁸ and other applications and notices about postal or proxy voting⁹ must reach the electoral registration officer in order that they may be effective for the election¹⁰; and (4) the arrangements which apply for the payment of the deposit¹¹ to be made by means of the electronic transfer of funds¹².

1 Representation of the People Act 1983 s 23(1), Sch 1 r 1. As to the conveyance of writs for parliamentary elections see PARA 201 ante.

In computing any period of time for the purposes of the timetable in Sch 1 r 1 (as amended), the following must be disregarded: (1) a Saturday or Sunday (Sch 1 r 2(1)(a)); (2) Christmas Eve, Christmas Day, Good Friday or a bank holiday (Sch 1 r 2(1)(b) (substituted by the Representation of the People Act 1985 s 19; and amended by the Electoral Administration Act 2006 ss 20, 74(2), Sch 1 paras 49, 52, Sch 2)); or (3) a day appointed for public thanksgiving or mourning (Representation of the People Act 1983 Sch 1 r 2(1)(c)). Any such day is not to be treated as a day for the purpose of any proceedings up to the completion of the poll nor is the returning officer obliged to proceed with the counting of the votes on such a day: Sch 1 r 2(1). For these purposes, 'bank holiday' means:

45 (a) in relation to a general election, a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom (see TIME vol 97 (2010) PARA 321);

46 (b) in relation to a by-election, a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in that part of the United Kingdom in which the constituency is situated,

but head (b) supra and not head (a) supra applies at a general election in relation to any proceedings commenced afresh by reason of a candidate's death and extending, by reason of riot or open violence, beyond the time laid down by the timetable in the Representation of the People Act 1983 Sch 1 r 1: Sch 1 r 2(2). For the meaning of 'United Kingdom' see PARA 13 note 1 ante. As to writs for by-elections see PARA 198 ante.

Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 49, 52 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. Accordingly, until that date, Maundy Thursday appears in the list of days excluded under the Representation of the People Act 1983 Sch 1 r 2(1)(b) (as substituted and amended).

2 As to returning officers for parliamentary elections generally see PARA 355 et seq post.

3 Representation of the People Act 1983 Sch 1 r 5(1) (amended by the Representation of the People Act 1985 ss 24, 28, Sch 4 para 74, Sch 5). As to the giving of public notices by a returning officer for a parliamentary election see PARA 356 post.

4 Representation of the People Act 1983 Sch 1 r 5(1)(a). As to the nomination of candidates at parliamentary elections see PARA 231 et seq post.

5 Ibid Sch 1 r 5(1).

6 Ibid Sch 1 r 5(1)(b). As to the date of the poll at a parliamentary election see PARA 202 ante.

7 le except in such circumstances as may be prescribed: *ibid* Sch 1 r 5(2) (amended by the Representation of the People Act 2000 s 15(1), Sch 6 paras 3, 10(1), (2)). 'Prescribed' means prescribed by regulations: Representation of the People Act 1983 s 202(1). At the date at which this volume states the law, no such regulations had been made under Sch 1 r 5 (as amended). As to the making of regulations under the Representation of the People Act 1983 generally see *PARA 24* note 16 *ante*.

8 *Ibid* Sch 1 r 5(2)(a) (amended by the Representation of the People Act 1985 s 11, Sch 2 para 4). As to applications to vote by post or by proxy see *PARA 372* *et seq post*.

9 Representation of the People Act 1983 Sch 1 r 5(2)(b).

10 *Ibid* Sch 1 r 5(2).

11 le the deposit required by *ibid* Sch 1 r 9 (as amended) (see *PARA 266 post*).

12 *Ibid* Sch 1 r 5(1A) (added by the Electoral Administration Act 2006 s 19(1), (3)). Any amendment effected by the Electoral Administration Act 2006 s 19 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. Accordingly, until that date, head (4) in the text is omitted.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(ii) Initiating a Local Government Election /A. ORDINARY ELECTIONS/204. Ordinary election of councillors for local government principal areas.

(ii) Initiating a Local Government Election

A. ORDINARY ELECTIONS

204. Ordinary election of councillors for local government principal areas.

In England¹: (1) county councillors are elected every four years² and serve a four-year term, retiring on the fourth day after the election of their successors³; (2) metropolitan district councillors⁴, elected in every year other than a year of election of county councillors⁵, serve a four-year term, and one-third of the whole number of councillors in each ward, being those who have been councillors for the longest time without re-election, retire in every ordinary year of election of such councillors on the fourth day after the day of the election⁶; and (3) non-metropolitan district councillors⁷ must be elected either by a system of whole-council elections in which all councillors retire simultaneously⁸ or by a system of election by thirds⁹ and, in either case, the term of office is four years¹⁰. In the case of a district having whole-council elections the years of election are every fourth year¹¹ while, in the case of a district having elections by thirds, the elections take place in the year when the order for that type of election comes into force and in every year thereafter not being a county council election year¹². Where whole-council elections are in force, the non-metropolitan district councillors retire simultaneously in every ordinary year of election of such councillors on the fourth day after the ordinary day of election¹³. Where election by thirds is in force, one-third of the non-metropolitan district councillors, being those who have served longest without re-election, retire in every ordinary year of election of such councillors on the fourth day after the ordinary day of election¹⁴. The ordinary elections of London borough councillors¹⁵ take place at four-yearly intervals¹⁶. The term of office of London borough councillors is four years; the councillors retire together in every fourth year on the fourth day after the ordinary day of election¹⁷. If a municipal election in a London borough is not held on the appointed day or within the appointed time or becomes void, the municipal corporation is not thereby dissolved or disabled from acting¹⁸.

In Wales¹⁹, the ordinary elections of councillors of principal councils²⁰ take place in every fourth year²¹. The term of office of every such councillor is four years²², and the persons who were councillors immediately before any ordinary election retire on the fourth day after the election²³.

In all cases newly-elected councillors come into office on the day on which their predecessors retire²⁴.

1 For the meaning of 'England' see PARA 13 note 1 ante. As to the establishment of electoral areas for the purpose of local government elections in England see PARA 73 ante.

2 County councillors were elected in 1973 and are elected in every fourth year thereafter. As to counties in England see LOCAL GOVERNMENT vol 69 (2009) PARA 24 et seq. Consequent on the abolition of metropolitan councils in England by the Local Government Act 1985, such elections take place only in non-metropolitan counties: see LOCAL GOVERNMENT vol 69 (2009) PARA 17.

3 See the Local Government Act 1972 s 7(1); and LOCAL GOVERNMENT vol 69 (2009) PARA 128.

4 As to districts in England see LOCAL GOVERNMENT vol 69 (2009) PARA 24.

- 5 See the Local Government Act 1972 s 7(2) (as amended), which specifies that the elections are to take place in every year other than 1977 and every fourth year thereafter. See further LOCAL GOVERNMENT vol 69 (2009) PARA 129.
- 6 See *ibid* s 7(3); and LOCAL GOVERNMENT vol 69 (2009) PARA 129.
- 7 For the meaning of 'non-metropolitan district' see LOCAL GOVERNMENT vol 69 (2009) PARA 24.
- 8 See the Local Government Act 1972 s 7(4)(a); and LOCAL GOVERNMENT vol 69 (2009) PARA 130.
- 9 See *ibid* s 7(4)(b); and LOCAL GOVERNMENT vol 69 (2009) PARA 130. A council may request the Secretary of State to provide for one of these alternatives: see s 7(4).
- 10 See *ibid* s 7(9)(a); and LOCAL GOVERNMENT vol 69 (2009) PARA 130.
- 11 See *ibid* s 7(8)(a); and LOCAL GOVERNMENT vol 69 (2009) PARA 130. Such elections took place in 1979 and have taken place at four-yearly intervals thereafter.
- 12 See *ibid* s 7(8)(b); and LOCAL GOVERNMENT vol 69 (2009) PARA 130.
- 13 See *ibid* s 7(9)(b); and LOCAL GOVERNMENT vol 69 (2009) PARA 130.
- 14 See *ibid* s 7(9)(c). Where the number of councillors in a non-metropolitan district ward is not divisible by three and where election by thirds operates, as nearly as may be one-third of the councillors, being those who have served longest without re-election, are to retire: see s 7(9)(c). See further LOCAL GOVERNMENT vol 69 (2009) PARA 130.
- 15 As to London boroughs see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 30.
- 16 See the Local Government Act 1972 s 8(1) (as amended), Sch 2 para 6(3) (as amended); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 38. Such elections took place in 1974 and take place at four-yearly intervals thereafter.
- 17 See *ibid* Sch 2 para 6(3) (as amended); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 38.
- 18 See the Representation of the People Act 1983 s 39(9); and PARA 673 post.
- 19 For the meaning of 'Wales' see PARA 13 note 1 ante. As to the establishment of electoral areas for the purpose of local government elections in Wales see PARA 73 ante.
- 20 For the meaning of 'principal council' see LOCAL GOVERNMENT vol 69 (2009) PARA 23.
- 21 See the Local Government Act 1972 s 26(1) (as substituted and amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 131. Such elections took place in 2004 and are to take place at four-yearly intervals thereafter.
- 22 See *ibid* s 26(2) (as substituted); and LOCAL GOVERNMENT vol 69 (2009) PARA 131.
- 23 See *ibid* s 26(3)(a) (as substituted); and LOCAL GOVERNMENT vol 69 (2009) PARA 131.
- 24 See *ibid* ss 7(1), (3), (9)(b), (c), 26(3)(b) (as substituted), Sch 2 para 6(3) (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARAS 128-131; LONDON GOVERNMENT vol 29(2) (Reissue) PARA 38.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(ii) Initiating a Local Government Election /A. ORDINARY ELECTIONS/205. Ordinary election of local authority mayor or executive members.

205. Ordinary election of local authority mayor or executive members.

The Secretary of State¹ may by regulations make provision²: (1) as to the dates on which and years in which elections for the return of elected mayors or elected executive members may or must take place³; (2) as to the intervals between elections for the return of elected mayors or elected executive members⁴; and (3) as to the term of office of elected mayors or elected executive members⁵. Subject to head (3) above, the term of office of an elected mayor or elected executive member is generally to be four years⁶.

Accordingly, in the case of a metropolitan district council⁷ or of a non-metropolitan district council⁸ whose area is not comprised in the area of a county council and whose councillors are elected by thirds⁹, the election for the return of an elected mayor takes place¹⁰ on the ordinary day of election¹¹ in the year in which no ordinary election of councillors of that authority is held which next occurs after the end of the period of 23 months beginning with the date on which the first election for the return of an elected mayor of that authority took place¹². In the case of other authorities whose first elected mayor came into office in the month of May or October, the election for the return of an elected mayor takes place on the ordinary day of election in such year which occurs after the end of the period of 23 months beginning with the date on which the first election took place and not later than the fifth year (where the first elected mayor came into office in the month of May) or the sixth year (where the first elected mayor came into office in the month of October) after that in which the first election took place, as may be specified in or determined under the authority's executive arrangements¹³. Special provision is made for elections held after a referendum has approved proposals to change executive arrangements¹⁴ and for elections after the second election held otherwise than in accordance with the above provisions¹⁵.

An individual elected as mayor at the first election comes into office on the fourth day after the election and, unless he resigns or otherwise ceases to hold office, holds office until the fourth day after the second election (when his successor comes into office)¹⁶. An individual elected as mayor at an election other than the first election comes into office on the day that his predecessor retires and, unless he resigns or otherwise ceases to hold office, holds office until his successor comes into office¹⁷.

1 As to the Secretary of State for these purposes see PARA 2 ante.

2 See the Local Government Act 2000 s 41; and LOCAL GOVERNMENT vol 69 (2009) PARA 320. As to the regulations made under s 41 see the Local Authorities (Elected Mayors) (Elections, Terms of Office and Casual Vacancies) (England) Regulations 2001, SI 2001/2544. At the date at which this volume states the law, no regulations had been made under the Local Government Act 2000 s 41 in relation to the return of executive members in England and Wales. For the meanings of 'elected executive member' and 'elected mayor' see LOCAL GOVERNMENT vol 69 (2009) PARA 320.

3 See *ibid* s 41(a); and LOCAL GOVERNMENT vol 69 (2009) PARA 320. As to the filling of vacancies in the office of elected mayor or elected executive member see PARA 210 post.

4 See *ibid* s 41(b); and LOCAL GOVERNMENT vol 69 (2009) PARA 320.

5 See *ibid* s 41(c); and LOCAL GOVERNMENT vol 69 (2009) PARA 320.

6 See *ibid* s 39(6); and LOCAL GOVERNMENT vol 69 (2009) PARA 322.

7 As to the election of metropolitan district councillors see PARA 204 ante.

8 As to the election of non-metropolitan district councillors see PARA 204 ante.

9 As to the election of councillors by thirds see PARA 204 ante.

10 Ie any election which takes place after the first election has been held in accordance with the Local Authorities (Elected Mayors) (Elections, Terms of Office and Casual Vacancies) (England) Regulations 2001, SI 2001/2544, reg 2. For these purposes, 'elected mayor', in relation to a local authority, means an individual elected as mayor of the authority by the local government electors for the authority's area in accordance with the provisions made by or under the Local Government Act 2000 Pt II (ss 10-48) (as amended) (arrangements with respect to executives etc: see LOCAL GOVERNMENT vol 69 (2009) PARA 303 et seq); and 'election', except in the Local Authorities (Elected Mayors) (Elections, Terms of Office and Casual Vacancies) (England) Regulations 2001, SI 2001/2544, reg 7 (see PARA 210 post), does not include an election to fill a casual vacancy: reg 1(3). The Local Authorities (Elected Mayors) (Elections, Terms of Office and Casual Vacancies) (England) Regulations 2001, SI 2001/2544, extend to England only, and therefore for the purposes of the regulations references to a local authority are references to a local authority in England: reg 1(2). For the meaning of 'England' see PARA 13 note 1 ante.

11 For these purposes, the 'ordinary day of election', in relation to any year, means the day in that year on which, in accordance with the Representation of the People Act 1983 s 37 (as amended) (see PARA 213 post), councillors are elected for local government areas: Local Authorities (Elected Mayors) (Elections, Terms of Office and Casual Vacancies) (England) Regulations 2001, SI 2001/2544, reg 1(3).

12 See *ibid* reg 3(1), (2).

13 See *ibid* reg 3(3)-(5).

14 See *ibid* reg 4.

15 Ie elections other than elections held under *ibid* regs 2-4 (see the text and notes 7-14 *supra*): see reg 5.

16 See *ibid* reg 6(1). This is subject to the provisions of reg 6(3)-(5) which deal with circumstances where a referendum approves proposals for different arrangements involving an elected mayor to those already existing (reg 6(3)), where a referendum approves proposals for different arrangements that do not involve an elected mayor or for alternative arrangements (reg 6(4)), or where the majority of the votes cast in a further referendum are 'no' votes (reg 6(5)). 'Further referendum' means a referendum held in pursuance of the order of an election court under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(3) (determination of referendum petitions, and subsequent procedures: see PARA 864 post); and 'referendum' means a referendum held under the Local Government Act 2000 s 27 (referendum in case of proposals involving elected mayor: see LOCAL GOVERNMENT vol 69 (2009) PARA 314), or by virtue of regulations or an order made under any provision of Pt II (as amended), other than a further referendum: Local Authorities (Elected Mayors) (Elections, Terms of Office and Casual Vacancies) (England) Regulations 2001, SI 2001/2544, reg 1(3). For these purposes, 'different arrangements' and 'existing arrangements' have the same meanings as in the Local Government Act 2000 s 30 (operation of different executive arrangements: see LOCAL GOVERNMENT vol 69 (2009) PARA 311): Local Authorities (Elected Mayors) (Elections, Terms of Office and Casual Vacancies) (England) Regulations 2001, SI 2001/2544, reg 1(3). As to executive and alternative arrangements and referendums for the approval of such arrangements generally see LOCAL GOVERNMENT vol 69 (2009) PARA 303 et seq.

17 See *ibid* reg 6(2). This is subject to reg 6(3)-(5): see note 16 *supra*.

UPDATE

205 Ordinary election of local authority mayor or executive members

NOTE 16--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(ii) Initiating a Local Government Election /A. ORDINARY ELECTIONS/206. London mayoral or Assembly ordinary elections.

206. London mayoral or Assembly ordinary elections.

The Mayor of London¹ and members of the London Assembly² are returned in accordance with provision made in or by virtue of the Greater London Authority Act 1999 for the holding of ordinary elections³ of the Mayor, the constituency members and the London members⁴. The term of office of the Mayor and Assembly members returned at an ordinary election begins on the second day after the day on which the last of the successful candidates at the ordinary election is declared to be returned⁵ and ends on the second day after the day on which the last of the successful candidates at the next ordinary election is declared to be returned⁶.

The poll at each ordinary Authority election is held in the fourth calendar year following that in which the previous ordinary election was held⁷.

1 As to the Mayor of London see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 81.

2 As to the London Assembly see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 82; as to constituency members of the London Assembly see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 92; and as to London members of the London Assembly see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 97.

3 An ordinary election involves the holding of an election for the return of the Mayor, an election for the return of the London members and elections for the return of the constituency members: see the Greater London Authority Act 1999 s 2(7); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 89.

4 See *ibid* s 2(6)(a); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 100. As to the filling of vacancies arising in the office of Mayor of London or in membership of the London Assembly see PARA 211 post.

5 See *ibid* s 2(8)(a); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 100.

6 See *ibid* s 2(8)(b); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 100.

7 See *ibid* s 3(2). The poll at the first ordinary election was held on 4 May 2000 but provision was made for the Secretary of State to provide for a later date by order: see s 3(1). See further PARA 213 post; and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 89.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(ii) Initiating a Local Government Election /A. ORDINARY ELECTIONS/207. Election of councillors for parish or community councils and of chairman for parish meetings.

207. Election of councillors for parish or community councils and of chairman for parish meetings.

The ordinary elections of parish¹ and community² councillors take place at four-yearly intervals³. Their term of office is four years⁴. The number of parish councillors for each parish must not be less than five⁵. The whole number of parish or community councillors retire together in every ordinary year of election of such councillors on the fourth day after the ordinary day of election, and the newly elected councillors come into office on the day on which their predecessors retire⁶. Where, at an ordinary election of parish or community councillors, an insufficient number of persons is or remains validly nominated⁷ to fill the vacancies in respect of which the election is held⁸, then, unless the number of newly elected members of the council in question is less than the number that constitutes a quorum for meetings of the council⁹, those members may co-opt any person or persons to fill the vacancy or vacancies remaining unfilled¹⁰. In relation to any vacancy or vacancies that are not so filled, the district council¹¹ or, in the case of a community council, the county council or county borough council¹² may by order make any appointment or do anything which appears to it necessary or expedient for the proper holding of an election of a parish or community councillor or councillors or the first meeting of a parish or community council after an ordinary election of parish or community councillors and properly constituting the council, and may, if it appears necessary, direct the holding of an election or meeting and fix the date for it¹³. These powers must not be exercised before the expiry of the period of 35 days¹⁴ beginning with the day on which the election is held¹⁵.

In a parish not having a separate parish council, the chairman of a parish meeting is elected at its annual assembly and continues in office until his successor is elected¹⁶. A poll may be demanded before the conclusion of a parish or community meeting on any question arising¹⁷ and, in the case of a parish meeting, such a question may involve appointment to any office¹⁸.

1 As to parishes generally see LOCAL GOVERNMENT vol 69 (2009) PARA 27 et seq.

2 As to communities generally see LOCAL GOVERNMENT vol 69 (2009) PARA 41 et seq.

3 See the Local Government Act 1972 s 16(3), s 35(2) (as substituted and amended); and LOCAL GOVERNMENT vol 69 (2009) PARAS 132-133. Such parish elections took place in 1979 and take place at four-yearly intervals thereafter; and such community elections took place in 2004 and are to take place at four-yearly intervals thereafter.

4 See *ibid* s 16(3), s 35(2A) (as substituted); and LOCAL GOVERNMENT vol 69 (2009) PARAS 132-133.

5 See *ibid* s 16(1) (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 33. There is no provision corresponding to this in respect of community councillors.

6 See *ibid* s 16(3), s 35(2B) (as substituted); and LOCAL GOVERNMENT vol 69 (2009) PARAS 132-133.

7 As to the procedure where a poll is not necessary see PARA 481 post.

8 Representation of the People Act 1985 s 21(1). As to the filling of casual vacancies in parish or community councils see PARA 212 post.

9 *Ibid* s 21(2). Subject to the provision which applies where more than one-third of the members of a local authority become disqualified at the same time (see the Local Government Act 1972 s 99 (as amended), Sch 12 para 45; and LOCAL GOVERNMENT vol 69 (2009) PARA 630), no business may be transacted at a meeting of a parish

or community council unless at least one-third of the whole number of members are present; but notwithstanding anything in that provision in no case may the quorum be less than three: see Sch 12 paras 12, 28; and LOCAL GOVERNMENT vol 69 (2009) PARA 634.

10 Representation of the People Act 1985 s 21(2)(a).

11 As to the council of a district in England see LOCAL GOVERNMENT vol 69 (2009) PARA 24 et seq. In the case of a common parish council under which are grouped, by virtue of the Local Government Act 1972 s 11(5) (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 29), parishes situated in different districts, the reference to the district council is to be construed as a reference to the council of the district in which there is the greater number of local electors for the parishes in the group: Representation of the People Act 1983 s 39(7); applied by the Representation of the People Act 1985 s 21(3).

12 Ibid s 21(2)(b) (amended by the Local Government (Wales) Act 1994 s 66(6), (8), Sch 16 para 74(2), Sch 18). As to the council of a county or county borough in Wales see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq.

13 Representation of the People Act 1983 s 39(4) (amended by the Local Government (Wales) Act 1994 Sch 16 para 68(11)); applied by the Representation of the People Act 1985 s 21(2)(b) (as amended: see note 12 supra).

14 The Representation of the People Act 1983 s 40(3) applies for the purposes of computing this period of 35 days as it applies for the purposes of s 39(1) (as amended) (see PARA 216 note 7 post): Representation of the People Act 1985 s 21(3).

15 Ibid s 21(2). The duty of the returning officer under the Representation of the People Act 1983 s 39(1) (as amended) (see PARA 216 post) to order an election is disapplied: Representation of the People Act 1985 s 21(2) (c).

16 See the Local Government Act 1972 s 15(10); and LOCAL GOVERNMENT vol 69 (2009) PARA 146. In a parish having a separate parish council the chairman of the parish council, if present, presides at a parish meeting and if he is absent the vice-chairman (if any), if present, presides: see s 99 (as amended), Sch 12 para 17(1); and LOCAL GOVERNMENT vol 69 (2009) PARA 637. In a parish which does not have a separate parish council the chairman chosen for the year in question under s 15(10) or s 88(3) (filling of casual vacancy: see LOCAL GOVERNMENT vol 69 (2009) PARA 148), if present, presides: see Sch 12 para 17(2); and LOCAL GOVERNMENT vol 69 (2009) PARA 637. If the chairman and the vice-chairman of the parish council or the chairman of the parish meeting, as the case may be, is absent from an assembly of the parish meeting, the parish meeting may appoint a person to take the chair, and that person has, for the purposes of that meeting, the powers and authority of the chairman: see Sch 12 para 17(3); and LOCAL GOVERNMENT vol 69 (2009) PARA 637. As to community meetings see ss 27, 32 (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 46. In a community for which there is a community council, the chairman of the council, if present, presides at a community meeting (see Sch 12 para 33(1); and LOCAL GOVERNMENT vol 69 (2009) PARA 637); and in any other case a community meeting appoints a person to be chairman at that meeting (see Sch 12 para 33(2); and LOCAL GOVERNMENT vol 69 (2009) PARA 637).

17 See ibid Sch 12 paras 18, 34 (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 638. As to polls consequent on a parish or community meeting on a question not involving appointment to office see PARA 558 et seq post.

18 See PARA 214 et seq post; and see further LOCAL GOVERNMENT vol 69 (2009) PARA 638. There is no provision corresponding to this in respect of community meetings.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(ii) Initiating a Local Government Election /A. ORDINARY ELECTIONS/208. Insufficient nominations at ordinary election of parish and community councillors.

208. Insufficient nominations at ordinary election of parish and community councillors.

Where, at an ordinary election of parish or community councillors¹, an insufficient number of persons is or remains validly nominated² to fill the vacancies in respect of which the election is held³, then, unless the number of newly elected members of the council in question is less than the number that constitutes a quorum for meetings of the council⁴, those members may co-opt any person or persons to fill the vacancy or vacancies remaining unfilled⁵. In relation to any vacancy or vacancies that are not so filled, the district council⁶ or, in the case of a community council, the county council or county borough council⁷ may by order make any appointment or do anything which appears to it necessary or expedient for the proper holding of an election of a parish or community councillor or councillors or the first meeting of a parish or community council after an ordinary election of parish or community councillors and properly constituting the council⁸, and may, if it appears necessary, direct the holding of an election or meeting and fix the date for it⁹. The powers in relation to the holding of an election or meeting¹⁰ must not be exercised before the expiry of the period of 35 days¹¹ beginning with the day on which the election is held¹².

1 As to the ordinary elections of parish or community councillors see PARA 207 ante. As to parishes generally see LOCAL GOVERNMENT vol 69 (2009) PARA 27 et seq; and as to communities generally see LOCAL GOVERNMENT vol 69 (2009) PARA 41 et seq.

2 As to the procedure where a poll is not necessary see PARA 481 post.

3 Representation of the People Act 1985 s 21(1).

4 Subject to the provision which applies where more than one-third of the members of a local authority become disqualified at the same time (see the Local Government Act 1972 s 99, Sch 12 para 45; and LOCAL GOVERNMENT vol 69 (2009) PARA 630), no business may be transacted at a meeting of a parish or community council unless at least one-third of the whole number of members are present; but notwithstanding anything in that provision in no case may the quorum be less than three: see Sch 12 paras 12, 28; and LOCAL GOVERNMENT vol 69 (2009) PARA 634.

5 Representation of the People Act 1985 s 21(2)(a).

6 As to the council of a district in England see LOCAL GOVERNMENT vol 69 (2009) PARA 24 et seq. In the case of a common parish council under which are grouped, by virtue of the Local Government Act 1972 s 11(5) (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 29), parishes situated in different districts, the reference to the district council is to be construed as a reference to the council of the district in which there is the greater number of local electors for the parishes in the group: Representation of the People Act 1983 s 39(7); applied by the Representation of the People Act 1985 s 21(3).

7 As to the council of a county or county borough in Wales see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq.

8 Representation of the People Act 1983 s 39(4)(i); applied by the Representation of the People Act 1985 s 21(2)(b) (amended by the Local Government (Wales) Act 1994 s 66(6), (8), Sch 16 para 74(2), Sch 18).

9 Representation of the People Act 1983 s 39(4)(ii); applied by the Representation of the People Act 1985 s 21(2)(b) (as amended: see note 8 supra).

10 Ie the powers in ibid s 21(2)(b) (as amended).

11 The period of 35 days is to be computed in accordance with the Representation of the People Act 1983 s 40 (as amended) (see PARA 216 note 7 post): Representation of the People Act 1985 s 21(2). The Representation of the People Act 1983 s 40(3) applies for the purposes of the Representation of the People Act 1985 s 21(2) (as amended) as it applies for the purposes of the Representation of the People Act 1983 s 39(1) (as amended) (see PARA 216 note 7 post): Representation of the People Act 1985 s 21(3).

12 Ibid s 21(2). The duty of the returning officer under the Representation of the People Act 1983 s 39(1) (as amended) (see PARA 216 post) to order an election is also disapplied: Representation of the People Act 1985 s 21(2)(c).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(ii) Initiating a Local Government Election /B. FILLING OF VACANCIES/209. Vacancies in the office of councillor for a principal area.

B. FILLING OF VACANCIES

209. Vacancies in the office of councillor for a principal area.

On a casual vacancy¹ occurring in the office of a councillor for any principal area², an election to fill the vacancy must be held³, in a case in which the High Court or the council has declared the office to be vacant⁴, within 35 days from the date of the declaration⁵, and in any other case within 35 days after written notice of the vacancy has been given to the proper officer⁶ of the authority by two local government electors for the area⁷.

Where a casual vacancy occurs within six months before the day on which the councillor whose office is vacant would regularly have retired, an election is not to be held to fill the vacancy, unless on the occurrence of the vacancy (or in the case of a number of simultaneous vacancies, the occurrence of the vacancies) the total number of unfilled vacancies in the membership of the council exceeds one-third of the whole number of members; where an election is not held, the vacancy is filled at the next ordinary election⁸.

Where more than one casual vacancy in the office of councillor of a district in which councillors are elected by thirds is filled at the same election⁹, the person elected by the smallest number of votes is deemed to be elected in place of the councillor who would regularly have first retired, and the person elected by the next smallest number of votes is deemed to be elected in place of the councillor who would regularly have next retired, and so with respect to the others; and if there has not been a contested election, or if any doubt arises, the order of retirement is determined by lot¹⁰.

Where an election to fill one or more casual vacancies in the office of councillor of a district in which councillors are elected by thirds is combined with an ordinary election of councillors¹¹, and the election is contested, the persons who are elected by the smallest number of votes are deemed elected to fill the casual vacancies¹²; in the case of an equality of votes between the persons who are elected by the smallest number of votes, the persons who are elected to fill the casual vacancies are determined by lot¹³. If the persons elected to fill the casual vacancies will hold office for different periods, the person elected by the smallest number of votes, or, if the votes are equal, such person as is determined by lot, holds office for the shorter period¹⁴. Where the election is not contested, those declared elected (if fewer than the vacancies to be filled) are deemed elected to fill the vacancies in which they will hold office for the longest periods¹⁵. Where there are two or more persons declared elected and they are to fill vacancies in which they will hold office for different periods, any retiring councillors elected are deemed elected to fill the vacancies in which they will hold office for the longest period; the question which of the persons declared elected who are not retiring councillors is to be deemed elected to fill any of the vacancies not filled by retiring councillors must be determined by lot¹⁶.

Where any question is required to be determined by lot in this way¹⁷, then, in the case of a contested election, the lot must be drawn by the returning officer immediately after the question has arisen¹⁸. In any other case, the lot must be drawn at the next meeting of the council after the question has arisen and the drawing must be conducted under the direction of the person presiding at the meeting¹⁹.

A person elected or appointed in England or Wales to fill any casual vacancy holds office until the date upon which the person in whose place he is elected or appointed would regularly have retired, and he must then retire²⁰.

1 As to the date on which such a vacancy is deemed to have occurred and as to the public notice of such a vacancy that must be given see the Local Government Act 1972 s 87 (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 299.

2 For the meaning of 'principal area' see LOCAL GOVERNMENT vol 69 (2009) PARA 23.

3 Local Government Act 1972 s 89(1).

4 As to such declarations see LOCAL GOVERNMENT vol 69 (2009) PARAS 298, 301.

5 Local Government Act 1972 s 89(1)(a) (amended by the Representation of the People Act 1985 s 19(6)(c)). The period of time referred to in the text is to be computed in accordance with the Local Government Act 1972 s 243(4) (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 128): s 89(1)(a). In computing the period of 35 days, a Saturday, Sunday, Christmas Eve, Christmas Day, Good Friday or bank holiday or a day appointed for public thanksgiving or mourning is to be disregarded: see s 243(1), (4) (s 243(1) modified for the purposes of s 243(4) by the Representation of the People Act 1985 s 19(6)(b) (amended by the Electoral Administration Act 2006 ss 20, 74(2), Sch 1 paras 49, 53, Sch 2); and the Local Government Act 1972 s 243(4) amended by the Representation of the People Act 1983 s 206, Sch 9 Pt II; and by the Statute Law (Repeals) Act 1995). Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 49, 53 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. Accordingly, until that date, Maundy Thursday appears in the list of days excluded by the Representation of the People Act 1985 s 19(6)(b).

6 For the meaning of 'proper officer' see LOCAL GOVERNMENT vol 69 (2009) PARA 431.

7 Local Government Act 1972 s 89(1)(b) (amended by the Representation of the People Act 1985 s 19(6)(c)). As to fixing the day of election see PARA 215 post.

8 Local Government Act 1972 s 89(3).

9 As to elections where councillors are elected by thirds at the same election see PARA 204 ante. As to districts in England see LOCAL GOVERNMENT vol 69 (2009) PARA 24.

10 Local Government Act 1972 s 89(4).

11 As to combined polls at elections generally see PARA 16 et seq ante.

12 Local Government Act 1972 s 89(5)(a)(i).

13 Ibid s 89(5)(a)(i).

14 Ibid s 89(5)(a)(ii).

15 Ibid s 89(5)(b)(i).

16 Ibid s 89(5)(b)(ii).

17 Ie under ibid s 89 (as amended).

18 Ibid s 89(7)(a).

19 Ibid s 89(7)(b).

20 Ibid s 90 (amended by the Local Government Act 1985 s 84, Sch 14 para 11; the Education Reform Act 1988 s 237, Sch 13 Pt I; and the Statute Law (Repeals) Act 2004).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(ii) Initiating a Local Government Election /B. FILLING OF VACANCIES/210. Vacancies in the office of elected mayor or elected executive member.

210. Vacancies in the office of elected mayor or elected executive member.

The Secretary of State¹ may by regulations make provision² as to the filling of vacancies in the office of elected mayor or elected executive member³.

Accordingly, on a casual vacancy occurring in the office of elected mayor⁴, an election to fill the vacancy must be held: (1) in a case in which the High Court or the local authority has declared the office to be vacant⁵, within 35 days from the date of the declaration⁶; or (2) in any other case, within 35 days⁷ after notice in writing of the vacancy has been given to the proper officer of the authority by two local government electors for the area⁸. However, a casual vacancy in the office of elected mayor: (a) must not be filled if the authority is then to adopt different arrangements⁹ (whether or not they involve an elected mayor) or alternative arrangements¹⁰; and (b) if it occurs within six months before the day on which the elected mayor would have retired, must be filled at the next ordinary election for the return of an elected mayor¹¹.

A person elected to fill a casual vacancy in the office of elected mayor holds office until the date on which the person in whose place he is elected would have retired¹², and he must then retire¹³.

1 As to the Secretary of State for these purposes see PARA 2 ante.

2 See the Local Government Act 2000 s 41; and LOCAL GOVERNMENT vol 69 (2009) PARA 320.

3 See *ibid* s 41(d); and LOCAL GOVERNMENT vol 69 (2009) PARA 320. As to the regulations made under s 41 see the Local Authorities (Elected Mayors) (Elections, Terms of Office and Casual Vacancies) (England) Regulations 2001, SI 2001/2544. However, at the date at which this volume states the law, no regulations had been made under the Local Government Act 2000 s 41 either in relation to the return of executive members in England and Wales or in relation to the return of elected mayors in Wales. For the meanings of 'elected executive member' and 'elected mayor' generally see LOCAL GOVERNMENT vol 69 (2009) PARA 320.

4 For the meaning of 'elected mayor' for these purposes see PARA 205 note 10 ante. As to the date on which such a vacancy is to be taken to have occurred see the Local Authorities (Elected Mayors) (Elections, Terms of Office and Casual Vacancies) (England) Regulations 2001, SI 2001/2544, reg 8(1); and as to the giving of public notice of such a vacancy see reg 8(2).

5 As to such declarations see LOCAL GOVERNMENT vol 69 (2009) PARAS 298, 301.

6 Local Authorities (Elected Mayors) (Elections, Terms of Office and Casual Vacancies) (England) Regulations 2001, SI 2001/2544, reg 7(1)(a). The day of election under reg 7(1) must be fixed by the returning officer and in computing a period for that purpose the following must be disregarded: (1) a Saturday or Sunday (reg 7(3)(a)); (2) Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England (see TIME vol 97 (2010) PARA 321) (Local Authorities (Elected Mayors) (Elections, Terms of Office and Casual Vacancies) (England) Regulations 2001, SI 2001/2544, reg 7(3)(b)); and (3) any day appointed as a day of public thanksgiving or mourning (reg 7(3)(c)). Where, between the giving of a notice of the poll and the completion of the poll, a day is declared to be a bank holiday or day of public thanksgiving or mourning, reg 7(3) does not operate to invalidate any act which would have been valid apart from that provision: reg 7(4). For the meaning of 'England' see PARA 13 note 1 ante.

7 As to the calculation of time see note 6 *supra*.

8 Local Authorities (Elected Mayors) (Elections, Terms of Office and Casual Vacancies) (England) Regulations 2001, SI 2001/2544, reg 7(1)(b). As to references to the local authority for these purposes see PARA 205 note 10 ante.

9 For the meaning of 'different arrangements' see PARA 205 note 16 ante.

10 Local Authorities (Elected Mayors) (Elections, Terms of Office and Casual Vacancies) (England) Regulations 2001, SI 2001/2544, reg 7(2)(a). As to executive and alternative arrangements generally see LOCAL GOVERNMENT vol 69 (2009) PARA 303 et seq.

11 Ibid reg 7(2)(b). The text refers to the election held on the day determined by reference to the applicable provision of reg 3 or, as the case may be, reg 5 (see PARA 205 ante).

12 Ie in accordance with ibid reg 6 (see PARA 205 ante).

13 Ibid reg 9.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(ii) Initiating a Local Government Election /B. FILLING OF VACANCIES/211. Vacancies arising in the office of Mayor of London or in membership of the London Assembly.

211. Vacancies arising in the office of Mayor of London or in membership of the London Assembly.

Where a vacancy occurs in the office of Mayor of London¹ an election must be held to fill the vacancy². At the election to fill the vacancy each person entitled to vote as an elector³ at the election has a mayoral vote⁴. The date of the poll at the election is fixed by the Greater London returning officer⁵ and must be no later than 35 days⁶ after the date of the relevant event⁷. The term of office of the person returned as the Mayor at the election begins immediately upon his being declared to be returned as the Mayor⁹, and ends at the time when it would have ended had he been returned as the Mayor at the previous ordinary election¹⁰.

Where the office of an Assembly member¹¹ returned for an Assembly constituency¹² is vacant¹³ an election must be held in the Assembly constituency to fill the vacancy¹⁴. At the election to fill the vacancy, each person entitled to vote at the election has a constituency vote¹⁵, and the Assembly member for the Assembly constituency is returned under the simple majority system¹⁶. The date of the poll at the election is fixed by the constituency returning officer¹⁷ and must be no later than 35 days¹⁸ after the date of the relevant event¹⁹. A person may not be a candidate at an election to fill a vacancy if he is the Mayor of London²⁰, an Assembly member²¹, or a candidate in another such election²². The term of office of the person returned at the election begins immediately upon his being declared to be returned as the constituency member²³, and ends at the time when it would have ended had he been returned as the constituency member at the previous ordinary election²⁴.

Where the office of a London member²⁵ who was returned as an individual candidate²⁶ is vacant, the vacancy must remain unfilled until the next ordinary election²⁷. Where the office of a London member who was returned from a registered political party's list²⁸ is vacant, the Greater London returning officer must notify the Chair of the London Assembly²⁹ of the name of the person who is to fill the vacancy³⁰. As soon as practicable after the Greater London returning officer has identified the person who is to fill the vacancy, he must invite him to attend at his office to sign the declaration of acceptance of office³¹. Where a person's name has been notified³², his term of office as a London member begins on the day on which the notification is received³³ and ends at the time when it would have ended had he been returned as a London member at the previous ordinary election³⁴. Where a vacancy in the office of a London member who was returned from a registered political party's list is not so filled³⁵, the vacancy must remain unfilled until the next ordinary election³⁶.

1 See the Greater London Authority Act 1999 s 16(1); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 127. As to the Mayor of London see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 81; as to notice to be given regarding a vacancy in the office of Mayor of London see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 116; as to the circumstances in which vacancies in the office of Mayor may arise see LONDON GOVERNMENT vol 29(2) (Reissue) PARAS 117-122; and as to provision made for an acting Mayor during a vacancy in the office of Mayor of London see LONDON GOVERNMENT vol 29(2) (Reissue) PARAS 123-126.

2 See *ibid* s 16(2); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 127. The requirement to hold an election is subject to the proviso that, if the vacancy occurs within the period of six months preceding an ordinary election, it must be left unfilled until that election: see s 16(9). As to London mayoral and Assembly ordinary elections see PARA 206 *ante*. A vacancy may arise in an Assembly constituency if a person who is a candidate in an election to fill a vacancy in the office of Mayor is also a candidate in an election to fill a vacancy in an

Assembly constituency and that person is returned in both elections: see s 16(10); and the text and notes 11-24 *infra*. As to the establishment of London Assembly constituencies see PARA 74 *ante*.

3 For the meaning of 'elector' see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 85.

4 See the Greater London Authority Act 1999 s 16(3); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 127. For the meaning of 'mayoral vote' see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 90.

5 See *ibid* s 16(5); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 127. For the meaning of 'Greater London returning officer' see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 98.

6 The Local Government Act 1972 s 243(4) (as amended) (computation of time for electoral purposes) applies for the purpose of computing the period of 35 days referred to in the Greater London Authority Act 1999 s 16(6) as it applies for the purposes of the Local Government Act 1972 s 89(1) (as amended) (see PARA 209 note 5 *ante*): see the Greater London Authority Act 1999 s 16(8).

7 See *ibid* s 16(6); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 127. For this purpose, the 'relevant event' means: (1) in a case where the High Court or the proper officer of the Greater London Authority has declared the office to be vacant (see LONDON GOVERNMENT vol 29(2) (Reissue) PARAS 118, 121), the making of that declaration (see s 16(7)(a)); or (2) in any other case, the giving of notice of the vacancy to the proper officer of the Authority by two or more local government electors for Greater London (see s 16(7)(b)). For the meanings of 'notice' and 'proper officer' see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 83. For the meanings of 'local government elector' and 'elector' see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 85.

9 See *ibid* s 16(11)(a); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 127.

10 See *ibid* s 16(11)(b); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 127.

11 For the meaning of 'Assembly member' see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 82.

12 As to elections for the return of constituency members of the London Assembly see PARA 206 *et seq ante*.

13 See the Greater London Authority Act 1999 s 10(1); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 114. As to the London Assembly see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 82; as to notice to be given regarding a vacancy in membership of the London Assembly see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 106; and as to the circumstances in which vacancies in membership of the London Assembly may arise see LONDON GOVERNMENT vol 29(2) (Reissue) PARAS 107-113.

14 See *ibid* s 10(2); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 114. The requirement to hold an election is subject to the proviso that if the vacancy occurs within the period of six months preceding an ordinary election, it must be left unfilled until that election unless, on the occurrence of the vacancy (or, in the case of a number of simultaneous vacancies, the occurrence of the vacancies) the total number of unfilled vacancies in the membership of the Assembly exceeds one-third of the whole number of Assembly members: see s 10(8), (9); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 114.

15 See *ibid* s 10(3)(a); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 114. For the meaning of 'constituency vote' see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 90.

16 See *ibid* s 10(3)(b); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 114. As to the voting systems used in balloting see PARAS 344-346 *post*.

17 See *ibid* s 10(4); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 114. As to the constituency returning officer see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 91.

18 The Local Government Act 1972 s 243(4) (as amended) (computation of time for electoral purposes) applies for the purpose of computing the period of 35 days referred to in the Greater London Authority Act 1999 s 10(5) as it applies for the purposes of the Local Government Act 1972 s 89(1) (as amended) (see PARA 209 note 5 *ante*): see the Greater London Authority Act 1999 s 10(7).

19 See *ibid* s 10(5); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 114. For this purpose, the 'relevant event' means: (1) in a case where the High Court or the proper officer of the Greater London Authority has declared the office to be vacant (see LONDON GOVERNMENT vol 29(2) (Reissue) PARAS 108, 112), the making of that declaration (see s 10(6)(a)); or (2) in any other case, the giving of notice of the vacancy to the proper officer of the Authority by two or more local government electors for the Assembly constituency concerned (see s 10(6)(b)).

20 See *ibid* s 10(10)(a); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 114.

- 21 See *ibid* s 10(10)(b); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 114.
- 22 See *ibid* s 10(10)(c); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 114.
- 23 See *ibid* s 10(11)(a); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 114. As to constituency members see LONDON GOVERNMENT vol 29(2) (Reissue) PARAS 82, 92 ante. As to elections for the return of constituency members see PARA 196 et seq ante.
- 24 See *ibid* s 10(11)(b); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 114.
- 25 As to London members of the London Assembly see LONDON GOVERNMENT vol 29(2) (Reissue) PARAS 82, 97.
- 26 As to individual candidates to be London members see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 99. As to elections for the return of London members of the London Assembly see PARA 206 et seq ante.
- 27 See the Greater London Authority Act 1999 s 11(1), (2); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 115.
- 28 le returned under *ibid* s 11 or s 4 (as amended), Sch 2 Pt II paras 5-8 (see LONDON GOVERNMENT vol 29(2) (Reissue) PARAS 98-99, 104). For the meaning of 'registered political party' see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 90. As to party lists see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 98.
- 29 As to the Chair of the Assembly see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 84.
- 30 See the Greater London Authority Act 1999 s 11(1), (3); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 115. As to the qualification requirements and disqualification for such a vacancy see ss 11(4)-(6), 20; and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 115.

As soon as the office of a London member who was returned from a registered party's list becomes vacant, the Greater London returning officer ('GLRO') must simultaneously give or send to the party's nominating officer and the person whose name would, in accordance with s 11(6) (and on the assumption that he satisfies the conditions in s 11(4)) (see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 115), be so notified, written notice (a 'paragraph (1) notice') of specified matters: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 2 r 56(1). The matters specified to be included in such a notice are: (1) the vacancy (Sch 2 r 56(2) (a)); (2) that the nominating officer may, by notice in writing delivered to the GLRO not later than one month after the date of the paragraph (1) notice, give the notice referred to in the Greater London Authority Act 1999 s 11(5)(b) (notice by party to the GLRO withdrawing a person's name as the person who is to fill the vacancy: see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 115) (Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 2 r 56(2)(b)); and (3) that the person must, by notice in writing delivered to the GLRO not later than one month after the date of the paragraph (1) notice, indicate: (a) that he is willing to serve as a London member ('notice of willingness') (Sch 2 r 56(2)(c)(i)); (b) that he is not willing to serve as a London member (Sch 2 r 56(2)(c)(ii)); or (c) that he is a dual candidate (Sch 2 r 56(2)(c)(iii)). The GLRO may not notify the Chair of the Assembly as mentioned in the Greater London Authority Act 1999 s 11(3) until: (i) the period mentioned in head (2) *supra* has elapsed (Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 56(3)(a)); and (ii) he has received a notice of willingness (Sch 2 r 56(3)(b)); and (iii) if the person by whom notice of willingness has been given is a dual candidate, the result of the election at which he is a mayoral or constituency member candidate has been declared (Sch 2 r 56(3)(c)).

Where a person whose name is for the time being included in a party list is elected (otherwise than at an ordinary election) either as the Mayor of London or as a constituency member, his name is removed from that list: Sch 2 r 55(1). For these purposes, the name of a person to whom Sch 2 r 55(1) applies is treated as ceasing to be included in the list from the date on which he is returned as the Mayor or a constituency member, as the case may be (even if his return is void): Sch 2 r 55(2).

For the purposes of Sch 2 Pt VII rr 54-58, 'nominating officer', in relation to a registered party and a vacancy in the office of a London member, means the person who holds that office in the party at the time at which the vacancy arises; and 'dual candidate' means a person whose name, subject to Sch 2 r 55 (removal from the party list on the candidate's election as the Mayor of London or as a constituency member), falls to be notified as mentioned in the Greater London Authority Act 1999 s 11(6) (see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 115) and who is a candidate (otherwise than at an ordinary election) for election as the Mayor of London or as a constituency member: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 54. Where the GLRO receives a notice under head (b) *supra* or the Greater London Authority Act 1999 s 11(5)(b), he must again send a paragraph (1) notice, but with the substitution, for the name of the person to whom the first such notice was sent, of the name of the person who, on the same assumption, would be the next person whose name would be notified in accordance with s 11(6); and so on until, in respect of such a person, no notice is given under s 11(5)(b) and a notice of willingness has been received: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 57.

31 Ibid Sch 2 r 58(1). In a case to which the Greater London Authority Act 1999 s 11(3) applies (see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 115), as soon as practicable after the declaration of acceptance of office has been signed, the GLRO must notify the Chair of the Assembly as mentioned therein: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 58(2).

32 Ie under the Greater London Authority Act 1999 s 11(3) (see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 115).

33 See ibid s 11(7)(a); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 115. The Greater London Authority Act 1999 applies as if the person had been declared to be returned as a London member on the day on which the notification is so received: see s 11(7); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 115.

34 See ibid s 11(7)(b); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 115. See note 33 supra.

35 Ie in accordance with ibid s 11(3)-(7) (see the text and notes 28-34 supra).

36 See ibid s 11(2); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 115.

UPDATE

211 Vacancies arising in the office of Mayor of London or in membership of the London Assembly

NOTES 30, 31--SI 2000/427 replaced: Greater London Authority Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(ii) Initiating a Local Government Election /B. FILLING OF VACANCIES/212. Vacancies in parish or community councils.

212. Vacancies in parish or community councils.

A request may be made for an election to fill a casual vacancy in the office of a parish or community councillor¹. Any such request must be made: (1) to the proper officer² of the council of the district³ in which the parish is situate or the county or county borough⁴ in which the community is situate⁵; (2) by ten persons who are named on the register in use at the time of the request as local government electors⁶ for the electoral area in which the vacancy has occurred⁷; and (3) within 14 days⁸ after public notice of the vacancy has been given in accordance with the Local Government Act 1972⁹.

An election must be held, if so requested, if the casual vacancy in the office of the parish or community councillor occurs other than within six months before the day on which that councillor would regularly have retired¹⁰; and such an election, if so required, must be held on a day appointed by the returning officer¹¹, being a day falling within the period of 60 days¹² beginning with the day on which public notice of the vacancy was given¹³.

Where a casual vacancy in any such office is not required to be filled by election, the parish or community council must or, if the vacancy occurs within six months of the date on which the parish or community councillor would regularly have retired, may¹⁴, as soon as practicable after the expiry of the period of 14 days referred to in head (3) above, co-opt a person to fill the vacancy¹⁵.

A person elected or appointed in England or Wales to fill any such casual vacancy holds office until the date upon which the person in whose place he is elected or appointed would regularly have retired, and he must then retire¹⁶.

1 Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 5(1). The Local Government Act 1972 provides that such a vacancy is to be filled by election or by the parish or community council in accordance with rules made under the Representation of the People Act 1983 s 36 (as amended) (as to which see PARA 388 post): see the Local Government Act 1972 s 89(6) (amended by the Representation of the People Act 1983 s 206, Sch 8 para 13). The relevant rules and provisions are contained in the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305. As to the situation where, at an ordinary election of parish or community councillors, an insufficient number of persons is or remains validly nominated to fill the vacancies in respect of which the election is held see PARA 207 ante. As to parishes and their councillors generally see LOCAL GOVERNMENT vol 69 (2009) PARA 27 et seq; and as to communities and their councillors generally see LOCAL GOVERNMENT vol 69 (2009) PARA 41 et seq.

2 For the meaning of 'proper officer' see PARA 155 note 2 ante.

3 As to the council of a district in England see LOCAL GOVERNMENT vol 69 (2009) PARA 24 et seq.

4 As to the council of a county or county borough in Wales see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq.

5 Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 5(2)(a).

6 As to entitlement to vote as a local government elector see PARA 112 ante.

7 Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 5(2)(b). As to electoral areas established for these purposes see PARA 10 et seq ante.

8 This period is to be computed in accordance with *ibid* r 3, Sch 2 r 2 (see PARA 218 note 1 post): r 5(2)(c).

9 Ibid r 5(2)(c). The text refers to the public notice that must be given in accordance with the Local Government Act 1972 s 87(2) (see LOCAL GOVERNMENT vol 69 (2009) PARA 299).

10 Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 5(3). As to the normal term of office of a councillor such as is mentioned in the text see PARA 207 ante.

11 As to returning officers appointed for the purposes of local government elections see PARA 359 et seq post.

12 See note 8 supra.

13 Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 5(4).

14 Ibid r 5(6). Any vacancy that is not so filled must be filled at the next ordinary election: r 5(6).

15 Ibid r 5(5).

16 Local Government Act 1972 s 90 (amended by the Local Government Act 1985 s 84, Sch 14 para 11; the Education Reform Act 1988 s 237, Sch 13 Pt I; and the Statute Law (Repeals) Act 2004).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(ii) Initiating a Local Government Election /C. FIXING DAY OF ELECTION AND GIVING OF NOTICE/213. Ordinary day of local government election.

C. FIXING DAY OF ELECTION AND GIVING OF NOTICE

213. Ordinary day of local government election.

In every year, the ordinary day of election of councillors is the same for all local government areas¹ and is either: (1) the first Thursday in May²; or (2) such other day as may be fixed by the Secretary of State³ by order⁴ made not later than 1 February in the year preceding the year (or, in the case of an order affecting more than one year, the first year) in which the order is to take effect⁵. However, where the ordinary day of election of councillors for local government areas is the same as the date on which the poll at a parliamentary⁶ or European parliamentary general election⁷ is to be held⁸, any poll at an election of parish or community councillors must be postponed for three weeks⁹. The poll at each ordinary Authority election¹⁰ held subsequent to the first¹¹ is held on the first Thursday in May in the fourth calendar year following that in which the previous ordinary election was held¹². However, this is subject to any order made by virtue of the power conferred by head (2) above¹³, which, as respects Authority elections, includes power to make an order fixing a day other than the first Thursday in May as the day on which the poll is to be held at an ordinary election other than the first¹⁴.

When the day thereby fixed¹⁵ is a Saturday, Sunday, Christmas Eve, Christmas Day, Good Friday, bank holiday or a day appointed for public thanksgiving or mourning, the date of election is postponed to the first day thereafter which is not one of those days¹⁶.

1 Representation of the People Act 1983 s 37(1) (s 37(1) renumbered by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 5(1), (2)). For the meaning of 'local government area' see PARA 18 note 2 ante.

2 Representation of the People Act 1983 s 37(1)(a) (as renumbered: see note 1 supra).

3 As to the Secretary of State see PARA 2 ante.

4 The power to make an order under the Representation of the People Act 1983 s 37 (as amended) is exercisable by statutory instrument: s 37(3) (renumbered by the Greater London Authority Act 1999 Sch 3 paras 1, 5(1), (3), (4)).

5 Representation of the People Act 1983 s 37(1)(b) (as renumbered (see note 1 supra); and amended by the Representation of the People Act 1985 s 18(2)).

6 For the meaning of 'constituency' for the purposes of parliamentary elections see PARA 9 ante. As to the polls at parliamentary general elections see PARA 196 et seq ante.

7 For the meaning of 'European parliamentary general election' see PARA 21 note 2 ante. As to the polls at European parliamentary general elections see PARA 224 et seq post.

8 Representation of the People Act 1985 s 16(1) (amended by the European Communities (Amendment) Act 1986 s 3). See further PARA 25 ante.

9 Representation of the People Act 1985 s 16(1)(a). See further PARA 25 ante.

10 For the meaning of 'Authority election' see PARA 10 ante.

11 The poll at the first ordinary election was held on 4 May 2000 but provision was made for the Secretary of State to provide for a later date by order: see the Greater London Authority Act 1999 s 3(1); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 89.

12 See *ibid* s 3(2); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 89.

13 See *ibid* s 3(3); and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 89.

14 Representation of the People Act 1983 s 37(2) (added by the Greater London Authority Act 1999 Sch 3 paras 1, 5(1), (5)).

15 *Ie* by the Representation of the People Act 1983 s 37 (as amended), the Representation of the People Act 1985 s 16 (as amended) or the Greater London Authority Act 1999 s 3 (see the text and notes 1-13 *supra*).

16 Representation of the People Act 1983 s 40(1) (amended by the Representation of the People Act 1985 ss 16(2), 19(1), 28(1), Sch 5; the Greater London Authority Act 1999 Sch 3 paras 1, 7(1), (2); and the Electoral Administration Act 2006 ss 20, 74(2), Sch 1 paras 49, 50, Sch 2). Where the day of election is postponed under the Representation of the People Act 1983 s 40(1) (as amended), the day to which it is postponed must be treated as the day of election for the purposes of the Representation of the People Act 1983 and the Local Government Act 1972 and (in the case of an Authority election) the Greater London Authority Act 1999: Representation of the People Act 1983 s 40(2) (amended by the Education Reform Act 1988 s 237, Sch 12 para 51; and the Greater London Authority Act 1999 Sch 3 paras 1, 7(1), (3)). Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 49, 50 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. Accordingly, until that date, Maundy Thursday appears in the list of days excluded under the Representation of the People Act 1983 s 40(1) (as amended).

UPDATE

213 Ordinary day of local government election

TEXT AND NOTES 1-14--The Secretary of State may by order provide that in a year in which a European Parliamentary general election is to be held (1) the ordinary day of election of councillors for counties in England, districts and London boroughs, (2) the ordinary day of election of councillors for parishes, and (3) as respects Authority elections, the day on which the poll is to be held at an ordinary election, must be changed so as to be the same as the date of the poll at the European Parliamentary general election: see the Representation of the People Act 1983 Act s 37A (added by the Local Government and Public Involvement in Health Act 2007 s 60(2)). Similar provision is made with respect to the Welsh Ministers in Wales: see 1983 Act s 37B (as so added). See the Local Elections (Ordinary Day of Elections in 2009) Order 2008, SI 2008/2857, made under the 1983 Act s 37A, which changes the date of local elections in England in 2009.

TEXT AND NOTES 1-5--1983 Act s 37(1) is subject to any order under (1) s 37A, or (2) s 37B: s 37(2A) (added by Local Government and Public Involvement in Health Act 2007 s 60(1)).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(ii) Initiating a Local Government Election /C. FIXING DAY OF ELECTION AND GIVING OF NOTICE/214. Day of poll consequent on a parish meeting.

214. Day of poll consequent on a parish meeting.

The day of a poll consequent on a parish meeting¹ must be fixed by the returning officer² and must not be earlier than the fourteenth day nor later than the twenty-fifth day after the day on which the poll was demanded³.

1 le on a question involving appointment to office: see PARA 207 ante.

2 As to the returning officer at a poll consequent on parish meeting see PARA 361 post.

3 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 1.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(ii) Initiating a Local Government Election /C. FIXING DAY OF ELECTION AND GIVING OF NOTICE/215. Day of election at certain local government elections to fill casual vacancy.

215. Day of election at certain local government elections to fill casual vacancy.

The day of election to fill a casual vacancy in the office of councillor for any principal area¹ must be fixed by the returning officer².

1 As to vacancies in the office of councillor for a principal area see PARA 209 ante. For the meaning of 'principal area' see LOCAL GOVERNMENT vol 69 (2009) PARA 23. As to casual vacancies in parish and community councils and (where appropriate) the day of election see PARA 212 ante.

2 Local Government Act 1972 s 89(1), (2) (s 89(2) amended by the Local Government Act 1985 s 102(2), Sch 17). As to returning officers for local government elections see PARA 359 et seq post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(ii) Initiating a Local Government Election /C. FIXING DAY OF ELECTION AND GIVING OF NOTICE/216. Day of local government election if vacancies not filled.

216. Day of local government election if vacancies not filled.

If, at a local government election¹ other than an election for the return of the London members of the London Assembly², the poll is abandoned or countermanded for any reason³ or no person is or remains, or an insufficient number of persons is or remains, validly nominated to fill the vacancy or vacancies in respect of which the election is held⁴, the returning officer⁵ must order an election to be held on a day appointed by him to fill any vacancy which remains unfilled⁶. The day of election must fall within the period of 35 days beginning with the day fixed as the day of election for the first election⁷. If for any other reason an election to an office under the Local Government Act 1972 or the Greater London Authority Act 1999 (other than that of chairman of a parish or community council or parish meeting, or parish or community councillor⁸) is not held on the appointed day or within the appointed time or fails either wholly or in part or becomes void, the High Court may order an election to be held on a day appointed by the court⁹.

Where an election is ordered to be held in this way¹⁰, the relevant elections rules¹¹ relating to the notice to be given of an election and the manner in which an election is to be conducted apply in relation to the election so ordered to be held as they applied or would have applied in relation to the election which had not been duly held or has failed or become void¹²; and no fresh nomination is necessary in the case of a candidate who remains validly nominated for the election¹³.

1 For the meaning of 'local government election' see PARA 10 ante.

2 Representation of the People Act 1983 s 39(1) (amended by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 6(1), (2)). For the meaning of 'London member', in relation to the London Assembly, see PARA 10 note 5 ante. As to elections for the return of the London members of the London Assembly see PARA 206 et seq ante.

3 Representation of the People Act 1983 s 39(1)(a). As to the countermand or abandonment of the poll at a local government election by reason of the death of a candidate see PARA 510 post.

4 Ibid s 39(1)(b). As to nominations and their validity see PARA 262 et seq post.

5 As to returning officers for local government elections generally see PARA 359 et seq post.

6 Representation of the People Act 1983 s 39(1) (amended by the Local Government Act 1985 s 102(2), Sch 17). This duty does not apply where, at an ordinary election of parish or community councillors, an insufficient number of persons is or remains validly nominated, unless the number of newly elected members of the council is less than the number that constitutes a quorum for meetings of the council: see the Representation of the People Act 1985 s 21(1), (2) (as amended); and PARA 207 ante.

7 Representation of the People Act 1983 s 39(1) (amended by the Representation of the People Act 1985 s 19(2)).

When the day fixed by the Representation of the People Act 1983 s 39(1) (as amended) is a Saturday, Sunday, Christmas Eve, Christmas Day, Good Friday, bank holiday or a day appointed for public thanksgiving or mourning, the date of election is postponed to the first day thereafter which is not one of those days: s 40(1) (amended by the Electoral Administration Act 2006 ss 20, 74(2), Sch 1 paras 49, 50, Sch 2). Where the day of election is so postponed under the Representation of the People Act 1983 s 40(1) (as amended), the day to which it is postponed must be treated as the day of election for the purposes of the Representation of the People Act 1983 and the Local Government Act 1972: Representation of the People Act 1983 s 40(2) (amended

by the Education Reform Act 1988 s 237, Sch 12 para 51). In computing any period of time for the purpose of the Representation of the People Act 1983 s 39 (as amended), a Saturday, Sunday, Christmas Eve, Christmas Day, Good Friday, bank holiday or a day appointed for public thanksgiving or mourning must be disregarded but where, between the giving of a notice of election and the completion of the poll, a day is declared to be a bank holiday or day of public thanksgiving or mourning (and is accordingly disregarded), the requirement to disregard such a day is not to operate to invalidate any act which would have been valid apart from that requirement: s 40(1), (3) (s 40(1) amended by the Representation of the People Act 1985 ss 16(2), 19(1), 28(1), Sch 5; and the Electoral Administration Act 2006 Sch 1 paras 49, 50, Sch 2). Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 49, 50 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. Accordingly, until that date, Maundy Thursday appears in the list of days excluded under the Representation of the People Act 1983 s 40(1) (as amended). As to the giving of notice of a local government election see PARA 218 post.

8 As to the election of parish or community councillors see PARA 207 et seq ante.

9 Representation of the People Act 1983 s 39(2) (amended by the Local Government Act 1985 ss 18(1), 19, Sch 9 Pt I; the Education Reform Act 1988 s 237, Sch 13 Pt I; and the Greater London Authority Act 1999 Sch 3 paras 1, 6(1), (3)). The High Court may order that the costs incurred by any person in connection with these proceedings are to be paid by the local authority concerned: Representation of the People Act 1983 s 39(3). Where the High Court orders an election to be held, such an order may include such modifications of Pt I (ss 1-66A) (as amended), including the elections rules made under s 36 (as amended) (as to which see PARA 388 post) and the Local Government Act 1972 or the Greater London Authority Act 1999, as appear to the High Court necessary or expedient for carrying the order into effect: Representation of the People Act 1983 s 39(6)(a) (amended by the Local Government Act 1985 Sch 9 Pt I; the Education Reform Act 1988 Sch 13 Pt I; and the Greater London Authority Act 1999 Sch 3 paras 1, 6(1), (4)). For the meaning of 'local authority' for these purposes see PARA 158 note 3 ante.

10 Ie under the Representation of the People Act 1983 s 39 (as amended).

11 Ie the relevant rules made under *ibid* s 36 (as amended) (as to which see PARA 388 post).

12 *Ibid* s 39(5)(a).

13 *Ibid* s 39(5)(b).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(ii) Initiating a Local Government Election /C. FIXING DAY OF ELECTION AND GIVING OF NOTICE/217. Abortive parish or community election or poll consequent on a parish or community meeting.

217. Abortive parish or community election or poll consequent on a parish or community meeting.

If any difficulty arises with respect to an election of parish or community councillors or of an individual parish or community councillor¹, or if, because an election is not held or is defective or for any other reason², a parish or community council is not properly constituted³, the district council⁴ or, in Wales, the county or county borough council⁵ may by order⁶ make any appointment or do any thing which appears to it necessary or expedient for the proper holding of such an election and properly constituting the council⁷ and may, if it appears to it necessary, direct the holding of an election and fix the date for it⁸. Where an election is ordered to be held in this way⁹, the relevant elections rules¹⁰ relating to the notice to be given of an election and the manner in which an election is to be conducted apply in relation to the election so ordered to be held as they applied or would have applied in relation to the election which had not been duly held or has failed or become void¹¹; and no fresh nomination is necessary in the case of a candidate who remains validly nominated for the election¹².

Where a poll consequent on a parish or community meeting¹³ is countermanded or abandoned by reason of the death of a candidate¹⁴, the district council for the area in which the parish or community is situated may by order make any appointment or make provision for the holding of a parish meeting or do such other thing as appears to it to be expedient in the circumstances¹⁵.

1 Representation of the People Act 1983 s 39(4)(a). As to the election of parish or community councillors see PARA 207 et seq ante.

2 As to the countermand or abandonment of polls at local government elections see PARA 510 post.

3 Representation of the People Act 1983 s 39(4)(b).

4 As to the councils of districts in England see LOCAL GOVERNMENT vol 69 (2009) PARA 24 et seq. In the case of a common parish council under which are grouped, by virtue of the Local Government Act 1972 s 11(5) (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 29), parishes situated in different districts, the reference to the district council is to be construed as a reference to the council of the district in which there is the greater number of local government electors for the parishes in the group: Representation of the People Act 1983 s 39(7). For the meaning of 'elector' for these purposes see PARA 110 note 2 ante.

5 Ibid s 39(4) (amended by the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 68(11)). As to the council of a county or county borough in Wales see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq.

6 Such an order may include such modifications of the Representation of the People Act 1983 Pt I (ss 1-66A) (as amended), including the elections rules made under s 36 (as amended) (as to which see PARA 388 post), and the Local Government Act 1972 or the Greater London Authority Act 1999, as appear to the district council or Welsh county or county borough council necessary or expedient for carrying the order into effect: Representation of the People Act 1983 s 39(6)(a) (amended by the Greater London Authority Act 1999 Sch 3 paras 1, 6(1), (4)). Such an order may also modify the provisions of the Representation of the People Act 1983 and the rules with respect to parish or community council elections under s 36 (as amended) (as to which see PARA 388 post) and any other enactment relating to such elections: s 39(6)(b) (amended by the Local Government (Wales) Act 1994 s 66(8), Sch 16 para 68(11)(b), Sch 18).

7 Representation of the People Act 1983 s 39(4)(i). This provision does not apply if s 39(1) (as amended) (returning officer to order local government election to be held if vacancies not filled: see PARA 216 ante) applies: s 39(4).

- 8 Ibid s 39(4)(ii). See note 7 supra.
- 9 le under ibid s 39 (as amended).
- 10 le the relevant rules made under ibid s 36 (as amended) (as to which see PARA 388 post).
- 11 Ibid s 39(5)(a).
- 12 Ibid s 39(5)(b).
- 13 See PARA 214 et seq ante.
- 14 See PARA 510 post.
- 15 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 37(4).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(ii) Initiating a Local Government Election /C. FIXING DAY OF ELECTION AND GIVING OF NOTICE/218. Notice of local government election.

218. Notice of local government election.

Not later than the twenty-fifth day before the day of a principal area or parish or community council election or of an election for the return of an elected mayor¹, the returning officer² must publish notice of the election³. Not later than the twenty-fifth day before the day of an Authority election for the return of a Mayor of London⁴, Authority elections for the return of constituency members of the London Assembly⁵ or Authority elections for the return of London members of the London Assembly⁶, the Greater London returning officer⁷ or the constituency returning officer⁸ (as the case may be) must publish⁹ notice of the election¹⁰.

Such a notice must state: (1) the place and times at which nomination papers are to be delivered¹¹ and that forms of nomination papers may be obtained at that place and those times¹²; (2) the date of the poll in the event of a contest¹³; and (3) the date by which applications to vote by post or by proxy¹⁴ and other applications and notices about postal or proxy voting¹⁵ must reach the specified officer¹⁶ in order that they may be effective for the election¹⁷.

1 Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 3; Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 1; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 1.

In computing any period of time for the purposes of the timetable in the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 3, the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 1 or the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 1, the following must be disregarded: (1) a Saturday or Sunday (Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 4(1)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 2(1)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 2(1)(a)); (2) Christmas Eve, Christmas Day, Good Friday or a bank holiday (Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 4(1)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 2(1)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 2(1)(b)); or (3) a day appointed for public thanksgiving or mourning (Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 4(1)(c); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 2(1)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 2(1)(c)). Any such day is not to be treated as a day for the purpose of any proceedings up to the completion of the poll nor is the returning officer obliged to proceed with the counting of the votes on such a day: Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 4(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 2(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 2(1). For these purposes, 'bank holiday' means a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales (see TIME vol 97 (2010) PARA 321); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 4(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 2(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 2(2). For the meanings of 'England' and 'Wales' see PARA 13 note 1 ante. Identical provision is made by the Representation of the People Act 1983 s 40(3), which states that, in computing any period of time for the purpose of any rules under s 36 (as amended) (see PARA 388 post), a Saturday or Sunday, Christmas Eve, Christmas Day, Good Friday, or a bank holiday or a day appointed for public thanksgiving or mourning must be disregarded but this provision, so far as it relates to any such rules, has effect subject to the provisions of those rules: s 40(1), (3) (s 40(1) amended by the Electoral Administration Act 2006 ss 20, 74(2), Sch 1 paras 49, 50, Sch 2). Since the rules do not make provision different from that in the Representation of the People Act 1983 s 40(3), it is arguable that that provision, as well as the provision in the rules, applies to determine the computation of time for the purposes of the rules. In that event, the further provision made in s 40(3) applies so that where, between the

giving of a notice of election and the completion of the poll a day is declared to be a bank holiday or day of public thanksgiving or mourning (and is accordingly disregarded), the requirement to disregard such a day is not to operate to invalidate any act which would have been valid apart from that requirement: s 40(3). Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 49, 50 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. Accordingly, until that date, Maundy Thursday appears in the list of days excluded under the Representation of the People Act 1983 s 40(1) (as amended).

As to local government principal area or parish or community council elections, when they are combined with any other relevant election or referendum, see the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 4, Sch 3; the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 4, Sch 3; and PARA 22 et seq ante.

2 As to returning officers for local government elections generally see PARA 359 et seq post.

3 Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 5(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 3(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 3(1). As to the giving of public notices for the purposes of a local government election see PARA 359 post.

4 As to the Mayor of London see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 81.

5 For the meaning of 'constituency member', in relation to the London Assembly, see PARA 10 note 6 ante; definition applied by virtue of the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 2(2). As to ordinary elections of constituency members of the London Assembly see PARA 206 et seq ante. As to constituency members of the London Assembly generally see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 92; and as to the London Assembly see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 82.

6 Ibid r 3, Sch 1 r 3(1), Sch 2 r 3(1), Sch 3 r 3(1). For the meaning of 'London member', in relation to the London Assembly, see PARA 10 note 5 ante; definition applied by virtue of r 2(2). As to ordinary elections of London members of the London Assembly see PARA 206 et seq ante. As to London members of the London Assembly generally see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 97.

In computing any period of time for the purposes of the timetable in Sch 1 r 3, Sch 2 r 3, or Sch 3 r 3, the following must be disregarded: (1) a Saturday or Sunday (Sch 1 r 4(1)(a), Sch 2 r 4(1)(a), Sch 3 r 4(1)(a)); (2) Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a bank holiday (Sch 1 r 4(1)(b), Sch 2 r 4(1)(b), Sch 3 r 4(1)(b)); or (3) a day appointed for public thanksgiving or mourning (Sch 1 r 4(1)(c), Sch 2 r 4(1)(c), Sch 3 r 4(1)(c)). Any such day is not to be treated as a day for the purpose of any proceedings up to the completion of the poll nor is the returning officer obliged to proceed with the counting of the votes on such a day: Sch 1 r 4(1), Sch 2 r 4(1), Sch 3 r 4(1). For these purposes, 'bank holiday' means a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales (see TIME vol 97 (2010) PARA 321); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 4(2), Sch 2 r 4(2), Sch 3 r 4(2). For the meanings of 'England' and 'Wales' see PARA 13 note 1 ante.

7 In the case of an Authority election for the return of a Mayor of London and of Authority elections for the return of London members of the London Assembly. For these purposes, 'Greater London returning officer' ('GLRO'), in relation to any election of the Mayor of London or of London members of the London Assembly other than the first ordinary election, has the same meaning as in the Greater London Authority Act 1999 Pt I (ss 1-29) (as amended) (see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 98); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 2(1), Sch 3 r 2(1). References in the rules to the GLRO include references to any person appointed by him under the Representation of the People Act 1983 s 35(4) (as amended) (returning officers for local elections in England and Wales: see PARA 359 post): Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 2(2)(a), Sch 3 r 2(2)(a).

8 In the case of Authority elections for the return of constituency members of the London Assembly. For these purposes, 'constituency returning officer' ('CRO'), in relation to a constituency and an election, means the person, or a person of the description, for the time being designated by order under the Representation of the People Act 1983 s 35(2B) (as added) (see PARA 359 post) as the returning officer at the election of a constituency member for that constituency: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 2(1). References in the rules to the CRO include references to any person appointed by him under the Representation of the People Act 1983 s 35(4) (as amended) (returning officers for local elections in England and Wales: see PARA 359 post): Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 2(2)(a).

9 In the case of elections for the return of London members of the London Assembly, publication must take place in each Assembly constituency: ibid Sch 2 r 5(1). As to the establishment of London Assembly constituencies see PARA 74 ante.

10 Ibid Sch 1 r 5(1), Sch 2 r 5(1), Sch 3 r 5(1).

11 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 5(1)(a), Sch 2 r 5(1)(a), Sch 3 r 5(1)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 5(1)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 3(1)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 3(1)(a). As to the nomination of candidates at elections see PARA 260 et seq post.

12 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 5(1), Sch 2 r 5(1), Sch 3 r 5(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 5(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 3(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 3(1). As to the forms of nomination papers see PARA 262 post.

13 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 5(1)(b), Sch 2 r 5(1)(b), Sch 3 r 5(1)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 5(1)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 3(1)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 3(1)(b). As to the date of the poll at local government elections (including elections to fill vacancies) see PARAS 213-216 ante; and as to the procedure uncontested elections see PARA 477 post.

14 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 5(2)(a), Sch 2 r 5(2)(a), Sch 3 r 5(2)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 5(2)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 3(2)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 3(2)(a). As to applications to vote by post or by proxy see PARA 372 et seq post.

15 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 5(2)(b), Sch 2 r 5(2)(b), Sch 3 r 5(2)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 5(2)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 3(2)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 3(2)(b).

16 le the electoral registration officer, although in the case of an election for the return of an elected mayor, the returning officer is specified: see the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 5(2). As to the electoral registration officer see PARA 154 et seq ante; and as to the returning officer at a local authority mayoral election see note 2 supra.

17 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 5(2), Sch 2 r 5(2), Sch 3 r 5(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 5(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 3(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 3(2).

UPDATE

218 Notice of local government election

TEXT AND NOTES 1, 3, 11-17--SI 2002/185 reg 3(1), Sch 1 rr 3-5 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 rr 3-5.

TEXT AND NOTES 5-17--SI 2000/427 replaced: Greater London Authority Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(ii) Initiating a Local Government Election /C. FIXING DAY OF ELECTION AND GIVING OF NOTICE/219. Notice of poll consequent on a parish meeting taken on a question of appointment to office.

219. Notice of poll consequent on a parish meeting taken on a question of appointment to office.

If a poll consequent on a parish or community meeting is required to be taken¹, the chairman of the meeting must notify the district council in which the parish or community is situate of the fact²; and the chairman of the meeting must give the returning officer³ such particulars as will enable him to give notice of the poll⁴.

Not later than the fifth day before the day of the poll⁵, the returning officer must give public notice of the poll which refers to the parish or community meeting at which a poll was demanded and states⁶: (1) the day and hours fixed for the poll⁷; (2) if the poll is taken on the question of appointment to any office⁸, the name of the office, the number of vacancies, the particulars of each candidate who has not withdrawn (the order of the names of the candidates and particulars being the same as in the ballot papers) and the name of the proposer of each candidate⁹; and (3) the situation of each polling station and the description of the persons entitled to vote there¹⁰.

1 As to how polls consequent on a parish or community meeting come about see PARA 207 ante.

2 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 4(1).

3 As to returning officers at polls consequent on a parish meeting see PARA 361 post.

4 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 4(2).

5 Ibid r 5, Schedule r 1. In computing any period of time for the purposes of the timetable in Schedule r 1, the following must be disregarded: (1) a Saturday or a Sunday (Schedule r 2(1)(a)); (2) Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a bank holiday (Schedule r 2(1)(b)); or (3) a day appointed for public thanksgiving or mourning (Schedule r 2(1)(c)). However, any such day must not be treated as a day for the purpose of any proceedings up to the completion of the poll nor is the returning officer obliged to proceed with the counting of votes on such a day: Schedule r 2(1). For these purposes, 'bank holiday' means a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales (see TIME vol 97 (2010) PARA 321): Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 2(2).

6 Ibid Schedule r 8.

7 Ibid Schedule r 8(a).

8 As to polls consequent on a parish meeting not involving a question of appointment to any office see PARA 558 et seq post.

9 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 8(b).

10 Ibid Schedule r 8(d).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(iii) Initiating an Election to the National Assembly for Wales/A. ORDINARY GENERAL ELECTION/220. Ordinary general election for the National Assembly for Wales.

(iii) Initiating an Election to the National Assembly for Wales

A. ORDINARY GENERAL ELECTION

220. Ordinary general election for the National Assembly for Wales.

The poll at an ordinary general election for the National Assembly for Wales¹ is to be held on the first Thursday in May in the fourth calendar year following that in which the previous ordinary general election was held², unless provision is made for the day of the poll by an order³. If the poll is to be held on the first Thursday in May, the Assembly is dissolved⁴ at the beginning of the minimum period which ends with that day⁵ and must meet within the period of seven days beginning immediately after the day of the poll⁶.

However, if: (1) the Assembly resolves that it should be dissolved⁷; and (2) the resolution of the Assembly is passed on a vote in which the number of Assembly members voting in favour of it is not less than two-thirds of the total number of Assembly seats⁸; or (3) any period during which the Assembly is required⁹ to nominate an Assembly member for appointment as the First Minister¹⁰ ends without such a nomination being made¹¹, the Secretary of State must propose a day for the holding of a poll at an extraordinary general election¹². If the Secretary of State proposes such a day, Her Majesty may by Order in Council: (a) dissolve the Assembly and require an extraordinary general election to be held¹³; (b) require the poll at the election to be held on the day proposed¹⁴; and (c) require the Assembly to meet within the period of seven days beginning immediately after the day of the poll¹⁵. If a poll for an extraordinary general election is so held¹⁶ within the period of six months ending with the day on which the poll at the next ordinary general election would be held¹⁷, that ordinary general election is not to be held¹⁸.

1 As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

2 The poll at the first ordinary general election for the National Assembly for Wales was held on 6 May 1999. The provisions of the Government of Wales Act 2006 come into force immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5).

3 Government of Wales Act 2006 s 3(1). As to the date at which this provision takes effect see note 2 supra. Until that date see the Government of Wales Act 1998 s 3(1), (2). The text refers to provision made by an order under the Government of Wales Act 2006 s 4: s 3(1). The Secretary of State may by order provide for the poll at an ordinary general election to be held on a day which is neither more than one month earlier, nor more than one month later, than the first Thursday in May: s 4(1). Such an order must make provision for the Assembly: (1) to be dissolved on a day specified in the order (s 4(2)(a)); and (2) to meet within the period of seven days beginning immediately after the day of the poll (s 4(2)(b)). In calculating any period of days for the purposes of provision made by virtue of head (2) supra, the following days are to be disregarded: (a) Saturday and Sunday (s 4(3)(a)); (b) Good Friday (s 4(3)(b)); (c) any day which is a bank holiday in Wales under the Banking and Financial Dealings Act 1971 (see TIME vol 97 (2010) PARA 321) (Government of Wales Act 2006 s 4(3)(c)), and (d) any day appointed for public thanksgiving or mourning (s 4(3)(d)). Such an order may make provision for any provision of, or made under, the Representation of the People Acts, or any other enactment relating to the election of Assembly members, to have effect with such modifications or exceptions as the Secretary of State considers appropriate in connection with the alteration of the day of the poll: s 4(4). No such order is to be made unless the Secretary of State has consulted the Welsh Ministers about it (s 4(5)); and a statutory instrument containing such an order is subject to annulment in pursuance of a resolution of either House of Parliament (s 4(6)). As to the date at which s 4 takes effect see note 2 supra. Until that date see the

Government of Wales Act 1998 s 3(3), (5), (6). For the meaning of 'Assembly members' for these purposes see PARA 12 ante; and for the meaning of 'Wales' see PARA 13 note 1 ante. As to the Secretary of State see PARA 2 ante. As to the Welsh Ministers see CONSTITUTIONAL LAW AND HUMAN RIGHTS. For the meaning of 'the Representation of the People Acts' see PARA 3 note 1 ante.

4 le by virtue of the Government of Wales Act 2006 s 3.

5 Ibid s 3(2)(a). For these purposes, the 'minimum period' means the period determined in accordance with an order under s 13 (power to make provision about elections etc: see PARA 12 ante): s 3(3). As to the date at which these provisions take effect see note 2 supra.

6 Ibid s 3(2)(b). In calculating any period of days for the purposes of s 3(2)(b), the following days are to be disregarded: (1) Saturday and Sunday (s 3(4)(a)); (2) any day which is a bank holiday in Wales under the Banking and Financial Dealings Act 1971 (see TIME vol 97 (2010) PARA 321) (Government of Wales Act 2006 s 3(4)(b)); and (3) any day appointed for public thanksgiving or mourning (s 3(4)(c)). As to the date at which these provisions take effect see note 2 supra.

7 Ibid s 5(2)(a). As to the date at which this provision takes effect see note 2 supra.

8 Ibid s 5(2)(b). As to the date at which this provision takes effect see note 2 supra.

9 le under ibid s 47 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS).

10 As to the First Minister see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

11 Government of Wales Act 2006 s 5(3). As to the date at which this provision takes effect see note 2 supra.

12 Ibid s 5(1). As to the date at which this provision takes effect see note 2 supra.

13 Ibid s 5(4)(a). As to the date at which this provision takes effect see note 2 supra.

14 Ibid s 5(4)(b). As to the date at which this provision takes effect see note 2 supra.

15 Ibid s 5(4)(c). In calculating any period of days for the purposes of s 5(4)(c), the following days are to be disregarded: (1) Saturday and Sunday (s 5(7)(a)); (2) Christmas Eve, Christmas Day and Good Friday (s 5(7)(b)); (3) any day which is a bank holiday in Wales under the Banking and Financial Dealings Act 1971 (see TIME vol 97 (2010) PARA 321) (Government of Wales Act 2006 s 5(7)(c)); and (4) any day appointed for public thanksgiving or mourning (s 5(7)(d)). As to the date at which these provisions take effect see note 2 supra.

16 le under ibid s 5.

17 le disregarding ibid s 4 (as to which see note 3 supra).

18 Ibid s 5(5). However, this provision does not affect the year in which the subsequent ordinary general election is to be held: s 5(6). As to the date at which these provisions take effect see note 2 supra.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(iii) Initiating an Election to the National Assembly for Wales/B. BY-ELECTIONS AND THE FILLING OF VACANCIES/221. Vacancies in constituency seats in the National Assembly for Wales.

B. BY-ELECTIONS AND THE FILLING OF VACANCIES

221. Vacancies in constituency seats in the National Assembly for Wales.

If the seat of an Assembly constituency member¹ returned for an Assembly constituency² is vacant³, an election must be held in the Assembly constituency to fill the vacancy⁴. At the election, each person entitled to vote only has a constituency vote⁵; and the Assembly constituency member for the Assembly constituency is to be returned under the simple majority system⁶.

The date of the poll at the election must be fixed by the presiding officer⁷; and the date must fall within the period of three months beginning with the occurrence of the vacancy⁸. Where the date of the poll to fill a vacant seat for an Assembly constituency is fixed by the presiding officer of the Assembly in this way, he must forthwith send a notice to the returning officer⁹ for the Assembly constituency stating¹⁰ both that the vacancy exists¹¹ and the date fixed for the poll to fill that vacancy¹². However, the election must not be held if it appears to the presiding officer that the latest date which may be fixed for the poll would fall within the period of three months ending with the day on which the poll at the next ordinary general election would be held¹³.

1 For the meaning of 'Assembly constituency members' for these purposes see PARA 12 ante.

2 For the meaning of 'Assembly constituency' see PARA 3 note 1 ante. As to the establishment of constituencies for the purpose of elections to the National Assembly for Wales see PARA 75 ante.

3 Government of Wales Act 2006 s 10(1). The provisions of the Government of Wales Act 2006 come into force immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes until that date see the Government of Wales Act 1998 s 8(1).

4 Government of Wales Act 2006 s 10(2). As to the date at which this provision takes effect see note 3 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 8(2).

5 Government of Wales Act 2006 s 10(3). As to the date at which this provision takes effect see note 3 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 8(3). For the meaning of 'constituency vote' see PARA 369 post.

6 Government of Wales Act 2006 s 10(3). A person may not be a candidate in an election to fill a vacancy if the person is an Assembly member or if the person is a candidate in another such election: s 10(9). As to the voting systems used in balloting at a constituency election see PARA 344 post. As to the date at which these provisions take effect see note 3 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 8(3), (7).

7 Government of Wales Act 2006 s 10(4). As to the date at which this provision takes effect see note 3 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 8(4). As to the presiding officer of the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

8 Government of Wales Act 2006 s 10(5). If the vacancy does not come to the presiding officer's notice within the period of one month beginning with its occurrence, the date must fall within the period of three months beginning when it does come to the presiding officer's notice: s 10(6). Standing orders must make provision for determining the date on which a vacancy occurs for these purposes: s 10(8). As to the date at which these provisions take effect see note 3 supra. As to the provisions that apply until that date see the

Government of Wales Act 1998 s 8(5), (8). As to the standing orders referred to above see the Government of Wales Act 2006 s 31; and CONSTITUTIONAL LAW AND HUMAN RIGHTS.

9 As to the returning officer for an Assembly constituency see PARA 362 et seq post.

10 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 66.

11 Ibid Sch 5 para 66(a).

12 Ibid Sch 5 para 66(b).

13 Government of Wales Act 2006 s 10(7). The text refers to the day on which the poll at the next ordinary general election would be held disregarding s 4 (see PARA 220 note 3 ante). As to the date at which these provisions take effect see note 3 supra. As to the provisions that apply until that date see the Government of Wales Act 1998 s 8(6).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(iii) Initiating an Election to the National Assembly for Wales/B. BY-ELECTIONS AND THE FILLING OF VACANCIES/222. Vacancies in electoral region seats in the National Assembly for Wales.

222. Vacancies in electoral region seats in the National Assembly for Wales.

Where it comes to the notice of the Presiding Officer of the National Assembly for Wales¹ that the seat of an Assembly member² returned from a party list³ for an Assembly electoral region⁴ is vacant, he must⁵ forthwith send a notice to the returning officer for the Assembly electoral region⁶. Such a notice must state that a vacancy exists⁷ and set out the name of the person who had been returned to fill that seat, together with the name of the registered political party⁸ on whose list he was included⁹. Where a regional returning officer receives such a notice, he must ascertain from the list submitted at the previous ordinary election by the registered political party named in the notice the name and address of the person whose name appears highest on that list (the 'prospective member')¹⁰. The regional returning officer must then take steps to satisfy himself both that the prospective member is willing to serve as an Assembly member for the Assembly electoral region and that he may be properly notified as the name of the person who is to fill the vacancy¹¹, and the regional returning officer must continue to repeat the procedure until the seat is filled or until the names on that list are exhausted¹². Subject to the regional returning officer being satisfied that the prospective member is a member of the registered political party and that the party has given notice that the prospective member is to fill the vacancy¹³, where a prospective member states in writing in response to the question from the regional returning officer¹⁴ that he is willing to serve as an Assembly member for the Assembly electoral region, the regional returning officer must forthwith declare that person to be returned as a member for the Assembly electoral region¹⁵ and give public notice of the name of the member declared to be returned¹⁶ and of the registered political party for which such a member was a party list candidate¹⁷.

The regional returning officer must also notify to the presiding officer the name of the person who is to fill the vacancy¹⁸. A person whose name is notified in this way is to be treated as having been declared to be returned as an Assembly regional member for the Assembly electoral region on the day on which notification of the person's name is received by the presiding officer¹⁹. However, the seat remains vacant until the next general election if the Assembly regional member was returned as an individual candidate²⁰, or if that Assembly regional member was returned from the list of a registered political party but there is no-one who satisfies the conditions according to which a person's name may be notified²¹.

1 As to the presiding officer of the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

2 For the meaning of 'Assembly member' see PARA 12 ante.

3 He returned under the Government of Wales Act 2006 s 9 (see PARA 345 post) or s 11 (see the text and notes 18-21 infra). The provisions of the Government of Wales Act 2006 come into force immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provisions that apply for these purposes until that date see the Government of Wales Act 1998 ss 7, 9. For the meanings of 'party list' and 'party list candidate' at a Welsh Assembly regional election see PARA 237 note 23 post.

4 For the meaning of 'Assembly electoral region' see PARA 3 note 1 ante.

5 He other than where the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 100 (regional election determined to be void by election court: see PARA 861 post) applies.

6 Ibid art 16(1), Sch 5 para 67(1). The notice must be in accordance with Sch 5 para 67(2) (see the text and notes 7-9 infra). For the meaning of 'regional returning officer' see PARA 18 note 2 ante.

7 Ibid Sch 5 para 67(2)(a).

8 References in ibid Sch 5 (as amended) to a registered political party are references to a party registered under the Political Parties, Elections and Referendums Act 2000 Pt II (ss 22-40) (as amended) (see PARA 260 post) at the time by which notice of election is required to be published in accordance with the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 1(1) (as to which see PARA 223 post): Sch 5 para 69. For the meaning of 'registered political party' for these purposes generally see PARA 237 note 23 post.

9 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 67(2)(b).

10 Ibid Sch 5 para 67(3).

11 The regional returning officer must take such steps as appear to him to be reasonable: (1) to contact the prospective member to ask whether he will state that he is willing to serve as an Assembly member for the Assembly electoral region (ibid Sch 5 para 67(4)(a)); and (2) to contact the registered nominating officer of the registered political party on whose list that person is included and notify that officer of the action he is taking under head (1) supra (Sch 5 para 67(4)(b)). Where, within such period as the regional returning officer considers reasonable, he decides that the steps he has taken to contact the prospective member have been unsuccessful (Sch 5 para 67(5)(a)(i)) or he has not received from the prospective member a statement that he is willing to serve as an Assembly member for the Assembly electoral region (Sch 5 para 67(5)(a)(ii)), or where the prospective member has stated he is not willing to so serve as an Assembly member (Sch 5 para 67(5)(b)), or where the regional returning officer is satisfied that the prospective member is not a member of the registered political party on whose list he is included (Sch 5 para 67(5)(c)(i)), and receives notice from that party under the Government of Wales Act 2006 s 11(4)(b) (see note 18 infra) that the prospective member's name is not to be notified to the presiding officer of the Assembly as the name of the person who is to fill the vacancy (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 67(5)(c)(ii)), the prospective member must be treated as ceasing to be included on that list (Sch 5 para 67(5)). Where a person is so treated, the regional returning officer must repeat the procedure required by Sch 5 para 67(4) in respect of the person (if any) whose name and address appears next highest on that list and Sch 5 para 67(5) and Sch 5 para 67(6) also apply with respect to that person: Sch 5 para 67(6).

12 Ibid Sch 5 para 67(7).

13 Ie subject to ibid Sch 5 para 67(5)(c) (see note 11 supra).

14 Ie in response to the question under ibid Sch 5 para 67(4)(a), including that provision as applied by Sch 5 para 67(6) (see note 11 supra).

15 Ibid Sch 5 para 67(8).

16 Ibid Sch 5 para 67(9)(a).

17 Ibid Sch 5 para 67(9)(b).

18 Government of Wales Act 2006 s 11(1), (2). A person's name may only be so notified if: (1) the person is included on the list submitted by the registered political party for the last general election (s 11(3)(a)); (2) the person is willing to serve as an Assembly regional member for the Assembly electoral region (s 11(3)(b)); and (3) the person is a member of the registered political party (s 11(3)(c), (4)(a)) and is not a person whose name has been given by the party in a notice to the regional returning officer as one whose name is not to be notified to the presiding officer as the name of the person who is to fill the vacancy (s 11(3)(c), (4)(b)). If there is more than one person who satisfies the conditions in s 11(3), the regional returning officer may only notify the name of whichever of them was the higher, or the highest, on that list: s 11(5). For these purposes, a person included on the list submitted by a registered political party for the last general election who: (a) was returned as an Assembly regional member under s 9 at that election (see PARA 345 post), even if the return was void (s 11(8)(a)); (b) has subsequently been a candidate in an election held under s 10 (see PARA 221 ante), whether or not returned (s 11(8)(b)); or (c) has subsequently been returned under s 11, even if the return was void (s 11(8)(c)), is treated on and after the return of the person, or of the successful candidate at the election, as not having been included on the list (s 11(8)). As to the date at which s 11 takes effect see note 3 supra. As to the provisions that apply until that date see the Government of Wales Act 1998 s 9(1)-(5).

As well as notifying to the presiding officer of the Assembly the name of the person who is to fill the vacancy under the Government of Wales Act 2006 s 11(2), the regional returning officer must also forthwith return the name of the member declared to be returned and of the registered political party for which such a member was a party list candidate (ie the names referred to in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 67(9): see the text and notes 16, 17 supra) by completing a

certificate (Sch 5 para 67(10)(a)) and delivering it, or causing it to be delivered, to the Assembly (Sch 5 para 67(10)(b)). The certificate must be in the form set out in English and Welsh in the Appendix of Forms (Form of certificate referred to in PARAGRAPH 67(10)(a)): Sch 5 para 67(10).

19 Ibid Sch 5 para 67(8); Government of Wales Act 2006 s 11(6). As to the form and contents of an election petition which may be issued to challenge such a return see PARA 778 post. As to the date at which s 11 takes effect see note 3 supra. As to the provisions that apply until that date see the Government of Wales Act 1998 s 9(6).

20 Government of Wales Act 2006 s 11(7)(a). As to the date at which s 11 takes effect see note 3 supra. As to the provisions that apply until that date see the Government of Wales Act 1998 s 9(7)(a). For the meaning of 'individual candidate' at a Welsh Assembly regional election see PARA 237 note 23 post.

21 Government of Wales Act 2006 s 11(7)(b). As to the date at which s 11 takes effect see note 3 supra. As to the provisions that apply until that date see the Government of Wales Act 1998 s 9(7)(b). The text refers to the conditions set out in note 18 supra. Where, following the application of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 67, the seat continues to be vacant, the regional returning officer must forthwith: (1) give public notice that the vacancy cannot be filled and that the seat (in accordance with the Government of Wales Act 2006 s 11(7)(b)) is to remain vacant until the next ordinary election (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 67(11)(a)); (2) complete the relevant certificate (Sch 5 para 67(11)(b)); and (3) deliver it, or cause it to be delivered, to the Assembly (Sch 5 para 67(11)(c)). The certificate referred to in head (2) supra must be in the form set out in English and Welsh in the Appendix of Forms (Form of certificate referred to in PARAGRAPH 67(11)(b)): Sch 5 para 67(11)(b).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(iii) Initiating an Election to the National Assembly for Wales/C. NOTICE OF ELECTION/223. Notice of election to the National Assembly for Wales.

C. NOTICE OF ELECTION

223. Notice of election to the National Assembly for Wales.

Not later than the twenty-fifth day before the day of election¹, the constituency returning officer must publish notice of the election². Such a notice must state: (1) the place (or places in the case of a regional election) and times at which nomination papers are to be delivered³, and that forms of nomination papers may be obtained at that place (or places) and those times⁴; (2) the date of the poll in the event of a contest⁵; and (3) the date by which applications to vote by post or by proxy⁶ and other applications and notices about postal or proxy voting⁷ must reach the electoral registration officer⁸ in order that they may be effective for the election⁹.

¹ National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 1(1). As to the day of election see PARA 220 et seq ante.

In computing any period of time for the purposes of the timetable in Sch 5 para 1, the following must be disregarded: (1) a Saturday or a Sunday (Sch 5 para 2(a)); (2) Christmas Eve, Christmas Day, Maundy Thursday or Good Friday (Sch 5 para 2(b)); (3) a day which is a bank holiday in Wales under the Banking and Financial Dealings Act 1971 (see TIME vol 97 (2010) PARA 321) (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 2(c)); or (4) a day appointed for public thanksgiving or mourning (Sch 5 para 2(d)). Any such day must not be treated as a day for the purpose of any proceedings up to the completion of the poll nor is a constituency returning officer obliged to proceed with the counting of votes on such a day: Sch 5 para 2. For the meaning of 'Wales' see PARA 13 note 1 ante; and for the meaning of 'constituency returning officer' see PARA 18 note 2 ante. As to returning officers appointed for the purposes of elections to the National Assembly for Wales see PARA 362 et seq post.

² Ibid Sch 5 para 3(1), (3). In the case of a regional election, the constituency returning officer must publish on receipt a notice of election stating the matters referred to in heads (1)-(3) in the text that is prepared by the regional returning officer who must deliver, or cause to be delivered, the prepared notice to each constituency returning officer for an Assembly constituency in the Assembly electoral region: Sch 5 para 3(2), (3). For the meanings of 'Assembly constituency', 'Assembly electoral region' and 'regional election' see PARA 3 note 1 ante; and for the meaning of 'regional returning officer' see PARA 18 note 2 ante. As to the establishment of Assembly constituencies and electoral regions for the purpose of elections to the National Assembly for Wales see PARA 75 ante.

³ Ibid Sch 5 para 3(1)(a), (2)(a). The forms referred to in the text are forms of individual nomination papers in the case of a constituency election (Sch 5 para 3(1)(a)) and forms of individual or party nomination papers in the case of a regional election (Sch 5 para 3(2)(a)). As to the nomination of candidates at elections see PARA 260 et seq post.

⁴ Ibid Sch 5 para 3(1)(b), (2)(b). The forms referred to in the text are forms of individual nomination papers in the case of a constituency election (Sch 5 para 3(1)(b)) and forms of individual or party nomination papers in the case of a regional election (Sch 5 para 3(2)(b)).

⁵ Ibid Sch 5 para 3(1)(c), (2)(c). As the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see PARAS 220-221 ante.

⁶ Ibid Sch 5 para 3(4)(a). As to applications to vote by post or by proxy see PARA 372 et seq post.

⁷ Ibid Sch 5 para 3(4)(b).

⁸ As to the electoral registration officer see PARA 154 et seq ante.

⁹ National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 3(4).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(iv) Initiating a European Parliamentary Election/A. GENERAL ELECTIONS/224. European parliamentary general elections.

(iv) Initiating a European Parliamentary Election

A. GENERAL ELECTIONS

224. European parliamentary general elections.

Members of the European Parliament are elected for a fixed term of five years¹. The five-year term for which members of the European Parliament are elected begins at the opening of the first session following each election² and the term of office of each representative begins and ends at the same time as that period³. Elections take place in the period determined by the European Council in the last year of the five-year period⁴.

1 Treaty Establishing the European Community (Rome, 25 March 1957; TS 1 (1973); Cmnd 5179) art 190(3) (art 190 formerly art 138; renumbered by virtue of the Treaty of Amsterdam: see *Treaty Citation (No 2) (Note)* [1999] All ER (EC) 646, ECJ).

2 1976 Act concerning the election of the representatives of the European Parliament by direct universal suffrage (OJ L278, 08.10.76, p 5) (the '1976 Act') art 5(1) (amended and renumbered by EC and Euratom Decision 2002/772 (OJ L283, 21.10.2002, p 1)). The five-year period may be extended or curtailed in certain circumstances: see note 4 infra. As to the 1976 Act and as to the elections that are required under European law see PARA 6 ante.

3 1976 Act art 5(2) (amended and renumbered by EC and Euratom Decision 2002/772 (OJ L283, 21.10.2002, p 1)).

4 1976 Act art 11(2) (renumbered by EC and Euratom Decision 2002/772 (OJ L283, 21.10.2002, p 1)). Should it prove impossible to hold the elections during the period so determined, the Council acting unanimously must, after consulting the Parliament, determine, at least one month before the end of the five-year term referred to in the 1976 Act art 5 (as amended and renumbered) (see the text and notes 2-3 supra), another electoral period which must not be more than two months before or one month after the period originally determined: see art 11(2) (amended and renumbered by EC and Euratom Decision 2002/772 (OJ L283, 21.10.2002, p 1)). As to fixing the date for the holding of such elections see PARA 229 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(iv) Initiating a European Parliamentary Election/B. BY-ELECTIONS AND THE FILLING OF VACANCIES/225. Provision for the procedure to be followed for the filling of vacant seats.

B. BY-ELECTIONS AND THE FILLING OF VACANCIES

225. Provision for the procedure to be followed for the filling of vacant seats.

A seat falls vacant when the mandate of a member of the European Parliament ('MEP') ends as a result of resignation, death or withdrawal of the mandate¹. Each member state must lay down appropriate procedures for filling any seat which falls vacant during the five-year term of office² for the remainder of that period³. Where the law of a member state makes explicit provision for the withdrawal of the mandate of a member of the European Parliament⁴, that mandate ends pursuant to those legal provisions and the competent national authorities must so inform the European Parliament⁵. Where a seat falls vacant as a result of resignation or death, the President of the European Parliament must immediately so inform the competent authorities of the member state concerned⁶.

For the purposes of filling the seat of an MEP elected for the United Kingdom which is or becomes vacant, the Secretary of State must by regulations⁷ make provision prescribing the procedure to be followed⁸. Such regulations may include provision requiring a by-election to be held in specified circumstances⁹ and require a seat last filled from a party's list of candidates¹⁰ to be filled, in specified circumstances, from such a list (without a by-election)¹¹. Where regulations provide for a by-election to be held, the poll must take place on a day, appointed by order of the Secretary of State, within such period as may be specified in the regulations¹² (although the regulations may enable the Secretary of State to decline to appoint a day in certain circumstances¹³).

1 1976 Act concerning the election of the representatives of the European Parliament by direct universal suffrage (OJ L278, 08.10.76, p 5) (the '1976 Act') art 13(1) (art 13 substituted and renumbered by EC and Euratom Decision 2002/772 (OJ L283, 21.10.2002, p 1)). As to the 1976 Act and as to the elections that are required under European law see PARA 6 ante.

2 le the five-year term of office referred to in the 1976 Act art 5 (as amended and renumbered) (see PARA 224 ante).

3 1976 Act art 13(2) (as substituted and renumbered: see note 1 supra). This provision is subject to the other provisions of the 1976 Act: art 13(2) (as so substituted).

4 As to the national provisions which govern European parliamentary elections in the United Kingdom see PARA 13 et seq ante.

5 1976 Act art 13(3) (as substituted and renumbered: see note 1 supra). In the case of the United Kingdom, the competent national authority referred to in the text is the Secretary of State: see PARA 226 post. For the meaning of 'United Kingdom' see PARA 13 note 1 ante. As to the Secretary of State see PARA 2 ante.

6 1976 Act art 13(4) (as substituted and renumbered: see note 1 supra).

7 As to the making of regulations under the European Parliamentary Elections Act 2002 see PARA 13 note 12 ante. As to the regulations so made see the European Parliamentary Elections Regulations 2004, SI 2004/293, regs 82-85; and PARAS 226-228 post.

8 European Parliamentary Elections Act 2002 s 5(1). See further PARA 226 post.

9 Ibid s 5(2)(a). Such provision may modify s 2 (as amended) (voting system for European parliamentary general elections in Great Britain and Gibraltar: see PARA 345 post) in its application to by-elections: s 5(2)(a). See further PARA 228 post.

10 As to the system of candidature whereby registered parties submit lists of candidates see PARA 345 post.

11 European Parliamentary Elections Act 2002 s 5(2)(b). See further PARA 227 post.

12 Ibid s 5(3)(a). See further PARA 228 post.

13 Ibid s 5(3)(b). See further PARA 228 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(iv) Initiating a European Parliamentary Election/B. BY-ELECTIONS AND THE FILLING OF VACANCIES/226. Initial response to vacancies.

226. Initial response to vacancies.

As soon as practicable after the Secretary of State¹ has either: (1) received information from the President of the European Parliament² of a vacancy in the seat of a member of the European Parliament ('MEP')³; or (2) informed the European Parliament⁴ that a vacancy exists⁵, he must send a notice to the returning officer for the electoral region in which the vacancy exists⁶. Such a notice must state that a vacancy exists⁷ and set out the name of the person who was returned in the seat which is vacant, together with the name of the registered party⁸ on whose list⁹ his name was included¹⁰.

However, the requirement to send such a notice does not apply: (a) where it appears from the declaration of the result of the election that the person whose seat is now vacant was an individual candidate¹¹; or (b) where the event referred to in head (1) or head (2) above occurred less than six months before the Thursday of the period of the next general election of MEPs¹².

1 As to the Secretary of State see PARA 2 ante.

2 I.e. pursuant to the 1976 Act concerning the election of the representatives of the European Parliament by direct universal suffrage (OJ L278, 08.10.76, p 5) (the '1976 Act') art 13(4) (as substituted and renumbered) (see PARA 225 ante). As to the 1976 Act see PARA 6 ante.

3 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 82(1)(a).

4 I.e. pursuant to the 1976 Act art 13(3) (as substituted and renumbered) (see PARA 225 ante).

5 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 82(1)(b).

6 Ibid reg 82(1). The notice referred to in the text must be in accordance with reg 82(4) (see the text and notes 7-10 infra). As to returning officers appointed for the purposes of elections to the European Parliament see PARA 365 post.

7 Ibid reg 82(4)(a).

8 For the meaning of 'registered party' for these purposes see PARA 237 note 30 post.

9 For the meaning of 'list' for these purposes see PARA 237 note 30 post. As to the system of candidature whereby registered parties submit lists of candidates see PARA 345 post.

10 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 82(4)(b).

11 Ibid reg 82(2). Subject to reg 85(2) (see PARA 228 post), a by-election must be held in the circumstances described in reg 82(2) to fill the vacancy, and the period within which the poll at that election must take place is six months from the occurrence of the event specified in head (1) or head (2) in the text, as the case may be: reg 82(3). For the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 post.

12 Ibid reg 82(5). For the purpose of reg 82(5) and reg 83(1) (see PARA 227 post), the period of the next general election of MEPs is that during which the next general election would take place in accordance with the 1976 Act (as substituted and renumbered) (see PARA 225 ante): European Parliamentary Elections Regulations 2004, SI 2004/293, reg 82(6).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(iv) Initiating a European Parliamentary Election/B. BY-ELECTIONS AND THE FILLING OF VACANCIES/227. Filling of vacancies from a registered party's list.

227. Filling of vacancies from a registered party's list.

On receipt of a notice of a vacancy¹, the returning officer² must ascertain from the list submitted by the registered party named in the notice³ (the 'relevant list') the name and address of the person whose name appears highest on that list (the 'first choice'), disregarding the name of any person who has been returned as a member of the European Parliament ('MEP') or who has died⁴. The returning officer must take such steps as appear to him to be reasonable to contact the first choice to ask whether he will: (1) state in writing that he is willing and able to be returned as an MEP⁵; and (2) deliver a certificate signed by or on behalf of the nominating officer of the registered party which submitted the relevant list stating that he may be returned as that party's MEP⁶.

Where, within such period as the returning officer considers reasonable, he decides that the steps he has taken to contact the first choice have been unsuccessful⁷, or he has not received from the first choice the statement and certificate referred to in heads (1) and (2) above⁸, or where the first choice has stated in writing that he is not willing or able to be returned as an MEP⁹, or has failed to deliver the certificate referred to in head (2) above¹⁰, the returning officer must repeat the above procedure¹¹ in respect of the person (if any) whose name and address appears next in the relevant list (the 'second choice') or, where that person does not satisfy the necessary conditions¹², in respect of the person (if any) whose name and address appear next highest after the second choice in that list¹³. The returning officer must continue to repeat the procedure until the seat is filled or until the names in the list are exhausted¹⁴.

Where a person whose name appears on the relevant list provides the statement referred to in head (1) above and the certificate referred to in head (2) above, the returning officer must declare in writing that person to be returned as an MEP¹⁵. The returning officer must give public notice of such a declaration and send a copy of it to the Secretary of State¹⁶. However, where the returning officer is unable to fill the seat¹⁷, he must notify the Secretary of State that he is unable to do so¹⁸.

¹ See a notice under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 82(4) (see PARA 226 ante).

² As to returning officers appointed for the purposes of elections to the European Parliament see PARA 365 post.

³ For the meanings of 'list' and 'registered party' for these purposes see PARA 237 note 30 post. As to the system of candidature whereby registered parties submit lists of candidates see PARA 345 post.

⁴ European Parliamentary Elections Regulations 2004, SI 2004/293, reg 83(1).

⁵ Ibid reg 83(2)(a).

⁶ Ibid reg 83(2)(b).

⁷ Ibid reg 83(3)(a)(i).

⁸ Ibid reg 83(3)(a)(ii).

⁹ Ibid reg 83(3)(b)(i).

10 Ibid reg 83(3)(b)(ii).

11 Ie the procedure required by ibid reg 83(2) (see the text and notes 5-6 supra).

12 Ie where ibid reg 83(3)(a) (see the text and notes 7-8 supra) or reg 83(3)(b) (see the text and notes 9-10 supra) applies in respect of that person.

13 Ibid reg 83(4).

14 Ibid reg 83(4).

15 Ibid reg 83(5). However, where the returning officer has, in accordance with reg 83(4) (see the text and notes 11-14 supra), asked a second or other subsequent choice the questions in reg 83(2) (see heads (1) and (2) in the text) (reg 83(6)(a)), and the person who was previously asked those questions then provides the statement and certificate referred to in reg 83(2) (reg 83(6)(b)), that statement and certificate has no effect unless and until the circumstances described in reg 83(3)(a) (see the text and notes 7-8 supra) or reg 83(3)(b) (see the text and notes 9-10 supra) apply in respect of the second or other subsequent choice (reg 83(6)).

16 Ibid reg 83(7). As to the Secretary of State see PARA 2 ante.

17 Ie under ibid reg 83 (see the text and notes 1-16 supra).

18 Ibid reg 83(8).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(iv) Initiating a European Parliamentary Election/B. BY-ELECTIONS AND THE FILLING OF VACANCIES/228. By-elections held to fill vacancies.

228. By-elections held to fill vacancies.

Where the Secretary of State¹ has received a notice from a returning officer² that he is unable to fill a vacant seat from the registered party's list³, a by-election must be held to fill that vacancy⁴. The period within which the poll at any such by-election must take place is six months from the date on which the Secretary of State receives the notice⁵. However, where the latest date for the poll for a by-election would fall on or after the Thursday of the period of the next general election of members of the European Parliament ('MEPs')⁶, the requirement to hold a by-election does not apply⁷ and the Secretary of State may not appoint a day for the poll for a by-election⁸.

1 As to the Secretary of State see PARA 2 ante.

2 As to returning officers appointed for the purposes of elections to the European Parliament see PARA 365 post.

3 The text refers to a notice received under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 83(8) (see PARA 227 ante). For the meanings of 'list' and 'registered party' for these purposes see PARA 237 note 30 post. As to the system of candidature whereby registered parties submit lists of candidates see PARA 345 post.

4 Ibid reg 84(1).

5 Ibid reg 84(2).

6 Ibid reg 85(1). The text refers to the period of the next general election of MEPs within the meaning of reg 82(6) (see PARA 226 note 12 ante).

7 I.e. in the circumstances in which ibid reg 85 applies (see the text and note 6 supra), reg 82(3) (see PARA 226 ante) and reg 84(1) (see the text and notes 1-4 supra) do not apply.

8 Ibid reg 85(2).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(iv) Initiating a European Parliamentary Election/C. DATE AND NOTICE OF ELECTION/229. The date of a European parliamentary general election.

C. DATE AND NOTICE OF ELECTION

229. The date of a European parliamentary general election.

Elections to the European Parliament¹ are held on the date and at the times fixed by each member state² but for all member states this date must fall within the same period starting on a Thursday morning and ending on the following Sunday³. In the United Kingdom, the poll at each general election of members of the European Parliament ('MEPs') is held on a day appointed by order of the Secretary of State⁴.

1 As to the elections that are required under European law see PARA 6 ante.

2 1976 Act concerning the election of the representatives of the European Parliament by direct universal suffrage (OJ L278, 08.10.76, p 5) (the '1976 Act') art 10(1) (art 10 amended and renumbered by EC and Euratom Decision 2002/772 (OJ L283, 21.10.2002, p 1)). As to the 1976 Act see PARA 6 ante.

3 1976 Act art 10(1) (as renumbered: see note 2 supra). Member states may not officially make public the results of their count until after the close of polling in the member state whose electors are the last to vote within the period referred to in art 10(1) (as amended): art 10(2) (as amended and renumbered: see note 2 supra).

4 European Parliamentary Elections Act 2002 s 4. At the date at which this volume states the law, the most recent poll for the general election of MEPs was held on 10 June 2004: see the European Parliamentary Elections (Appointed Day of Poll) Order 2004, SI 2004/217. As to the Secretary of State see PARA 2 ante; and as to the making of orders under the European Parliamentary Elections Act 2002 see PARA 13 note 12 ante. As to the national provisions which govern European parliamentary elections in the United Kingdom see PARA 13 et seq ante. For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

UPDATE

229 The date of a European parliamentary general election

NOTE 4--The day appointed for the poll at the next general election of MEPs is 4 June 2009: European Parliamentary Elections (Appointed Day of Poll) Order 2008, SI 2008/3102.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(1) INITIATING AN ELECTION/(iv) Initiating a European Parliamentary Election/C. DATE AND NOTICE OF ELECTION/230. Notice of European parliamentary election.

230. Notice of European parliamentary election.

Not later than the twenty-fifth day before the date of the poll at a European parliamentary election¹, the returning officer must publish notice of the election². Such a notice must state: (1) the place and times at which nomination papers are to be delivered³; (2) the date of the poll in the event of a contest⁴; and (3) the date by which⁵ applications to vote by post or by proxy⁶ and other applications and notices about postal or proxy voting⁷ must reach the electoral registration officer⁸ in order that they may be effective for the election⁹. The returning officer must send a copy of the notice to the local returning officer¹⁰ for each local counting area¹¹ wholly or partly contained in the electoral region¹²; and each local returning officer must publish the copy of the notice at a place within the area in which he acts¹³.

1 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9, Sch 1 para 1. As to the date of the poll at a European parliamentary general election see PARA 229 ante.

In computing any period of time for the purposes of the timetable in Sch 1 para 1, the following must be disregarded: (1) a Saturday or a Sunday (Sch 1 para 2(1)(a)); (2) Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a bank holiday (Sch 1 para 2(1)(b)); or (3) a day appointed for public thanksgiving or mourning (Sch 1 para 2(1)(c)). Any such day must not be treated as a day for the purpose of any proceedings up to the completion of the poll nor is the returning officer obliged to proceed with the counting of votes on such a day: Sch 1 para 2(1). For these purposes, 'bank holiday' means: (a) in relation to a general election in a region other than the combined region, a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom (see TIME vol 97 (2010) PARA 321) (European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 2(2)(c)); and (b) in relation to a by-election in a region other than the combined region a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in that part of the United Kingdom in which the electoral region is situated (European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 2(2)(d)). However, head (b) supra and not head (a) supra applies at a general election in relation to any proceedings extending, by reason of riot or open violence, beyond the time laid down by the timetable: Sch 1 para 2(2). For the meaning of 'United Kingdom' see PARA 13 note 1 ante. As to the establishment of electoral regions (including the 'combined region') for the purpose of elections to the European Parliament see PARA 76 ante; and as to returning officers appointed for such purposes see PARA 365 post. As to bank holidays defined for the purposes of the combined region see Sch 1 para 2(2)(a), (b).

2 Ibid Sch 1 para 3(1).

3 Ibid Sch 1 para 3(1)(a). As to the nomination of candidates at elections see PARA 260 et seq post.

4 Ibid Sch 1 para 3(1)(b).

5 Ie except in such circumstances as are provided for in ibid reg 10, Sch 2 para 19 (applications disregarded or refused after closing time and date: see PARA 372 post).

6 Ibid Sch 1 para 3(2)(a). As to applications to vote by post or by proxy see PARA 372 et seq post.

7 Ibid Sch 1 para 3(2)(b).

8 As to the electoral registration officer see PARA 154 et seq ante.

9 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 3(2).

10 As to local returning officers appointed for the purposes of elections to the European Parliament see PARA 365 post.

11 For these purposes, 'local counting area' means either Gibraltar or a parliamentary constituency wholly or partly comprised in an electoral region in England or in Wales: European Parliamentary Elections Regulations

2004, SI 2004/293, reg 2(1). For the meaning of 'constituency' for the purpose of parliamentary elections see PARA 9 ante.

12 Ibid Sch 1 para 3(3).

13 Ibid Sch 1 para 3(3).

UPDATE

230 Notice of European parliamentary election

TEXT AND NOTES--SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

NOTE 11--SI 2004/293 reg 2(1) substituted: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (2) CANDIDACY FOR ELECTIONS/(i) Standing in Parliamentary Elections/231. Disqualification for membership of the House of Commons.

(2) CANDIDACY FOR ELECTIONS

(i) Standing in Parliamentary Elections

231. Disqualification for membership of the House of Commons.

A person is disqualified for membership of the House of Commons if, on the day on which he is nominated as a candidate¹, he has not attained the age of 18². If a person so disqualified is elected as a member of that House his election is void³. Persons, other than citizens of the Republic of Ireland⁴ and qualifying Commonwealth citizens⁵, who are born outside Great Britain and Ireland and the dominions are also disqualified for membership of the House of Commons⁶. If a person so disqualified⁷ is elected as a member of that House his election is void⁸. In most circumstances, the disqualification of persons elected as members of Parliament on grounds subsisting at the time of election may be determined through presentation of an election petition⁹.

A person may be disqualified for membership of the House of Commons by virtue of vocation or status¹⁰, through incapacity¹¹ or by office or service¹². Provision is made for the House to determine questions arising in relation to the qualification of any member of Parliament or any person elected to be such a member¹³.

1 As to the nomination of candidates at a parliamentary election see PARA 260 et seq post.

2 Electoral Administration Act 2006 s 17(1). The Electoral Administration Act 2006 s 17 and s 18 (see the text and notes 4-8 infra) do not have effect in relation to any election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

3 Electoral Administration Act 2006 s 17(2). This provision is subject to an order made by the House of Commons under the House of Commons Disqualification Act 1975 s 6(2) (order that disqualification be disregarded: see PARLIAMENT vol 78 (2010) PARA 910) as applied by the Electoral Administration Act 2006 s 17(3): s 17(2). The House of Commons Disqualification Act 1975 s 6(2)-(4) (see PARLIAMENT vol 78 (2010) PARA 910) and s 7 (jurisdiction of Privy Council as to disqualification: see PARLIAMENT vol 78 (2010) PARA 912) apply in the case of a person disqualified by the Electoral Administration Act 2006 s 17(1) as they apply in the case of a person disqualified by the House of Commons Disqualification Act 1975; and references in s 6(2)-(4) and s 7 to a person disqualified by the House of Commons Disqualification Act 1975 must be construed as including references to a person disqualified by the Electoral Administration Act 2006 s 17(1): s 17(3). As to the commencement of these provisions see note 2 supra.

4 As to who are citizens of the Republic of Ireland see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 12.

5 For these purposes, a person is a qualifying Commonwealth citizen if he is a Commonwealth citizen who either: (1) is not a person who requires leave under the Immigration Act 1971 to enter or remain in the United Kingdom (see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 86 et seq) (Electoral Administration Act 2006 s 18(2)(a)); or (2) is such a person but for the time being has (or is, by virtue of any enactment, to be treated as having) indefinite leave to remain within the meaning of the Immigration Act 1971 (see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 86) (Electoral Administration Act 2006 s 18(2)(b)). However, a person is not a qualifying Commonwealth citizen by virtue of head (1) supra if he does not require leave to enter or remain in the United Kingdom by virtue only of the Immigration Act 1971 s 8 (exceptions to requirement for leave in special cases: see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 88 et seq): Electoral Administration Act 2006 s 18(3). As to the commencement of these

provisions see note 2 *supra*. For the meaning of 'United Kingdom' see PARA 13 note 1 *ante*. As to who are Commonwealth citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 11.

6 See the Act of Settlement (1700) s 3, as modified by the Electoral Administration Act 2006 s 18(1). As to the commencement of these provisions see note 2 *supra*. See also PARLIAMENT vol 78 (2010) PARA 899.

7 *Ibid* by virtue of the Act of Settlement (1700) s 3, as modified by the Electoral Administration Act 2006 s 18(1) (see note 6 *supra*).

8 *Ibid* s 18(4)(a). If a person being a member of that House becomes disqualified for membership as mentioned in the text, his seat is vacated: s 18(4)(b). Section 18(4) is subject to an order made by the House of Commons under the House of Commons Disqualification Act 1975 s 6(2) (order that disqualification be disregarded: see PARLIAMENT vol 78 (2010) PARA 910) as applied by the Electoral Administration Act 2006 s 18(5): s 18(4). The House of Commons Disqualification Act 1975 s 6(2)-(4) (see PARLIAMENT vol 78 (2010) PARA 910) and s 7 (jurisdiction of Privy Council as to disqualification: see PARLIAMENT vol 78 (2010) PARA 912) apply in the case of a person disqualified as mentioned in the Electoral Administration Act 2006 s 18(4) as they apply in the case of a person disqualified by the House of Commons Disqualification Act 1975; and references in s 6(2)-(4) and s 7 to a person disqualified by the House of Commons Disqualification Act 1975 must be construed as including references to a person disqualified as mentioned in the Electoral Administration Act 2006 s 18(4): s 18(5). As to the commencement of these provisions see note 2 *supra*.

9 As to election petitions generally see PARA 778 *et seq post*.

10 As to disqualification of clergy see PARLIAMENT vol 78 (2010) PARA 897; as to disqualification of peers see PARLIAMENT vol 78 (2010) PARA 897; as to disqualification of aliens see PARLIAMENT vol 78 (2010) PARA 899; and as to disqualification of bankrupts see PARLIAMENT vol 78 (2010) PARA 903.

11 As to the disqualification of election offenders see PARAS 904, 907 *post*; and PARLIAMENT vol 78 (2010) PARA 901. As to disqualification of minors see PARLIAMENT vol 78 (2010) PARA 898; as to disqualification for mental incapacity see PARLIAMENT vol 78 (2010) PARA 900; and as to disqualification of criminal offenders see PARLIAMENT vol 78 (2010) PARA 902.

12 See PARLIAMENT vol 78 (2010) PARAS 905-910. As to the armed forces and parliamentary candidature see ARMED FORCES vol 2(2) (Reissue) PARA 27.

13 See PARLIAMENT vol 78 (2010) PARAS 911-914.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (2) CANDIDACY FOR ELECTIONS/(ii) Standing in Local Government Elections/232. Qualification for membership of local authority or to be elected local authority mayor.

(ii) Standing in Local Government Elections

232. Qualification for membership of local authority or to be elected local authority mayor.

Unless disqualified¹, a person is qualified to be elected² and to be a member of a local authority³, or qualified to be elected and to be an elected mayor⁴, if he is a qualifying Commonwealth citizen⁵ or a citizen of the Republic of Ireland⁶ or a relevant citizen of the European Union⁷ and on the relevant day⁸ he has attained the age of 18 years⁹ and: (1) on that day he is and thereafter continues to be a local government elector¹⁰ for the area of the authority¹¹; or (2) he has during the whole of the 12 months preceding that day occupied as an owner or tenant any land or other premises in that area¹²; or (3) his principal or only place of work during that 12 months has been in that area¹³; or (4) he has during the whole of those 12 months resided in that area¹⁴; or (5) in the case of a member of a parish or community council, he has during the whole of those 12 months resided either in the parish or community or within three miles of it¹⁵. On ceasing to hold office he is eligible for re-election, unless disqualified or not qualified¹⁶.

1 He is disqualified by virtue of the Local Government Act 1972 or any other enactment: see LOCAL GOVERNMENT vol 69 (2009) PARA 119. As to the armed forces and local government office see ARMED FORCES vol 2(2) (Reissue) PARA 27.

2 As to local government elections see PARA 204 et seq ante.

3 For the meaning of 'local authority' for these purposes see LOCAL GOVERNMENT vol 69 (2009) PARA 23.

4 For the meaning of 'elected mayor' for these purposes see LOCAL GOVERNMENT vol 69 (2009) PARA 320. As to elections for the return of an elected mayor for a local authority see PARA 205 et seq ante.

5 For these purposes, a person is a qualifying Commonwealth citizen if he is a Commonwealth citizen who either: (1) is not a person who requires leave under the Immigration Act 1971 to enter or remain in the United Kingdom (see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 86 et seq) (Local Government Act 1972 s 79(2B)(a) (s 79(2B), (2C) added by the Electoral Administration Act 2006 s 18(6), Sch 1 para 43(1), (4))); or (2) is such a person but for the time being has (or is, by virtue of any enactment, to be treated as having) indefinite leave to remain within the meaning of the Immigration Act 1971 (see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 86) (Local Government Act 1972 s 79(2B)(b) (as so added)). However, a person is not a qualifying Commonwealth citizen by virtue of head (1) supra if he does not require leave to enter or remain in the United Kingdom by virtue only of the Immigration Act 1971 s 8 (exceptions to requirement for leave in special cases: see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 88 et seq): Local Government Act 1972 s 79(2C) (as so added). Any amendment effected by the Electoral Administration Act 2006 ss 17, 18, Sch 1 para 43 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. Until that date, references to 'a qualifying Commonwealth citizen' should be read as references to 'a Commonwealth citizen'. As to who are Commonwealth citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 11.

6 As to who are citizens of the Republic of Ireland see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 12.

7 The Local Government Act 1972 uses the expression 'citizen of the Union' which must be construed in accordance with the Treaty Establishing the European Community (Rome, 25 March 1957; TS 1 (1973); Cmnd 5179) art 17(1) (formerly art 8(1) and renumbered by virtue of the Treaty of Amsterdam: see *Treaty Citation*

(No 2) (Note) [1999] All ER (EC) 646, ECJ); and 'relevant citizen of the Union' means such a citizen who is not a qualifying Commonwealth citizen or a citizen of the Republic of Ireland: Local Government Act 1972 s 79(2A) (added by the Local Government Elections (Changes to the Franchise and Qualifications of Members) Regulations 1995, SI 1995/1948, reg 3; and amended by the Electoral Administration Act 2006 Sch 1 para 43(1), (3)). As to the date on which the amendment effected by the Electoral Administration Act 2006 Sch 1 para 43(1), (3) takes effect see note 5 supra.

8 The 'relevant day' in relation to any candidate means, except in the case of an election not preceded by the nomination of candidates, the day on which he is nominated as a candidate and also, if there is a poll, the day of election: Local Government Act 1972 s 79(2)(a). In that excepted case, the 'relevant day' is the day of election: s 79(2)(b).

9 Ibid s 79(1) (amended by the Electoral Administration Act 2006 s 17(4), Sch 1 para 43(1), (2); the Local Government Elections (Changes to the Franchise and Qualifications of Members) Regulations 1995, SI 1995/1948, reg 3; the Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments and Other Provisions) (England) Order 2001, SI 2001/2237, arts 1(2), 2(a), 4; and the Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments and Other Provisions) (Wales) Order 2002, SI 2002/808, arts 2(a), 4). As to the date on which the amendment effected by the Electoral Administration Act 2006 s 17(4), Sch 1 para 43(1), (2) takes effect see note 5 supra. Until that date, the reference to 'a qualifying Commonwealth citizen' should be read as a reference to 'a Commonwealth citizen' and the reference to 'the age of 18 years' should be read as a reference to 'the age of 21 years'.

10 For the meaning of 'local government elector' for these purposes see LOCAL GOVERNMENT vol 69 (2009) PARA 127.

11 Local Government Act 1972 s 79(1)(a). As to areas and authorities in England see LOCAL GOVERNMENT vol 69 (2009) PARA 24 et seq; and as to areas and authorities in Wales see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq.

12 Ibid s 79(1)(b).

13 Ibid s 79(1)(c). The phrase 'principal or only place of work' is to be given its natural and ordinary meaning and has a wider meaning than 'business' or 'employment'; constituency work may suffice, as the phrase 'principal or only place of work' does not impose a requirement that the candidate should have a personal interest in the area: *Parker v Yeo* (1992) 90 LGR 645, CA ('work' may include duties performed by a candidate as a previously-elected councillor of the local authority).

14 Local Government Act 1972 s 79(1)(d). The word 'residence' does not have a technical meaning, but will generally connote a degree of permanence; it is possible for a person to have several residences, but a temporary residence at a place does not make a person a resident of that place; similarly, temporary absence from a place does not deprive a person of his residency of that place: *Fox v Stirk and Bristol Electoral Registration Officer* [1970] 2 QB 463, [1970] 3 All ER 7, CA. See also *R v Mayor of Exeter (Wescomb's Case)* (1868) LR 4 QB 110, DC; *R v Mayor of Exeter (Dipstale's Case)* (1868) LR 4 QB 114, DC; *Tewkesbury Case, Whithorn v Thomas* (1844) 9 JP 89; *R v Vicar and Churchwardens of Bredwarding, ex p Burton-Phillipson* [1920] 1 KB 47; *Barlow v Smith* (1892) 9 TLR 57, DC; *Stanford v Williams* (1899) 80 LT 490, DC.

15 Local Government Act 1972 s 79(1)(e).

16 This is the effect of *ibid* s 79(1) (as amended).

UPDATE

232 Qualification for membership of local authority or to be elected local authority mayor

TEXT AND NOTES--Local Government Act 1972 s 79(1) further amended and SI 2001/2237 art 4 revoked: Local Government and Public Involvement in Health Act 2007 Sch 3 para 5, Sch 18 Pt 3.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (2) CANDIDACY FOR ELECTIONS/(ii) Standing in Local Government Elections/233. Candidacy for elections to be a member of the London Assembly or to be the Mayor of London.

233. Candidacy for elections to be a member of the London Assembly or to be the Mayor of London.

A person is qualified¹ to be elected and to be the Mayor of London² or an Assembly member³ if⁴: (1) he is a qualifying Commonwealth citizen⁵, a citizen of the Republic of Ireland⁶ or a relevant citizen of the Union⁷; (2) on the relevant day⁸, he has attained the age of 18 years⁹; and (3) he satisfies at least one of the conditions relating to his residence, employment or entitlement to vote in Greater London¹⁰. These provisions apply in relation to being returned as a London member¹¹ otherwise than at an election following a vacancy arising in such an office¹² as it applies in relation to being elected¹³.

At an ordinary election¹⁴, a person may not be a candidate to be the London Assembly member for more than one Assembly constituency¹⁵. Any registered political party¹⁶ may submit to the Greater London returning officer¹⁷ a list of candidates to be London members¹⁸. The list has effect in relation to the ordinary election and any vacancies among the London members¹⁹ which occur after that election and before the next ordinary election²⁰. The list must not include more than 25 persons (but may include only one)²¹, and must not include a person: (a) who is a candidate to be a constituency member but who is not a candidate of that party²²; (b) who is included on any other list submitted for the election of London members²³; or (c) who is an individual candidate to be a London member²⁴. Similarly, a person may not be an individual candidate to be a London member if: (i) he is included on a list submitted by a registered political party for the election of London members²⁵; or (ii) he is a candidate of any registered political party to be the Mayor of London or a constituency member²⁶.

1 Is subject to any disqualification by virtue of the Greater London Authority Act 1999 or any other enactment. As to such disqualification generally see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 86 et seq. The acts and proceedings of any person elected to an office under the Greater London Authority Act 1999 and acting in that office are, notwithstanding his want of qualification, as valid and effectual as if he had been qualified: s 22.

2 As to the Mayor of London see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 81.

3 For the meaning of 'Assembly member' and as to the London Assembly see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 82.

4 Greater London Authority Act 1999 s 20(1).

5 Ibid s 20(2)(a) (amended by the Electoral Administration Act 2006 s 18(6), Sch 1 para 42(1), (2)). For these purposes, a person is a qualifying Commonwealth citizen if he is a Commonwealth citizen who either: (1) is not a person who requires leave under the Immigration Act 1971 to enter or remain in the United Kingdom (see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 86 et seq) (Greater London Authority Act 1999 s 20(7A)(a) (s 20(7A), (7B) added by the Electoral Administration Act 2006 Sch 1 para 42(1), (3))); or (2) is such a person but for the time being has (or is, by virtue of any enactment, to be treated as having) indefinite leave to remain within the meaning of the Immigration Act 1971 (see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 86) (Greater London Authority Act 1999 s 20(7A)(b) (as so added)). However, a person is not a qualifying Commonwealth citizen by virtue of head (1) supra if he does not require leave to enter or remain in the United Kingdom by virtue only of the Immigration Act 1971 s 8 (exceptions to requirement for leave in special cases: see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 88 et seq); Greater London Authority Act 1999 s 20(7B) (as so added). Any amendment effected by the Electoral Administration Act 2006 ss 17, 18, Sch 1 para 42 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007:

see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. Until that date, references to 'a qualifying Commonwealth citizen' should be read as references to 'a Commonwealth citizen'. As to who are Commonwealth citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 11.

6 Greater London Authority Act 1999 s 20(2)(b). As to who are citizens of the Republic of Ireland see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 12.

7 Ibid s 20(2)(c). For this purpose, 'citizen of the Union' is to be construed in accordance with the Treaty Establishing the European Community (Rome, 25 March 1957; TS 1 (1973); Cmnd 5179); and 'relevant citizen of the Union' means a citizen of the Union who is not a qualifying Commonwealth citizen or a citizen of the Republic of Ireland: Greater London Authority Act 1999 s 20(8) (amended by the Electoral Administration Act 2006 Sch 1 para 42(1), (4)). As to the date on which the amendment effected by the Electoral Administration Act 2006 Sch 1 para 42(1), (4) takes effect see note 5 supra.

8 The 'relevant day', in relation to any candidate, means: (1) the day on which he is nominated as a candidate and also, if there is a poll, the day of the election; or (2) if the election is not preceded by the nomination of candidates, the day of the election: Greater London Authority Act 1999 s 20(8).

9 Ibid s 20(3) (amended by the Electoral Administration Act 2006 s 17(5)). As to the date on which the amendment effected by the Electoral Administration Act 2006 s 17(5) takes effect see note 5 supra. Until that date, the reference to 'the age of 18 years' should be read as a reference to 'the age of 21 years'.

10 Greater London Authority Act 1999 s 20(4). The conditions are that: (1) on the relevant day the person is, and from that day continues to be, a local government elector for Greater London (s 20(4)(a)); (2) the person has, during the whole of the 12 months preceding that day, occupied as owner or tenant any land or other premises in Greater London (s 20(4)(b)); (3) the person's principal or only place of work during that 12 months has been in Greater London (s 20(4)(c)); (4) the person has during the whole of that 12 months resided in Greater London (s 20(4)(d)). 'Local government elector' means a person registered as a local government elector in the register of electors in accordance with the provisions of the Representation of the People Acts (see PARA 160 et seq ante): Greater London Authority Act 1999 s 29. For the meaning of 'the Representation of the People Acts' see PARA 3 note 1 ante. 'Elector' has the same meaning as in the Representation of the People Act 1983 s 202(1) (see PARA 110 note 2 ante): Greater London Authority Act 1999 s 29. As to the meaning of 'vote' for these purposes see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 102. As to Greater London see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 29.

11 As to London members of the London Assembly see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 97.

12 Ie under the Greater London Authority Act 1999 s 11 (see PARA 211 ante).

13 Ibid s 20(5). References in s 20 (as amended) to 'election' must accordingly be construed as if a London member so returned were elected at an election on the day on which he is to be treated as returned (s 20(6)); and in the application of s 20 (as amended) by virtue of s 20(5), any reference to the day on which a person is nominated as a candidate must be taken as a reference to the day on which notification of the person's name is given under s 11(3) (see PARA 211 ante) by the Greater London returning officer (s 20(7)). For the meaning of 'Greater London returning officer' for these purposes see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 98.

14 As to London Assembly ordinary elections see PARA 206 ante.

15 Greater London Authority Act 1999 s 4(9). For the meaning of 'Assembly constituency', in relation to the London Assembly, see PARA 10 note 6 ante. As to constituency members of the London Assembly see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 92.

16 For these purposes, 'registered political party' means a party registered under the Political Parties, Elections and Referendums Act 2000 Pt II (ss 22-40) (as amended) (see PARA 260 post): Greater London Authority Act 1999 s 4(11) (amended by the Political Parties, Elections and Referendums Act 2000 s 158(1), Sch 21 para 15).

17 Greater London Authority Act 1999 s 4(6), Sch 2 para 5(2).

18 Ibid Sch 2 para 5(1). The London members are returned via the London vote, ie the vote which may be given for a registered political party which has submitted a list of candidates to be London members or for an individual who is a candidate to be a London member: see s 4(1)(c), (5); and PARA 345 post.

19 As to vacancies arising in membership of the London Assembly see PARA 211 ante.

20 Greater London Authority Act 1999 Sch 2 para 5(3).

- 21 Ibid Sch 2 para 5(4).
- 22 Ibid Sch 2 para 5(5)(a).
- 23 Ibid Sch 2 para 5(5)(b).
- 24 Ibid Sch 2 para 5(5)(c).
- 25 Ibid Sch 2 para 5(6)(a).
- 26 Ibid Sch 2 para 5(6)(b).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (2) CANDIDACY FOR ELECTIONS/(iii) Standing in Elections to the National Assembly for Wales/234. Candidacy for elections to the National Assembly for Wales.

(iii) Standing in Elections to the National Assembly for Wales

234. Candidacy for elections to the National Assembly for Wales.

At a general election for the National Assembly for Wales¹: (1) a person may not be a candidate to be the Assembly constituency member² for more than one Assembly constituency³; (2) any registered political party⁴ may submit a list of candidates⁵ for return as Assembly regional members⁶ for a particular Assembly electoral region⁷.

Such a list must be submitted to the regional returning officer⁸ and must not include more than 12 persons (but may include only one)⁹. A person must not be included in such a list: (a) who is included on any other list submitted for the Assembly electoral region or any list submitted for another Assembly electoral region¹⁰; (b) who is an individual candidate to be an Assembly member for the Assembly electoral region¹¹ or another Assembly electoral region¹²; (c) who is a candidate to be the Assembly constituency member for an Assembly constituency¹³. A person may not be an individual candidate to be an Assembly regional member for the Assembly electoral region if that person is: (i) included on a list submitted by a registered political party for the Assembly electoral region or another Assembly electoral region¹⁴; (ii) an individual candidate to be an Assembly regional member for another Assembly electoral region¹⁵; (iii) a candidate to be the Assembly constituency member for an Assembly constituency¹⁶.

A person is disqualified from being an Assembly member if that person: (A) is disqualified from being a member of the House of Commons¹⁷; (B) holds any of the offices for the time being designated by Order in Council as offices disqualifying persons from being Assembly members¹⁸; (C) holds the office of Auditor General¹⁹; (D) holds the office of Public Services Ombudsman for Wales²⁰; or (E) is employed as a member of the staff of the Assembly²¹. A person who holds office as lord-lieutenant, lieutenant or high sheriff of any area in Wales²² is disqualified from being an Assembly member for any Assembly constituency or Assembly electoral region wholly or partly included in that area²³.

1 As to an ordinary general election for the National Assembly for Wales see PARA 220 ante. As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

2 For the meanings of 'Assembly constituency member' and 'Assembly member' for these purposes see PARA 12 ante.

3 Government of Wales Act 2006 s 7(1). The provisions of the Government of Wales Act 2006 come into force immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes until that date see the Government of Wales Act 1998 s 4(7). For the meaning of 'Assembly constituency' see PARA 3 note 1 ante. As to the establishment of constituencies for the purpose of elections to the National Assembly for Wales see PARA 75 ante.

4 For these purposes, 'registered political party' means a party registered under the Political Parties, Elections and Referendums Act 2000 Pt II (ss 22-40) (as amended) (see PARA 260 post): Government of Wales Act 2006 s 6(6). As to the date at which this provision takes effect see note 3 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 4(8).

5 As to the system of candidature whereby registered parties submit lists of candidates see PARA 345 post.

6 For the meaning of 'Assembly regional members' see PARA 12 ante.

7 Government of Wales Act 2006 s 7(2). As to the date at which this provision takes effect see note 3 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 5(1). For the meaning of 'Assembly electoral region' see PARA 3 note 1 ante. As to the establishment of electoral regions for the purpose of elections to the National Assembly for Wales see PARA 75 ante.

8 Government of Wales Act 2006 s 7(3). As to the date at which this provision takes effect see note 3 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 5(2). For the meaning of 'regional returning officer' for these purposes see PARA 12 note 9 ante.

9 Government of Wales Act 2006 s 7(4). As to the date at which this provision takes effect see note 3 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 5(4). For the purposes of the Government of Wales Act 1998, the list has effect in relation to the ordinary election and any vacancies in seats of Assembly members returned for Assembly electoral regions which occur after that election and before the next ordinary election: s 5(3).

10 Government of Wales Act 2006 s 7(5)(a). As to the date at which this provision takes effect see note 3 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 5(5)(a).

11 As to individual candidates for Assembly electoral regions see PARA 12 ante.

12 Government of Wales Act 2006 s 7(5)(b). As to the date at which this provision takes effect see note 3 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 5(5)(b).

13 Government of Wales Act 2006 s 7(5)(c). As to the date at which this provision takes effect see note 3 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 5(5)(c).

14 Government of Wales Act 2006 s 7(6)(a). As to the date at which this provision takes effect see note 3 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 5(6)(a).

15 Government of Wales Act 2006 s 7(6)(b). As to the date at which this provision takes effect see note 3 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 5(6)(b).

16 Government of Wales Act 2006 s 7(6)(c). As to the date at which this provision takes effect see note 3 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 5(6)(c).

17 Government of Wales Act 2006 s 16(1)(a). As to the date at which the provision set out in head (A) in the text takes effect see note 3 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 12(1)(a).

The text refers to disqualification under the House of Commons Disqualification Act 1975 s 1(1)(a)-(e) (as amended) (judges, civil servants, members of the armed forces, members of police forces and members of foreign legislatures: see PARLIAMENT vol 78 (2010) PARAS 905-908): Government of Wales Act 2006 s 16(1)(a). Subject to s 17(1), (2) (exceptions and relief from disqualification: see CONSTITUTIONAL LAW AND HUMAN RIGHTS), a person is also disqualified from being an Assembly member if that person is disqualified otherwise than under the House of Commons Disqualification Act 1975 (either generally or in relation to a particular constituency) from being a member of the House of Commons or from sitting and voting in it: Government of Wales Act 2006 s 16(2). For these purposes, the references to the Republic of Ireland in the Representation of the People Act 1981 s 1 (disqualification of offenders detained in, or unlawfully at large from detention in, the British Islands or the Republic of Ireland: see PARA 271 note 10 post) are to be treated as references to any member state (other than the United Kingdom): Government of Wales Act 2006 s 16(3). As to the date at which s 16(2), (3) takes effect see note 3 supra. As to the provisions that apply until that date see the Government of Wales Act 1998 s 12(2), (3). For the meaning of 'United Kingdom' see PARA 13 note 1 ante. As to membership of the House of Commons generally see PARLIAMENT vol 78 (2010) PARA 897 et seq.

18 Government of Wales Act 2006 s 16(1)(b). As to the making of such orders see s 16(5), (6); and CONSTITUTIONAL LAW AND HUMAN RIGHTS. At the date at which this volume states the law, no such order had been made. As to the date at which the provision set out in head (B) in the text takes effect see note 3 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 12(1)(b). As to the making of orders see s 12(5), (6); and CONSTITUTIONAL LAW AND HUMAN RIGHTS. As to the order made under the Government of Wales Act 1998 s 12(1)(b), (5) see the National Assembly for Wales (Disqualification) Order 2003, SI 2006/3335.

19 Government of Wales Act 2006 s 16(1)(c). As to the date at which the provision set out in head (c) in the text takes effect see note 3 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 12(1)(c). As to the Comptroller and Auditor General see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 724-726.

20 Government of Wales Act 2006 s 16(1)(d). As to the date at which the provision set out in head (d) in the text takes effect see note 3 supra. As to the provision that applies until that date see the Government of Wales

Act 1998 s 12(1)(ca) (as added). As to the Public Services Ombudsman for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

21 Government of Wales Act 2006 s 16(1)(e). As to the date at which the provision set out in head (E) in the text takes effect see note 3 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 12(1)(d), which makes provision for persons disqualified from being members of local authorities (having been responsible for incurring or authorising unlawful expenditure or where their wilful misconduct has caused a loss or deficiency).

22 For the meaning of 'Wales' see PARA 13 note 1 ante.

23 Government of Wales Act 2006 s 16(4). As to the date at which this provision takes effect see note 3 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 12(4).

UPDATE

234 Candidacy for elections to the National Assembly for Wales

NOTE 18--SI 2006/3335 amended: Health and Social Care Act 2008 Sch 10 para 26, SI 2008/2250, SI 2008/3244, SI 2009/462, SI 2009/1307.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (2) CANDIDACY FOR ELECTIONS/(iv) Standing in European Parliamentary Elections/235. Candidacy for elections to the office of member of the European Parliament.

(iv) Standing in European Parliamentary Elections

235. Candidacy for elections to the office of member of the European Parliament.

The Secretary of State¹ must by regulations²: (1) make provision for the nomination of registered parties in relation to an election of members of the European Parliament ('MEPs') in a European parliamentary electoral region³; and (2) require a nomination under head (1) above to be accompanied by a list of candidates numbering no more than the MEPs to be elected for the region⁴.

A person is disqualified for the office of MEP if he is disqualified for membership of the House of Commons⁵. A person is disqualified for the office of MEP for a particular electoral region if he is disqualified⁶ for membership of the House of Commons for any parliamentary constituency⁷ wholly or partly comprised in that region⁸. A person who is a citizen of the European Union⁹, and is not a Commonwealth citizen¹⁰ or a citizen of the Republic of Ireland¹¹, is disqualified for the office of MEP if he is disqualified for that office through a criminal law or civil law decision¹² under the law of the member state of which he is a national¹³. If a person who is returned as an MEP for an electoral region¹⁴ is so disqualified for the office of MEP¹⁵ or for the office of MEP for that region¹⁶, his return is void and his seat vacant¹⁷. If an MEP becomes so disqualified for the office of MEP or for the office of MEP for the electoral region for which he was returned, his seat is to be vacated¹⁸.

Any person may apply to the appropriate court¹⁹ for a declaration that a person who purports to be an MEP for a particular electoral region is disqualified²⁰ (whether generally or for that region)²¹, or was so disqualified at the time when, or at some time since, he was returned as an MEP²². On such an application, the person in respect of whom the application is made is to be the respondent²³ and the applicant must give such security for the costs or expenses of the proceedings, not exceeding £5,000, as the court may direct²⁴. The decision of the court on such an application is final²⁵. Any declaration made by the court on such an application must be certified in writing to the Secretary of State immediately by the court²⁶. However, no declaration is to be made in respect of any person on grounds which subsisted at the time of his election if there is pending, or has been tried, an election petition in which his disqualification on those grounds is, or was, in issue²⁷.

1 As to the Secretary of State see PARA 2 ante.

2 As to the regulations made for these purposes see the European Parliamentary Elections Regulations 2004, SI 2004/293. As to the making of regulations under the European Parliamentary Elections Act 2002 see PARA 13 note 12 ante.

3 Ibid s 2(2)(a). As to electoral regions constituted for the purposes of European parliamentary elections see PARA 76 ante; and as to the nomination of candidates at a European parliamentary election see PARA 262 et seq post.

4 Ibid s 2(2)(b). As to the number of MEPs to be elected for the United Kingdom see PARA 13 ante.

5 Ibid s 10(1)(a). However, a person is not disqualified for the office of MEP under s 10(1)(a) merely because: (1) he is a peer (s 10(2)(a)); (2) he is a Lord Spiritual (s 10(2)(b)); (3) he holds an office mentioned in the House of Commons Disqualification Act 1975 s 4 (stewardship of Chiltern Hundreds etc: see PARLIAMENT vol 78 (2010))

PARA 895) (s 10(2)(c)); or (4) he holds any of the offices described in s 4, Sch 1 Pt II (as amended) (bodies of which all members are disqualified: see PARLIAMENT vol 78 (2010) PARA 908) or Sch 1 Pt 3 (as amended) (other disqualifying offices: see PARLIAMENT vol 78 (2010) PARA 908) which are designated by order by the Secretary of State for the purposes of the European Parliamentary Elections Act 2002 s 10 (as amended) (s 10(2)(d)). Nor is a citizen of the European Union who is resident in the United Kingdom or Gibraltar disqualified for the office of MEP under s 10(1)(a) merely because he is disqualified for membership of the House of Commons under the Act of Settlement (1700) s 3 (disqualification of persons, other than qualifying Commonwealth and Republic of Ireland citizens, who are born outside Great Britain and Ireland and the dominions: see PARLIAMENT vol 78 (2010) PARA 899); European Parliamentary Elections Act 2002 s 10(3) (amended by the European Parliament (Representation) Act 2003 s 21(1)(a); and the Electoral Administration Act 2006 s 18(6), Sch 1 para 41(1), (2)). For the meaning of 'United Kingdom' see PARA 13 note 1 ante. As to the power of the Secretary of State to provide for persons of a description connected to Gibraltar to be disqualified from the office of MEP see the European Parliamentary Elections Act 2002 s 10(3A), (3B), (4A), (4B), (7A)-(7C) (s 10(3A), (3B), (7A)-(7C) added by the Electoral Administration Act 2006 Sch 1 para 41(1), (3), (5); the European Parliamentary Elections Act 2002 s 10(4A), (4B) added by the European Parliament (Representation) Act 2003 s 21(1)(b); and the European Parliamentary Elections Act 2002 s 10(4A) amended by the Electoral Administration Act 2006 Sch 1 para 41(1), (4)); and the European Parliament (Disqualification) (United Kingdom and Gibraltar) Order 2004, SI 2004/1246. As to membership of the House of Commons generally see PARLIAMENT vol 78 (2010) PARA 897 et seq. See also the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9, Sch 1 para 17 (cited in PARA 271 note 39 post), which deals with disqualification under the Representation of the People Act 1981 (as it applies in respect of the office of MEP by virtue of the European Parliamentary Elections Act 2002 s 10(1)(a)) for the purposes of the nomination of candidates. The amendments effected by the Electoral Administration Act 2006 Sch 1 para 41 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

Until a day to be appointed under the Constitutional Reform Act 2005 s 148(1), a person is also disqualified for the office of MEP if he is a Lord of Appeal in Ordinary: European Parliamentary Elections Act 2002 s 10(1)(b) (prospectively repealed by the Constitutional Reform Act 2005 ss 145, 146, Sch 17 para 32, Sch 18 Pt 5). At the date at which this volume states the law, no such day had been appointed.

The European Parliamentary Elections Act 2002 s 10(1) (prospectively amended) is without prejudice to the 1976 Act concerning the election of the representatives of the European Parliament by direct universal suffrage, art 7(1), (2) (as amended and renumbered) (incompatibility of office of MEP with certain offices in or connected with Community institutions: see PARA 6 note 5 ante): European Parliamentary Elections Act 2002 10(8) (amended by the European Parliamentary Elections (Common Electoral Principles) Regulations 2004, SI 2004/1374, reg 2(1), (3)). From the European Parliament elections in 2004, the office of member of the European Parliament is incompatible with that of member of a national parliament; however, by way of derogation, members of the United Kingdom Parliament who are also members of the European Parliament during the five-year term preceding election to the European Parliament in 2004 may have a dual mandate until the European Parliament elections in 2009: 1976 Act concerning the election of the representatives of the European Parliament by direct universal suffrage (OJ L278, 08.10.76, p 5) (the '1976 Act'), art 7(2) (added and renumbered by EC and Euratom Decision 2002/772 (OJ L283, 21.10.2002, p 1)). As to the 1976 Act see PARA 6 ante.

6 Ie under the House of Commons Disqualification Act 1975 s 1(2) (disqualification of persons holding named offices: see PARLIAMENT vol 78 (2010) PARA 908).

7 For the meaning of 'constituency' for the purpose of parliamentary elections see PARA 9 ante.

8 European Parliamentary Elections Act 2002 s 10(4).

9 Ibid s 10(5)(a). For the meaning of 'citizen of the European Union' for these purposes see PARA 107 note 6 ante.

10 As to who are Commonwealth citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 11.

11 European Parliamentary Elections Act 2002 s 10(5)(b). As to who are citizens of the Republic of Ireland see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 12.

12 For these purposes, 'criminal law or civil law decision' has the same meaning as in EC Council Directive 93/109 (OJ L329, 30.12.93, p 34) of 6 December 1993 laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a member state of which they are not nationals (see PARA 6 note 8 ante): European Parliamentary Elections Act 2002 s 10(5).

13 Ibid s 10(5).

14 le under ibid s 2 (as amended) (general election: see the text and notes 1-4 supra) or s 5 (filling vacant seats: see PARA 225 ante).

15 Ibid s 10(6)(a).

16 Ibid s 10(6)(b).

17 Ibid s 10(6).

18 Ibid s 10(7).

19 For these purposes, if the electoral region concerned is an electoral region in England and Wales or the combined region, the appropriate court is the High Court: ibid s 11(2)(a) (amended by the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, art 3(1), (5)). For the meanings of 'England' and 'Wales' see PARA 13 note 1 ante. As to the combined region generally see PARA 76 ante.

20 le under the European Parliamentary Elections Act 2002 s 10 (as amended) (see the text and notes 5-18 supra).

21 Ibid s 11(1)(a).

22 Ibid s 11(1)(b). The text refers to a person returned as an MEP under either s 2 (as amended) (general election: see the text and notes 1-4 supra) or s 5 (filling vacant seats: see PARA 225 ante).

23 Ibid s 11(4)(a).

24 Ibid s 11(4)(b). The Secretary of State may by order substitute another figure for the figure in s 11(4)(b) (s 11(5)(a) (renumbered by the European Parliament (Representation) Act 2003 s 21(2))) and prescribe a different figure for applications where the electoral region concerned is the combined region (European Parliamentary Elections Act 2002 s 11(5)(b) (added by the European Parliament (Representation) Act 2003 s 21(2))). At the date at which this volume states the law, no such order had been made.

25 European Parliamentary Elections Act 2002 s 11(3).

26 Ibid s 11(7).

27 Ibid s 11(6). As to election petitions questioning European parliamentary elections see PARA 763 et seq post.

UPDATE

235 Candidacy for elections to the office of member of the European Parliament

NOTE 5--See the European Parliament (House of Lords Disqualification) Regulations 2008, SI 2008/1647, which disqualify any life peer elected to the office of member of the European Parliament from sitting and voting in the House of Lords for the duration of his membership of the European Parliament.

SI 2004/1246 replaced: European Parliament (Disqualification) (United Kingdom and Gibraltar) Order 2009, SI 2009/190.

Appointed day is 1 October 2009: SI 2009/1604.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (2) CANDIDACY FOR ELECTIONS/(iv) Standing in European Parliamentary Elections/236. Candidature at European parliamentary election by a relevant citizen of the Union.

236. Candidature at European parliamentary election by a relevant citizen of the Union.

Where the candidate at a European parliamentary election¹ is a relevant citizen of the Union², he is not validly nominated³ as an individual candidate⁴ or as a candidate on a registered party's list⁵ unless a declaration made by or on behalf of the candidate⁶ and a certificate made by the competent administrative authorities⁷ in the member state of which the candidate is a national are delivered at the place and within the time for the delivery of nomination papers⁸. Such a declaration must state, in addition to the candidate's name: (1) his nationality⁹; (2) his home address in the United Kingdom¹⁰ in full¹¹; (3) that he is not standing as a candidate for election to the European Parliament in any other member state at elections held in the same period¹²; and (4) where his name has been entered in a register of electors in a locality or constituency¹³ in the member state of which he is a national, the name of the locality or constituency where, so far as he knows, his name was last entered¹⁴. The certificate referred to above must state either that the candidate has not been deprived of his right to stand as a candidate in the member state of which he is a national or that no such disqualification is known to the competent administrative authorities¹⁵. As soon as practicable after publication of the statement of parties and individual candidates nominated¹⁶, the returning officer¹⁷ must send to the Secretary of State¹⁸ a copy of the declaration so made by any candidate who stands nominated either by virtue of the list of candidates which accompanied a registered party's nomination or as an individual candidate¹⁹.

A person is guilty of an offence if he makes a statement which he knows to be false in the declaration required before a relevant citizen of the Union can be validly nominated as an individual candidate or as a candidate on a registered party's list²⁰.

1 As to European parliamentary elections see PARA 224 et seq ante. For the meaning of 'candidate' generally see PARA 237 post.

2 For the meaning of 'relevant citizen of the Union' for these purposes see PARA 159 note 6 ante.

3 As to the nomination of candidates at elections see PARA 262 et seq post.

4 For the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 post.

5 For the meanings of 'list' and 'registered party' for these purposes see PARA 237 note 30 post. As to the system of candidature whereby registered parties submit lists of candidates see PARA 345 post.

6 *Ie* under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9, Sch 1 para 9(2) (see the text and notes 9-14 *infra*).

7 *Ie* under *ibid* Sch 1 para 9(3) (see the text and note 15 *infra*). For these purposes, 'competent administrative authorities' has the same meaning as in EC Council Directive 93/109 (OJ L329, 30.12.93, p 34) of 6 December 1993 laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a member state of which they are not nationals (see PARA 6 note 8 ante): European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 9(5).

8 *Ibid* Sch 1 para 9(1), (2), (3). As to the delivery of nomination papers see PARA 267 post.

9 *Ibid* Sch 1 para 9(2)(a).

10 For the meaning of 'United Kingdom' see PARA 13 note 1 ante. For the purposes of European parliamentary elections held in the combined region (as to which see PARA 76 ante), a home address in Gibraltar may be specified: *ibid* Sch 1 para 9(2)(b).

11 *Ibid* Sch 1 para 9(2)(b).

12 *Ibid* Sch 1 para 9(2)(c).

13 For these purposes, 'locality or constituency' has the same meaning as in EC Council Directive 93/109 (OJ L329, 30.12.93, p 34): European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 9(5). As to the registration of electors generally see PARA 127 et seq ante.

13 *Ibid* Sch 1 para 9(2)(d).

14 *Ibid* Sch 1 para 9(2)(e).

15 *Ibid* Sch 1 para 9(3).

16 As to the publication of this statement see PARA 272 post.

17 As to returning officers for European parliamentary elections see PARA 365 et seq post.

18 As to the Secretary of State see PARA 2 ante.

19 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 9(4).

20 See *ibid* reg 28(1); and PARA 739 post.

UPDATE

236 Candidature at European parliamentary election by a relevant citizen of the Union

TEXT AND NOTES--SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(i) The Candidate and Election Agent/A. THE CANDIDATE/237. Meaning of 'candidate'.

(3) THE ELECTION CAMPAIGN

(i) The Candidate and Election Agent

A. THE CANDIDATE

237. Meaning of 'candidate'.

For the purposes of the Representation of the People Act 1983, in so far as it provides for parliamentary and local government election campaigns¹ and for legal proceedings in connection with such elections² and unless the context otherwise requires³:

- 314 (1) a person becomes a candidate at a parliamentary election⁴: (a) on the date of the dissolution of Parliament⁵ or, in the case of a by-election, the occurrence of the vacancy⁶, in consequence of which the writ for the election is issued⁷, if on or before that date he is declared by himself or by others to be a candidate at the election⁸; and (b) otherwise, on the day on which he is so declared by himself or by others or on which he is nominated as a candidate at the election (whichever is the earlier)⁹;
- 315 (2) a person becomes a candidate at an election under the local government Act¹⁰: (a) on the last day for publication of notice of the election¹¹ if on or before that day he is declared by himself or by others to be a candidate at the election¹²; and (b) otherwise, on the day on which he is so declared by himself or by others or on which he is nominated as a candidate at the election (whichever is the earlier)¹³, or, in the case of a person included in a list of candidates submitted by a registered political party in connection with an election of the London members of the London Assembly at an ordinary election¹⁴, on the day on which the list is submitted by the party¹⁵.

For the purposes of the statutory provisions relating to elections to the National Assembly for Wales¹⁶, in so far as they provide for the election campaign¹⁷ and for legal proceedings in connection with such elections¹⁸ and unless the context otherwise requires, a person becomes a candidate in relation to an Assembly election¹⁹ on the last day for publication of notice of the election²⁰, if on or before that day he is declared by himself or by others to be a candidate at the election²¹, and otherwise on the day on which he is so declared by himself or by others or on which he is nominated as a candidate at the election (whichever is the earlier)²², or, in the case of a party list candidate²³, on the day on which the list is submitted by the party to the regional returning officer²⁴.

For the purposes of the statutory provisions relating to European parliamentary elections²⁵, in so far as they provide for the election campaign²⁶ and for legal proceedings in connection with such elections²⁷ and unless the context otherwise requires²⁸, a person becomes a candidate at such an election²⁹: (i) in the case of a person included in the list of candidates of a registered party to accompany its nomination for election³⁰, on the day on which the list is submitted by the party³¹; or (ii) in the case of a person not included in the list of candidates of a registered party to accompany its nomination for election³², on the last day for publication of the notice of the election³³ if on or before that day he is declared by himself or by others to be a candidate at

the election³⁴ and, otherwise, on the day on which he is so declared by himself or by others or on which he is nominated as a candidate at the election (whichever is the earlier)³⁵.

Where a person has been declared by others to be a candidate at a parliamentary election or at an election to the National Assembly for Wales without his consent, no liability is imposed on that person³⁶ unless he has afterwards given his assent to the declaration or he has been nominated³⁷. However, a candidate may be guilty of bribery or treating, and election expenses may be incurred on his behalf, even though the bribery or treating takes place, or the expenses are incurred, before he comes within the statutory definition of 'candidate'³⁸.

1 Ibid in the Representation of the People Act 1983 Pt II (ss 67-119) (as amended).

2 Ibid in ibid Pt III (ss 120-186) (as amended) (see PARA 759 et seq post). The saving in s 117(1) (see the text and notes 36-37 infra) applies in relation to Pt III (as amended) as in relation to Pt II (as amended): s 185.

3 Ibid s 118 (definition substituted by the Political Parties, Elections and Referendums Act 2000 s 135(1), (3)); Representation of the People Act 1983 s 118A(1) (s 118A added by the Political Parties, Elections and Referendums Act 2000 s 135(2), (3)); Representation of the People Act 1983 s 185. 'Candidate' bears a limited meaning (eg, for the purposes of sending an election address free of charge where a person is not deemed to be a candidate unless certain conditions are met: see PARA 335 post).

4 Ibid s 118A(2) (as added: see note 3 supra). As to parliamentary elections see PARA 9 et seq ante.

5 Ibid s 118A(2)(a)(i) (as added: see note 3 supra). As to the dissolution of Parliament see PARA 196 ante.

6 Ibid s 118A(2)(a)(ii) (as added: see note 3 supra). As to parliamentary by-elections see PARA 198 ante.

7 As to the issue of writs for parliamentary elections see PARA 199 ante.

8 Representation of the People Act 1983 s 118A(2)(a) (as added: see note 3 supra). As to the nomination and declaration of candidates see PARA 260 et seq post.

9 Ibid s 118A(2)(b) (as added: see note 3 supra).

10 Ibid s 118A(3) (as added: see note 3 supra). As to the meaning of 'local government Act' see PARA 10 note 2 ante; and as to elections under the local government Act see PARA 11 et seq ante. For the purposes of the rules relating to the conduct of local authority mayoral elections where executive arrangements are in place under the Local Government Act 2000 (as to which see PARA 388 post), 'candidate' means a candidate to be the elected mayor: Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 para 2(1). As to elections in the City of London see PARA 30 ante.

11 As to publication of the notice for a local government election see PARA 218 ante. Where the day or last day on which anything is required or permitted to be done by or in pursuance of the Representation of the People Act 1983 Pt II (as amended) is a Saturday, Sunday, Christmas Eve, Christmas Day, Good Friday, a bank holiday or a day appointed for public thanksgiving or mourning (s 119(1), (2) (s 119(2) substituted by the Representation of the People Act 1985 s 19(4); and amended by the Electoral Administration Act 2006 ss 20, 74(2), Sch 1 paras 49, 51, Sch 2)): (1) the requirement or permission is deemed to relate to the first day thereafter which is not one of those days (Representation of the People Act 1983 s 119(1)(a)); and (2) in computing any period of not more than seven days for the purposes of Pt II (as amended), any of the days so mentioned must be disregarded (s 119(1)(b)). For these purposes, 'bank holiday', in relation to any election, means a day which is a bank holiday in the part of the United Kingdom in which the constituency or, as the case may be, electoral area is situated: s 119(3) (substituted by the Representation of the People Act 1985 s 19(4)). Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 49, 51 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. Accordingly, until that date, Maundy Thursday appears in the list of days excluded under the Representation of the People Act 1983 s 119(2) (as amended). For the meaning of 'constituency' for the purposes of parliamentary elections see PARA 9 ante; for the meaning of 'electoral area' for the purposes of local government elections see PARA 10 ante; and for the meaning of 'United Kingdom' see PARA 13 note 1 ante.

12 Representation of the People Act 1983 s 118A(3)(a) (as added: see note 3 supra). As to the nomination and declaration of candidates see PARA 260 et seq post.

13 Ibid s 118A(3)(b) (as added: see note 3 supra).

14 Any reference in the Representation of the People Act 1983 to a registered political party submitting a list of candidates to be London members of the London Assembly at an ordinary election must be construed in accordance with the Greater London Authority Act 1999 s 4(5)(a), (6), Sch 2 Pt II paras 5-8 (see LONDON GOVERNMENT vol 29(2) (Reissue) PARAS 90, 98 et seq); and related expressions must be construed accordingly: Representation of the People Act 1983 s 203(1B) (added by the Greater London Authority Act 1999 Sch 3 para 39(1), (5)). As to London Assembly ordinary elections see PARA 206 ante; and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 88 et seq. For the meaning of 'London member', in relation to the London Assembly, see PARA 10 note 5 ante.

15 Representation of the People Act 1983 s 118A(3) (as added: see note 3 supra).

16 Ie the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284. As to elections to the National Assembly for Wales generally see PARA 12 et seq ante. As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

17 Ie in ibid Pt III (arts 35-84).

18 Ie in ibid Pt IV (arts 85-137) (as amended) (see PARA 762 et seq post). The saving in art 82(1) (see the text and notes 36-37 infra) applies in relation to Pt IV (as amended) as in relation to Pt III: art 136(1).

19 Ibid arts 83, 136(1). For the meaning of 'Assembly election' see PARA 3 note 1 ante.

20 As to the date of the publication of notice of an Assembly election see PARA 223 ante. Where the day or last day on which anything is required or permitted to be done by or in pursuance of Pt III is a Saturday or a Sunday, Christmas Eve, Christmas Day, Maundy Thursday or Good Friday, a day which is a bank holiday in Wales under the Banking and Financial Dealings Act 1971 (see TIME vol 97 (2010) PARA 321), or a day appointed for public thanksgiving or mourning (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 84(1), (2)): (1) the requirement or permission is deemed to relate to the first day thereafter which is not one of those days (art 84(1)(a)); and (2) in computing any period of not more than seven days for these purposes any of the days so mentioned must be disregarded (art 84(1)(b)). For the meaning of 'Wales' see PARA 13 note 1 ante.

21 Ibid art 83(a).

22 Ibid art 83(b).

23 For these purposes, 'party list candidate' means a candidate included on a party list; and 'party list' means a list of not more than 12 candidates (but it may be a list of only one candidate) to be Assembly members for an Assembly electoral region which is to be or has been submitted to a regional returning officer by a registered political party: ibid art 2(1). For these purposes, references to a group of party list candidates refer to all the candidates included on such a list, and include a case where there is only one such candidate: art 2(1). 'Individual candidate' means a candidate at an Assembly regional election other than a party list candidate: art 2(1). 'Registered political party' means (subject to art 16(1), Sch 5 para 69 (references in Sch 5 to a registered political party: see PARA 222 note 8 ante)) a party registered under the Political Parties, Elections and Referendums Act 2000 Pt II (ss 22-40) (as amended) (see PARA 260 post): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 2(1). For the meanings of 'Assembly electoral region', 'Assembly members' and 'regional election' see PARA 3 note 1 ante. For the meaning of 'regional returning officer' see PARA 18 note 2 ante. As to returning officers for elections to the National Assembly for Wales see PARA 362 et seq post.

24 Ibid art 83.

25 Ie the European Parliamentary Elections Regulations 2004, SI 2004/293. As to European parliamentary elections generally see PARA 13 et seq ante.

26 Ie in ibid Pt 2 (regs 31-81) (as amended).

27 Ie in ibid Pt 4 (regs 86-122) (as amended).

28 Ibid regs 31(1), 86.

29 Ibid reg 31(2).

30 For these purposes, 'list' means a list of candidates submitted by a registered party to accompany its nomination for election; and 'registered party' means a party registered under the Political Parties, Elections and Referendums Act 2000 Pt II (as amended) (see PARA 260 post): European Parliamentary Elections

Regulations 2004, SI 2004/293, reg 2(1). As to the system of candidature whereby registered parties submit lists of candidates see PARA 345 post.

31 Ibid reg 31(2)(a). Where the day or last day on which anything is required or permitted to be done by or in pursuance of Pt 2 (as amended) is a Saturday, Sunday, Christmas Eve, Christmas Day, Maundy Thursday, Good Friday, a bank holiday or a day appointed for public thanksgiving or mourning (reg 32(1), (2)): (1) the requirement or permission is deemed to relate to the first day thereafter which is not one of those days (reg 32(1)(a)); and (2) in computing any period of not more than seven days for these purposes, any of the days so mentioned must be disregarded (reg 32(1)(b)). In relation to any European parliamentary election in any electoral region other than the combined region, 'bank holiday' means a day which is a bank holiday under the Banking and Financial Dealings Act 1971 (see TIME vol 97 (2010) PARA 321) in the part of the United Kingdom in which the electoral region is situated: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 32(3)(b). As to the establishment of electoral regions for the purpose of elections to the European Parliament, and as to the combined region, see PARA 76 ante. As to bank holidays in Gibraltar defined for the purposes of the combined region see reg 32(3)(a).

32 Ibid reg 31(2)(b). In Pt 2 (as amended), unless the context otherwise requires, a person to whom reg 31(2)(b) applies is known as an 'individual candidate': reg 31(1).

33 As to the date of the publication of notice of a European parliamentary election see PARA 230 ante.

34 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 31(2)(b)(i).

35 Ibid reg 31(2)(b)(ii).

36 Ie by virtue of the Representation of the People Act 1983 Pt II (as amended) (see note 1 supra) or for the purposes of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Pt III (see note 17 supra).

37 Representation of the People Act 1983 s 117(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 82(1). No such saving is made for the purposes of the European Parliamentary Elections Regulations 2004, SI 2004/293.

38 As to election expenses see PARA 274 et seq post; as to bribery see PARAS 712-723 post; and as to treating see PARAS 724-725 post.

UPDATE

237 Meaning of 'candidate'

NOTE 10--SI 2002/185 reg 3(1), Sch 1 now the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(2)-(5), Sch 2.

NOTE 30--SI 2004/293 reg 2(1) substituted: SI 2009/186.

NOTE 31--SI 2004/293 reg 32(2) amended: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(i) The Candidate and Election Agent/B. APPOINTMENT AND DUTIES OF ELECTION AGENT/238. Appointment of election agent for parliamentary and local government elections.

B. APPOINTMENT AND DUTIES OF ELECTION AGENT

238. Appointment of election agent for parliamentary and local government elections.

At a parliamentary election¹ or local government election², other than an election of parish or community councillors³, a person must be named by or on behalf of each candidate as the candidate's election agent⁴ and his name and address declared in writing by the candidate or some other person on his behalf to the appropriate officer⁵ not later than the latest time for the delivery of notices of withdrawals⁶ for an election⁷. A candidate may name himself as election agent and he is then subject, so far as circumstances admit, to the provisions of the Representation of the People Act 1983 both as a candidate and as an election agent⁸.

One election agent only must be appointed for each candidate, but, whether the election agent appointed is the candidate himself or not, the appointment may be revoked⁹. If, whether before, during or after the election, the appointment (or deemed appointment) of an election agent is revoked or an election agent dies, another election agent must be appointed forthwith and his name and address declared in writing to the appropriate officer¹⁰. The declaration as a candidate's election agent of a person other than the candidate is of no effect unless it is made and signed by that person or is accompanied by a written declaration of acceptance signed by him¹¹. Upon the name and address of an election agent being declared to the appropriate officer, the appropriate officer must forthwith give public notice of that name and address¹².

1 As to parliamentary elections see PARA 9 et seq ante.

2 For the meaning of 'local government election' see PARA 10 ante. As to elections in the City of London see PARA 30 ante.

3 A candidate at an election of parish councillors in England or of community councillors in Wales, or at an election under the local government Act (as to which see PARA 11 ante) which is not a local government election (see PARA 10 ante), need not have an election agent and accordingly the Representation of the People Act 1983 ss 67-70A (as amended) (see the text and notes 7-12 infra; and PARAS 239-241 post) do not apply to those elections: s 71. Similarly, there is no provision made for election agents to be appointed at a poll consequent on a parish meeting on a question involving appointment to office. For the meanings of 'England' and 'Wales' see PARA 13 note 1 ante; and for the meaning of 'candidate' see PARA 237 ante. As to the election of parish and community councillors see PARA 207 et seq ante.

4 A sub-agent may be appointed for a parliamentary election in a county constituency or for an Authority election: see PARA 240 post. An election agent may act gratuitously or for remuneration: see PARA 280 post.

5 In the Representation of the People Act 1983 Pt II (ss 67-119) (as amended), the 'appropriate officer' means: (1) in relation to a parliamentary election, the returning officer (s 67(7)(a)); (2) in relation to an Authority election, the returning officer for that election as determined under s 35(2B) (as added) (returning officer at an election of a constituency member of the London Assembly: see PARA 359 post) or, as the case may be, s 35(2C)(a), (b) (as added) (returning officer at election of the Mayor of London and the London members of the London Assembly: see PARA 359 post) (s 67(7)(aa) (added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 12(1), (6)(a))); (3) in relation to any other local government election, the proper officer of the authority for which the election is held (Representation of the People Act 1983 s 67(7)(b) (amended by the Greater London Authority Act 1999 Sch 3 paras 1, 12(1), (6)(b))). For the meaning of 'Authority election' see PARA 10 ante; and for the meaning of the 'proper officer' see PARA 155 note 2 ante. As to returning officers for parliamentary and local elections generally see PARA 355 et seq post.

The Representation of the People Act 1983 s 67 (as amended) is applied with modifications for the purposes of an election for the return of an elected local authority mayor: see the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(2), Sch 2. As to elections for the return of a local authority mayor see PARA 205 ante.

6 As to the latest time for the withdrawal of a notice of election see PARA 269 post.

7 Representation of the People Act 1983 s 67(1). Any person before whom a declaration is authorised to be made under the Representation of the People Act 1983 may take the declaration: s 200(2). Where a registered political party submits a list of candidates to be London members of the London Assembly at an ordinary election, the requirements of s 67(1) in relation to those candidates are that not later than the time there mentioned: (1) a person must be named by or on behalf of the party as the election agent of all of those candidates (s 67(1A)(a) (s 67(1A) added by the Greater London Authority Act 1999 Sch 3 paras 1, 12(1), (2))); and (2) the declaration required by the Representation of the People Act 1983 s 67(1) must be made by or on behalf of the party (s 67(1A)(b) (as so added)). For these purposes, 'registered political party' means a party registered under the Political Parties, Elections and Referendums Act 2000 Pt II (ss 22-40) (as amended) (see PARA 260 post); Representation of the People Act 1983 s 202(1) (definition added by the Greater London Authority Act 1999 Sch 3 paras 1, 38(1), (3); and amended by the Political Parties, Elections and Referendums Act 2000 s 158(1), Sch 21 para 6(1), (8)). As to references to a registered political party submitting a list of candidates to be London members of the London Assembly at an ordinary election see PARA 237 note 14 ante. As to London Assembly ordinary elections see PARA 206 ante; and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 88 et seq. For the meaning of 'London member', in relation to the London Assembly, see PARA 10 note 5 ante. As to the application of the Representation of the People Act 1983 s 67 (as amended) for the purpose of elections for the return of a local authority mayor see note 5 supra.

8 Ibid s 67(2). If the candidate names himself as election agent, references in the Representation of the People Act 1983 to an election agent must, except where the context otherwise requires, be construed to refer to the candidate acting in his capacity as election agent: s 67(2). Where a registered political party submits a list of candidates to be London members of the London Assembly at an ordinary election, a candidate included in the list:

- 47 (1) must not under s 67(2) name himself as his own election agent (s 67(2A)(a) (s 67(2A) added by the Greater London Authority Act 1999 Sch 3 paras 1, 12(1), (3))); but
- 48 (2) may be named by or on behalf of the party as the election agent of all the candidates included in the list (Representation of the People Act 1983 s 67(2A)(b) (as so added)),

and the provisions which have effect by virtue of s 67(2) in relation to a candidate upon his naming himself as election agent also have effect in relation to a candidate upon his being named as election agent by virtue of head (2) supra (s 67(2A) (as so added)). As to the application of s 67 (as amended) for the purpose of elections for the return of a local authority mayor see note 5 supra.

9 Ibid s 67(3). This provision is subject to s 67(3A) (as added): s 67(3) (amended by the Greater London Authority Act 1999 Sch 3 paras 1, 12(1), (4)). Where a registered political party submits a list of candidates to be London members of the London Assembly at an ordinary election: (1) the same person must be appointed as election agent for all the candidates included in the list (Representation of the People Act 1983 s 67(3A)(a) (s 67(3A) added by the Greater London Authority Act 1999 Sch 3 paras 1, 12(1), (4))); and (2) any such appointment may only be revoked by or on behalf of the party and in respect of all the candidates (Representation of the People Act 1983 s 67(3A)(b) (as so added)). As to the application of s 67 (as amended) for the purpose of elections for the return of a local authority mayor see note 5 supra.

10 Ibid s 67(4) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 20). As to the application of the Representation of the People Act 1983 s 67 (as amended) for the purpose of elections for the return of a local authority mayor see note 5 supra.

11 Ibid s 67(5). Where a registered political party submits a list of candidates to be London members of the London Assembly at an ordinary election, s 67(5) applies in relation to the candidates included in that list as if the reference to a person other than the candidate were a reference to a person other than the candidate whose name appears highest on the list: s 67(5A) (added by the Greater London Authority Act 1999 Sch 3 paras 1, 12(1), (5)). As to the application of the Representation of the People Act 1983 s 67 (as amended) for the purpose of elections for the return of a local authority mayor see note 5 supra.

12 Ibid s 67(6). The public notice must be given by the notice being posted in some conspicuous place or places in the constituency at a parliamentary election or in the local government area at a local government election; and may also be given in such other manner as the returning officer (as the appropriate officer at a parliamentary election) or the proper officer of the authority (as the appropriate officer at a local government election) thinks desirable for publicising it: s 200(1), (1A) (s 200(1) substituted, and s 200(1A) added, by the Representation of the People Act 1985 Sch 4 para 68). For the meaning of 'local government area' see PARA 18

note 2 ante. As to the application of the Representation of the People Act 1983 s 67 (as amended) for the purpose of elections for the return of a local authority mayor see note 5 supra.

UPDATE

238 Appointment of election agent for parliamentary and local government elections

NOTE 5--SI 2002/185 reg 3(2), Sch 2 now the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(2)-(5), Sch 2.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(i) The Candidate and Election Agent/B. APPOINTMENT AND DUTIES OF ELECTION AGENT/239. Effect of default in appointment of election agent for parliamentary and local government elections.

239. Effect of default in appointment of election agent for parliamentary and local government elections.

If, at the latest time for delivery of notices of withdrawals from a parliamentary or local government election¹, no person's name and address is duly given² as the election agent³ of a candidate⁴ remaining validly nominated⁵, the candidate is deemed at that time to have named himself as election agent and to have revoked any appointment of another person as his election agent⁶. If the person whose name and address have been so given as those of the candidate's election agent (not being the candidate himself) dies⁷ and if a new appointment is not made on the day of the death or on the following day⁸, the candidate is deemed to have appointed himself as from the time of the death⁹. If the appointment of a candidate's election agent is revoked without a new appointment being made, the candidate himself is deemed to have been appointed (or re-appointed) election agent¹⁰. The deemed appointment of a candidate as his own election agent may be revoked as if it were an actual appointment¹¹. Where, by virtue of these provisions, a candidate is to be treated as his own election agent, he is deemed to have his office at his address as given in the statement as to persons nominated¹² or, if that address is outside the permitted area for the office¹³, at the qualifying address of the person (or first person) named in that statement as his proposer¹⁴. On being satisfied that a candidate is by virtue of these provisions to be treated as his own election agent, the appropriate officer¹⁵ must forthwith proceed to publish notice of the name and address of the candidate and of the address of his office in the same manner as if notice of these had been duly given¹⁶.

The above provisions¹⁷ do not apply where a registered political party submits a list of candidates to be London members of the London Assembly at an ordinary election¹⁸. Rather, if no person's name and address is given¹⁹ as the election agent of all of the candidates included in the list who remain validly nominated at the latest time for delivery of notices of withdrawals²⁰: (1) the candidate whose name appears highest on the list is deemed at that time to have been named on behalf of the party as election agent for all of the candidates²¹; and (2) any appointment of another person as election agent for those candidates is deemed to have been revoked²². If the person whose name and address have been so given as those of the election agent for the candidates dies²³, and if a new appointment is not made on the day of the death or on the following day²⁴, the candidate whose name appears highest on the list is deemed to have been named on behalf of the party as election agent for all of the candidates as from the time of death²⁵. If the appointment of the election agent for the candidates is revoked without a new appointment being made, the candidate whose name appears highest on the list is deemed to have been appointed (or re-appointed) election agent²⁶. The deemed appointment of a candidate as election agent may be revoked as if it were an actual appointment²⁷. Where a candidate included in the list is²⁸ to be treated as election agent, he is deemed to have his office either at his address as given in the statement as to persons nominated²⁹ or, if that address is outside the permitted area for the office, at the qualifying address of the person (or first person) named in that statement as his proposer³⁰. The appropriate officer, on being satisfied that a candidate is³¹ to be treated as election agent, must forthwith proceed to publish the like notice as if the name and address of the candidate and the address of his office had been duly given to him³².

- 1 As to the latest time for the withdrawal of a notice of election see PARA 269 post. For the meaning of 'local government election' see PARA 10 ante. As to parliamentary elections see PARA 9 et seq ante; and as to elections in the City of London see PARA 30 ante.
- 2 le given as required by the Representation of the People Act 1983 s 67 (as amended) (see PARA 238 ante).
- 3 As to the appointment of an election agent for parliamentary and local government elections see PARA 238 ante; and as to elections where election agents are not needed see PARA 238 note 3 ante.
- 4 For the meaning of 'candidate' see PARA 237 ante.
- 5 As to the nomination of candidates see PARA 260 et seq post.
- 6 Representation of the People Act 1983 s 70(1). Under this provision a purported appointment of an election agent would be revoked if notice of that appointment had not been given to the appropriate officer in accordance with the provisions described in PARA 238 ante.
- 7 Ibid s 70(2)(a).
- 8 Ibid s 70(2)(b).
- 9 Ibid s 70(2).
- 10 Ibid s 70(3).
- 11 Ibid s 70(3A) (added by the Representation of the People Act 1985 s 24, Sch 4 para 23).
- 12 Representation of the People Act 1983 s 70(4)(a). As to the statement of persons nominated see PARA 272 post.
- 13 As to the permitted area mentioned in the text see PARA 241 post.
- 14 Representation of the People Act 1983 s 70(4)(b).
- 15 For the meaning of 'appropriate officer' in relation to a parliamentary or local government election see PARA 238 note 5 ante.
- 16 Representation of the People Act 1983 s 70(6). The text refers to the way that the name and address of an election agent must be given under s 67 (as amended) (see PARA 238 ante) and s 69 (as amended) (see PARA 241 post). As to the manner in which notice is to be given see PARA 238 note 12 ante.
- 17 le ibid s 70 (as amended) (see the text and notes 1-16 supra).
- 18 Ibid s 70A(1)(a) (s 70A added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 15). As to references to a registered political party submitting a list of candidates to be London members of the London Assembly at an ordinary election see PARA 237 note 14 ante. As to London Assembly ordinary elections see PARA 206 ante; and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 88 et seq. For the meaning of 'London member', in relation to the London Assembly, see PARA 10 note 5 ante.
- 19 le as required by virtue of the Representation of the People Act 1983 s 67(1A) (as added) (see PARA 238 ante).
- 20 Ibid s 70A(1)(b), (2) (as added: see note 18 supra).
- 21 Ibid s 70A(1)(b), (2)(a) (as added: see note 18 supra).
- 22 Ibid s 70A(1)(b), (2)(b) (as added: see note 18 supra).
- 23 Ibid s 70A(1)(b), (3)(a) (as added: see note 18 supra).
- 24 Ibid s 70A(1)(b), (3)(b) (as added: see note 18 supra).
- 25 Ibid s 70A(1)(b), (3) (as added: see note 18 supra).
- 26 Ibid s 70A(1)(b), (4) (as added: see note 18 supra).
- 27 Ibid s 70A(1)(b), (5) (as added: see note 18 supra).

28 Ie by virtue of ibid s 70A (as added).

29 Ibid s 70A(1)(b), (6)(a) (as added: see note 18 supra).

30 Ibid s 70A(1)(b), (6)(b) (as added: see note 18 supra).

31 Ie by virtue of ibid s 70A (as added).

32 Ibid s 70A(1)(b), (7) (as added: see note 18 supra). The text refers to the way that the name and address of an election agent must be given under s 67 (as amended) (see PARA 238 ante) and s 69 (as amended) (see PARA 241 post).

UPDATE

239 Effect of default in appointment of election agent for parliamentary and local government elections

TEXT AND NOTES 1-16--Representation of the People Act 1983 s 70 amended: Political Parties and Elections Act 2009 Sch 6 para 5.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(i) The Candidate and Election Agent/B. APPOINTMENT AND DUTIES OF ELECTION AGENT/240. Nomination of sub-agent at certain parliamentary and local government elections.

240. Nomination of sub-agent at certain parliamentary and local government elections.

In the case of a parliamentary election for a county constituency¹ or, in relation to London, an Authority election², an election agent³ for a candidate⁴ may appoint one, but not more than one, deputy election agent (called a 'sub-agent') to act in any part of the constituency or electoral area⁵. As regards matters in a part of the constituency or electoral area for which there is a sub-agent, the election agent may act by the sub-agent⁶, and anything done for the purposes of the Representation of the People Act 1983 by or to the sub-agent in his part of the constituency or electoral area is deemed to be done by or to the election agent⁷.

Not later than the second day before the day of the poll⁸, the election agent must declare in writing the name and address of any sub-agent to the returning officer⁹, and the returning officer must forthwith give public notice¹⁰ of the name and address of every sub-agent so declared¹¹.

The appointment of a sub-agent is not vacated by the election agent who appointed him ceasing to be election agent, but may be revoked by the candidate's election agent for the time being¹²; and in the event of the revocation of the appointment or of the death of a sub-agent, another sub-agent may be appointed, and his name and address must be forthwith declared in writing to the returning officer¹³, who must forthwith give public notice of the same¹⁴. The declaration to be made to the returning officer¹⁵ and the public notice given by him must specify the part of the constituency or electoral area within which any sub-agent is appointed to act¹⁶.

1 Representation of the People Act 1983 s 68(1)(a) (renumbered by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 13(1), (2)(a)). As to the distinction between county constituencies and borough constituencies at parliamentary elections see PARA 72 ante. There are no sub-agents in borough constituencies.

2 Representation of the People Act 1983 s 68(1)(b) (added by the Greater London Authority Act 1999 Sch 3 paras 1, 13(1), (2)(b)). For the meaning of 'Authority election' see PARA 10 ante.

3 As to the appointment of an election agent for parliamentary and local government elections see PARA 238 ante; and as to elections where election agents are not needed see PARA 238 note 3 ante.

4 For the meaning of 'candidate' see PARA 237 ante.

5 Representation of the People Act 1983 s 68(1) (amended by the Greater London Authority Act 1999 Sch 3 paras 1, 13(1), (2)(c)). For the meaning of 'electoral area' see PARA 10 ante. A sub-agent must have an office: see PARA 241 post.

6 Representation of the People Act 1983 s 68(2) (amended by the Greater London Authority Act 1999 Sch 3 paras 1, 13(1), (3)).

7 Representation of the People Act 1983 s 68(2)(a) (amended by the Greater London Authority Act 1999 Sch 3 paras 1, 13(1), (3)). Any act or default of a sub-agent which, if he were the election agent, would be an illegal practice or other offence against the Representation of the People Act 1983 is an illegal practice and an offence against the Representation of the People Act 1983 committed by the sub-agent; and the sub-agent is liable to punishment accordingly: s 68(2)(b). The candidate is to suffer the like incapacity as if the act or default in question had been the act or default of the election agent: s 68(2)(c). As to a candidate's liability for the illegal practices of his agents see PARAS 251, 892 post; and as to the punishment of illegal practices see PARA 886 post.

8 As to the day of the poll at a parliamentary election see PARA 202 ante; and as to the day of the poll at a local government election see PARA 211 ante.

9 le as the 'appropriate officer' (see PARA 238 note 5 ante). As to declarations made under the Representation of the People Act 1983 see PARA 238 note 7 ante. As to returning officers for parliamentary and local elections generally see PARA 355 et seq post.

10 As to the manner of giving public notice see PARA 238 note 12 ante.

11 Representation of the People Act 1983 s 68(3) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 21). This provision re-enacts a requirement originally imposed by the Corrupt and Illegal Practices Prevention Act 1883 s 25(3) (repealed), which used the words 'one clear day' instead of 'not later than the second day'; the effect of a failure to comply with the requirement to notify was considered in *Northumberland, Berwick-upon-Tweed Division, Case* (1923) 7 O'M & H 1 at 26-27, 38-39 per Sankey J, where it was decided (at 38-39) that the failure to notify the returning officer of the names of the sub-agents did not invalidate the appointment. Importance was attached to the fact that notification was so close to the day of the poll (at 26-27, 38) and the view was expressed (at 38) that 'the object of that sub-section was to place it beyond doubt who were sub-agents in order that a person should have no difficulty in future proceedings against either such sub-agents or the candidate in proving the sub-agency'. It was held that an act lawfully done by the sub-agent could hardly be rendered illegal because the name of the sub-agent was not notified in time: see *Northumberland, Berwick-upon-Tweed Division, Case* supra at 39.

12 Representation of the People Act 1983 s 68(4). Where a registered political party submits a list of candidates to be London members of the London Assembly at an ordinary election, the election agent for those candidates must, if he appoints a sub-agent for any part of the electoral area in the case of any of those candidates, appoint the same person as sub-agent for that part of the electoral area in the case of all of the candidates, and any such appointment may only be revoked in respect of all of the candidates: s 68(4A) (added by the Greater London Authority Act 1999 Sch 3 paras 1, 13(1), (4)). As to references to a registered political party submitting a list of candidates to be London members of the London Assembly at an ordinary election see PARA 237 note 14 ante. As to London Assembly ordinary elections see PARA 206 ante; and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 88 et seq. For the meaning of 'London member', in relation to the London Assembly, see PARA 10 note 5 ante.

13 See note 9 supra.

14 Representation of the People Act 1983 s 68(4).

15 See note 9 supra.

16 Representation of the People Act 1983 s 68(5) (amended by the Greater London Authority Act 1999 Sch 3 paras 1, 13(1), (5)).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(i) The Candidate and Election Agent/B. APPOINTMENT AND DUTIES OF ELECTION AGENT/241. Office of agents for parliamentary and local government elections.

241. Office of agents for parliamentary and local government elections.

Every election agent¹ and every sub-agent² appointed for parliamentary and local government elections must have an office to which all claims, notices, legal process and other documents may be sent³, and the address of the office must be declared to the appropriate officer⁴ at the same time as the appointment of the agent⁵ is declared to him⁶, and must be stated in the public notice of the name of the agent⁷. The office of the election agent for a parliamentary election must be within the constituency⁸ or an adjoining constituency or in a Welsh county or county borough⁹, or London borough¹⁰ or district which is partly comprised in or adjoins the constituency¹¹; and the office of a sub-agent must be in the area within which he is appointed to act¹². The office of an election agent for a local government election must be within the local government area¹³ or in the constituency or one of the constituencies in which the area is comprised, or in a Welsh county or county borough, or London borough or district which adjoins it¹⁴; and the office of a sub-agent must be in the area within which he is appointed to act¹⁵.

Any claim, notice, legal process or other document delivered at the office of the election agent or sub-agent and addressed to him is deemed to have been served on him, and every such agent may, in respect of any matter connected with the election in which he is acting, be sued in any court having jurisdiction at the place where his office is situated¹⁶.

1 As to the appointment of an election agent for parliamentary and local government elections see PARA 238 ante; and as to elections where election agents are not needed see PARA 238 note 3 ante. For the meaning of 'local government election' see PARA 10 ante. As to parliamentary elections see PARA 9 et seq ante; and as to elections in the City of London see PARA 30 ante.

2 As to the appointment of election sub-agents for certain parliamentary and local government elections see PARA 240 ante.

3 Representation of the People Act 1983 s 69(1) (amended by the Political Parties, Elections and Referendums Act 2000 s 138, Sch 18 paras 1, 19(1)(a)).

4 For the meaning of 'appropriate officer' in relation to a parliamentary or local government election see PARA 238 note 5 ante.

5 'Agent' includes sub-agent where sub-agents may be appointed: see PARA 240 ante.

6 Representation of the People Act 1983 s 69(1)(a) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 22).

7 Representation of the People Act 1983 s 69(1)(b). As to the public notice of agents which the appropriate officer is required to give see PARAS 238-240 ante.

8 For the meaning of 'constituency' for the purposes of parliamentary elections see PARA 9 ante.

9 As to a county or county borough in Wales see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq.

10 As to London boroughs generally see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 30 et seq.

11 Representation of the People Act 1983 s 69(2)(a) (amended by the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 68(13)).

12 Representation of the People Act 1983 s 69(2)(a).

13 For the meaning of 'local government area' see PARA 18 note 2 ante.

14 Representation of the People Act 1983 s 69(2)(b) (amended by the Local Government (Wales) Act 1994 Sch 16 para 68(13)).

15 Representation of the People Act 1983 s 69(2)(b) (amended by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 14).

16 Representation of the People Act 1983 s 69(3) (amended by the Political Parties, Elections and Referendums Act 2000 Sch 18 paras 1, 19(1)(b)).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(i) The Candidate and Election Agent/B. APPOINTMENT AND DUTIES OF ELECTION AGENT/242. Appointment of election agent for elections to the National Assembly for Wales.

242. Appointment of election agent for elections to the National Assembly for Wales.

At an Assembly election¹ in Wales, a person must be named by or on behalf of each candidate², in the case of a constituency election³, and by or on behalf of each individual candidate⁴, in the case of a regional election⁵, as the candidate's election agent not later than the latest time for delivery of notices of withdrawal of candidature⁶. The name and address of the candidate's election agent must be declared in writing by the candidate, or some other person on his behalf, to the appropriate returning officer⁷ not later than that time⁸. A candidate at a constituency election or an individual candidate at a regional election may name himself as election agent⁹.

At a regional election, not later than the latest time for delivery of notices of withdrawal of candidature, a person must be named by, or on behalf of, each group of party list candidates¹⁰ as those candidates' election agent, and the name and address of the candidates' election agent must be declared in writing by the candidate whose name appears first on the list, or some other person on his behalf (including another candidate on the list), to the regional returning officer not later than that time¹¹. A candidate included on a party list may be named as election agent for the candidates included on the list¹².

One election agent only may be appointed for each candidate at a constituency election¹³, each individual candidate at a regional election¹⁴, and each group of party list candidates at a regional election¹⁵. However, the appointment, whether the election agent appointed is the candidate himself or not, may be revoked¹⁶; and if (whether before, during or after the election) the appointment or deemed appointment of an election agent is revoked or an election agent dies, another election agent must be appointed forthwith and his name and address declared in writing to the appropriate returning officer¹⁷. The declaration as an election agent of a person, other than an individual candidate¹⁸ or a party list candidate whose name appears first on the list¹⁹, is of no effect unless it is made and signed by that person or is accompanied by a written declaration of acceptance signed by him²⁰. Upon the name and address of an election agent being declared to the appropriate returning officer, the appropriate returning officer must forthwith give public notice of that name and address²¹ and, in the case of a regional election, the regional returning officer must forthwith give notice of that name and address to the constituency returning officer for each Assembly constituency in the Assembly electoral region²². Where a candidate has been named or has named himself as an election agent, so far as circumstances permit, he is subject to the statutory provisions regarding elections to the National Assembly for Wales²³ both as a candidate and as an election agent and, except where the context otherwise requires, any reference to an election agent must be construed to refer to the candidate acting in his capacity as election agent²⁴.

1 For the meaning of 'Assembly election' see PARA 3 note 1 ante.

2 For the meaning of 'candidate' generally see PARA 237 ante.

3 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 35(1)(a). For the meaning of 'constituency election' see PARA 3 note 1 ante.

4 For the meaning of 'individual candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante.

5 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 35(1)(b). For the meaning of 'regional election' see PARA 3 note 1 ante.

6 Ibid art 35(1). As to the latest time for the withdrawal of a notice of election see PARA 269 post.

7 For these purposes, 'appropriate returning officer' means a constituency returning officer in relation to a constituency election and a regional returning officer in relation to a regional election: ibid art 2(1). For the meanings of 'constituency returning officer' and 'regional returning officer' see PARA 18 note 2 ante.

8 Ibid art 35(1). For these purposes, any person before whom a declaration is authorised to be made may take the declaration: art 142(2).

9 Ibid art 35(2).

10 For the meaning of 'party list candidate', and as to references to groups of party list candidates, at a Welsh Assembly regional election see PARA 237 note 23 ante.

11 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 35(3).

12 Ibid art 35(4).

13 Ibid art 35(6)(a).

14 Ibid art 35(6)(b).

15 Ibid art 35(6)(c).

16 Ibid art 35(6).

17 Ibid art 35(7).

18 Ibid art 35(8)(a).

19 Ibid art 35(8)(b).

20 Ibid art 35(8).

21 Ibid art 35(9)(a). A public notice required to be given by a constituency or regional returning officer at an Assembly election must be given by posting the notice in some conspicuous place or places in the Assembly constituency, in the case of a constituency election, and in each Assembly constituency in the Assembly electoral region for which the election is held, in the case of regional election; and may also be given in such other manner as he thinks desirable for publicising it: art 142(1).

22 Ibid art 35(9)(b).

23 Ie subject to the provisions of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284.

24 Ibid art 35(5).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(i) The Candidate and Election Agent/B. APPOINTMENT AND DUTIES OF ELECTION AGENT/243. Effect of default in appointment of election agent for elections to the National Assembly for Wales.

243. Effect of default in appointment of election agent for elections to the National Assembly for Wales.

If, at the latest time for delivery of notices of withdrawal of candidature for elections to the National Assembly for Wales¹, no person's name and address is given² as the election agent³ of a candidate⁴ or a group of party list candidates⁵ who remain validly nominated⁶: (1) in the case of a candidate at a constituency election⁷ or an individual candidate⁸ at a regional election⁹, the candidate is deemed at that time to have named himself as election agent and to have revoked any appointment of another person as his election agent¹⁰; and (2) in the case of a group of party list candidates at a regional election, the candidate whose name appears first on the list is deemed at that time to have been named as election agent and any appointment of another person as those candidates' election agent is deemed to have been revoked¹¹. If the person whose name and address have been so given as those of an election agent for an individual candidate (not being the candidate himself) or for a group of party list candidates dies¹², and if a new appointment is not made on the day of the death or on the following day¹³ then: (a) in the case of a candidate at a constituency election or an individual candidate at a regional election, he is deemed to have appointed himself as from the time of death¹⁴; and (b) in the case of the death of an election agent for a group of party list candidates at a regional election¹⁵, the candidate whose name appears first on the list is deemed to have been appointed from the time of death¹⁶ or, in the case of the death of such a candidate, the candidate whose name appears next highest on the list is deemed to have been appointed from the time of death¹⁷. If the appointment of an election agent is revoked without a new appointment being made¹⁸, then: (i) in the case of a candidate at a constituency election or an individual candidate at a regional election, the candidate himself is deemed to have been appointed (or re-appointed) election agent¹⁹; and (ii) in the case of a group of party list candidates at a regional election, the candidate whose name appears first on that list is deemed to have been appointed (or re-appointed) election agent²⁰. The deemed appointment of an election agent may be revoked as if it were an actual appointment²¹.

Where a candidate is²² to be treated as an election agent he is deemed to have his office at his address as given in the statement of persons nominated²³. The appropriate returning officer²⁴, on being satisfied that a person is²⁵ to be treated as an election agent, must forthwith proceed to give such like notice as if the name and address of the person and the address of his office had been duly given to him²⁶.

1 As to elections to the National Assembly for Wales see PARA 12 et seq ante; and as to the latest time for the withdrawal of a notice of election see PARA 269 post.

2 Is given as required by the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 35 (see PARA 242 ante).

3 As to the appointment of an election agent for elections to the National Assembly for Wales see PARA 242 ante.

4 For the meaning of 'candidate' generally see PARA 237 ante.

5 As to references to groups of party list candidates at a Welsh Assembly regional election see PARA 237 note 23 ante.

- 6 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 38(1). As to the nomination of candidates see PARA 260 post.
- 7 For the meaning of 'constituency election' see PARA 3 note 1 ante.
- 8 For the meaning of 'individual candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante.
- 9 For the meaning of 'regional election' see PARA 3 note 1 ante.
- 10 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 38(1)(a).
- 11 See *ibid* art 38(1)(b).
- 12 *Ibid* art 38(2)(a).
- 13 *Ibid* art 38(2)(b).
- 14 *Ibid* art 38(3)(a).
- 15 *Ibid* art 38(3)(b).
- 16 *Ibid* art 38(3)(b)(i).
- 17 *Ibid* art 38(3)(b)(ii).
- 18 *Ibid* art 38(4).
- 19 *Ibid* art 38(4)(a).
- 20 *Ibid* art 38(4)(b).
- 21 *Ibid* art 38(5).
- 22 *Ie* by virtue of *ibid* art 38.
- 23 *Ibid* art 38(6). As to the statement of persons nominated see PARA 272 post.
- 24 For the meaning of 'appropriate returning officer' at a Welsh Assembly election see PARA 242 note 7 ante.
- 25 *Ie* by virtue of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 38.
- 26 *Ibid* art 38(7). The text refers to the way that the name and address of an election agent must be given under art 35 (see PARA 242 ante) and art 37 (see PARA 245 post). As to the manner in which notice is to be given see PARA 242 note 21 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(i) The Candidate and Election Agent/B. APPOINTMENT AND DUTIES OF ELECTION AGENT/244. Nomination of sub-agent for elections to the National Assembly for Wales.

244. Nomination of sub-agent for elections to the National Assembly for Wales.

At an Assembly election¹ in Wales, an election agent² may³ appoint one, but not more than one, deputy election agent (referred to as a 'sub-agent') to act in⁴ any part of the Assembly constituency⁵ (in the case of a constituency election⁶) or any part of the Assembly electoral region⁷ (in the case of a regional election)⁸. As regards matters in the part of an Assembly constituency or electoral region for which there is a sub-agent the election agent may act by the sub-agent⁹; and anything done by or to the sub-agent in his part of the Assembly constituency or electoral region for the purposes of the statutory rules which govern elections to the National Assembly for Wales¹⁰ is deemed to be done by or to the election agent¹¹. Not later than the second day before the day of the poll¹², the election agent must declare in writing the name and address of every sub-agent to the appropriate returning officer¹³ and: (1) the returning officer must forthwith give public notice of the name and address of every sub-agent so declared¹⁴; and (2) in the case of a regional election, the regional returning officer¹⁵ must forthwith give notice of that name and address to the constituency returning officer¹⁶ for each Assembly constituency in any part of which the sub-agent is appointed to act¹⁷. The appointment of a sub-agent is not vacated by the election agent who appointed him ceasing to be election agent¹⁸ but may be revoked by whoever is for the time being the election agent¹⁹. In the event of the revocation of the appointment or of the death of a sub-agent another sub-agent may be appointed, and his name and address must be forthwith declared in writing to the appropriate returning officer, who must forthwith give the like notice required by head (1) above and, if applicable, head (2) above²⁰.

1 For the meaning of 'Assembly election' see PARA 3 note 1 ante.

2 As to the appointment of an election agent for elections to the National Assembly for Wales see PARA 242 ante.

3 Ie subject to the provisions of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 36.

4 Ibid art 36(1).

5 For the meaning of 'Assembly constituency' see PARA 3 note 1 ante.

6 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 36(1)(a). For the meaning of 'constituency election' see PARA 3 note 1 ante.

7 For the meaning of 'Assembly electoral region' see PARA 3 note 1 ante.

8 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 36(1)(b). For the meaning of 'regional election' see PARA 3 note 1 ante.

9 Ibid art 36(2).

10 Ie anything done for the purposes of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284.

11 Ibid art 36(2)(a). Any act or default of a sub-agent which, if he were the election agent, would be an illegal practice or other offence against the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, is an illegal practice and offence against that order committed by the sub-agent; and the

sub-agent is liable to punishment accordingly: art 36(2)(b). A candidate suffers the like incapacity as if that act or default had been the election agent's act or default: art 36(2)(c). As to a candidate's liability for the illegal practices of his agents see PARAS 251, 892 post; and as to the punishment of illegal practices see PARA 886 post. For the meaning of 'candidate' generally see PARA 237 ante.

12 As to the day of the poll at a Welsh Assembly election see PARA 220 ante; and as to the computation of the period mentioned in the text see PARA 237 note 20 ante.

13 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 36(3). The declaration to be made to the appropriate returning officer, and such notice to be given by him, under art 36(3) must specify the part of the Assembly constituency or electoral region within which any sub-agent is appointed to act: art 36(5). For the meaning of 'appropriate returning officer' at a Welsh Assembly election see PARA 242 note 7 ante. As to the making of declarations for these purposes see PARA 242 note 8 ante.

14 Ibid art 36(3)(a). As to the manner in which notice is to be given see PARA 242 note 21 ante. See also note 13 supra.

15 For the meaning of 'regional returning officer' see PARA 18 note 2 ante.

16 For the meaning of 'constituency returning officer' see PARA 18 note 2 ante.

17 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 36(3)(b). See also note 13 supra.

18 Ibid art 36(4)(a).

19 Ibid art 36(4)(b).

20 Ibid art 36(4). The declaration to be made to the appropriate returning officer, and such notice to be given by him, under art 36(4) must specify the part of the Assembly constituency or electoral region within which any sub-agent is appointed to act: art 36(5).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(i) The Candidate and Election Agent/B. APPOINTMENT AND DUTIES OF ELECTION AGENT/245. Office of agents for elections to the National Assembly for Wales.

245. Office of agents for elections to the National Assembly for Wales.

Every election agent¹ and every sub-agent² appointed for a Welsh Assembly election³ must have an office to which all claims, notices, legal processes and other documents may be sent⁴. The address of the office must be: (1) declared to the appropriate returning officer⁵ at the same time as the appointment of the agent is declared to him⁶; (2) stated in the public notice⁷; and (3) in the case of a regional election⁸, stated in the notice to the constituency returning officers⁹. The office of an election agent for a constituency election¹⁰ must be¹¹ in the Assembly constituency¹² for which the election is held or an adjoining Assembly constituency¹³, or in a county or county borough¹⁴ which is partly comprised in or adjoins the first mentioned Assembly constituency¹⁵. The office of an election agent for a regional election must be¹⁶ in the Assembly electoral region¹⁷, and the office of a sub-agent must be in the area within which he is appointed to act¹⁸.

Any claim, notice, legal process or other document delivered at the office of the election agent or sub-agent, and addressed to him, is deemed to have been served on him; and every election agent may, in respect of any matter connected with the election in which he is acting, be sued in any court having jurisdiction at the place where his office is situated¹⁹.

1 As to the appointment of an election agent for elections to the National Assembly for Wales see PARA 242 ante.

2 As to the appointment of an election sub-agent for elections to the National Assembly for Wales see PARA 244 ante.

3 For the meaning of 'Assembly election' see PARA 3 note 1 ante.

4 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 37(1).

5 For the meaning of 'appropriate returning officer' at a Welsh Assembly election see PARA 242 note 7 ante. As to the making of declarations for these purposes see PARA 242 note 8 ante.

6 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 37(1)(a).

7 *ibid* art 37(1)(b). As to the public notice stating the agent's and sub-agent's name and address see PARAS 242 note 21, 244 ante.

8 For the meaning of 'regional election' see PARA 3 note 1 ante.

9 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 37(1)(c). For the meaning of 'constituency returning officer' see PARA 18 note 2 ante.

10 For the meaning of 'constituency election' see PARA 3 note 1 ante.

11 *Ie* subject to the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 38(6) (see PARA 243 ante), whereby a candidate treated as an election agent is deemed to have his office at his address as given in the statement of persons nominated.

12 For the meaning of 'Assembly constituency' see PARA 3 note 1 ante.

13 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 37(2)(a)(i).

14 As to a county or county borough in Wales see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq.

- 15 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 37(2)(a)(ii).
- 16 See note 11 *supra*.
- 17 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 37(2)(b).
- 18 *Ibid* art 37(2)(c).
- 19 *Ibid* art 37(3).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(i) The Candidate and Election Agent/B. APPOINTMENT AND DUTIES OF ELECTION AGENT/246. Appointment of election agent for European parliamentary elections.

246. Appointment of election agent for European parliamentary elections.

Where, at a general election of members of the European Parliament ('MEPs')¹, the nominating officer² of a registered party³ nominates (or authorises the nomination of) that party to stand for election in more than one electoral region⁴, the nominating officer must name himself or some other person as the party's national election agent not later than the latest date for the delivery of notices of withdrawal for an election⁵. The name and address of the person so named must be declared in writing by or on behalf of the party's nominating officer to the Secretary of State⁶ not later than that time⁷. One national election agent only may be appointed for each registered party⁸. However, the appointment (whether or not the national election agent appointed is the party's nominating officer) may be revoked⁹; and if (whether before, during or after the general election of MEPs) the appointment or deemed appointment of a national election agent is revoked or a national election agent dies, another national election agent must be appointed forthwith and his name and address declared to the Secretary of State¹⁰. The declaration as a party's national election agent of a person other than the nominating officer of that party is of no effect unless it is made and signed by that person or is accompanied by a written declaration of acceptance signed by him¹¹. Upon the name and address of a national election agent being declared to the Secretary of State, the Secretary of State must forthwith give public notice of that name and address¹².

Where a registered party is nominated for election in one electoral region only¹³, the nominating officer of a registered party¹⁴ must name himself or some other person as the party's election agent not later than the latest date for the delivery of notices of withdrawal for an election¹⁵. The name and address of the person so named must be declared in writing by or on behalf of the party's nominating officer to the appropriate officer¹⁶ not later than that time¹⁷. One election agent only may be appointed for each registered party¹⁸. However, the appointment (whether or not the election agent appointed is the party's nominating officer) may be revoked¹⁹; and if (whether before, during or after the election) the appointment or deemed appointment of an election agent is revoked, or an election agent dies, another election agent must be appointed forthwith and his name and address declared to the appropriate officer²⁰. The declaration as a party's election agent of a person other than the nominating officer of that party is of no effect unless it is made and signed by that person or is accompanied by a written declaration of acceptance signed by him²¹. Upon the name and address of an election agent being declared to the appropriate officer, the appropriate officer must forthwith give public notice of that name and address²².

A person must be named by or on behalf of each individual candidate²³ as the individual candidate's election agent, and the name and address of the individual candidate's election agent must be declared in writing by the individual candidate or some other person on his behalf to the appropriate officer not later than the latest time for the delivery of notices of withdrawals for an election²⁴. An individual candidate may name himself as election agent, and upon doing so is, so far as circumstances admit, subject to the provisions of the European parliamentary elections rules both as an individual candidate and as an election agent, and, except where the context otherwise requires, any reference in those rules to an election agent must be construed to refer to the individual candidate acting in his capacity of election agent²⁵. One election agent only may be appointed for each individual candidate²⁶. However, the appointment, whether the election agent appointed is the individual candidate himself or not,

may be revoked²⁷; and if (whether before, during or after the election) the appointment or deemed appointment of an election agent is revoked, or an election agent dies, another election agent must be appointed forthwith and his name and address declared in writing to the appropriate officer²⁸. The declaration as an individual candidate's election agent of a person other than the individual candidate is of no effect unless it is made and signed by that person or is accompanied by a written declaration of acceptance signed by him²⁹. Upon the name and address of an election agent being declared to the appropriate officer, the appropriate officer must forthwith give public notice of that name and address³⁰.

1 As to European parliamentary general elections see PARA 224 et seq ante.

2 For these purposes, 'nominating officer' means the person registered under the Political Parties, Elections and Referendums Act 2000 as the officer with responsibility for the matters referred to in s 24(3) (see PARA 260 post) in respect of a registered party: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 2(1). Where for any reason the nominating officer of a registered party is unable to act, functions conferred on him by reg 33 must be discharged by the person registered as leader of that party under the Political Parties, Elections and Referendums Act 2000 (see PARA 260 post) or, where that person is also the nominating officer, the person who holds some other office in the party and is registered in pursuance of it under s 24 (as amended) (see PARA 260 post): European Parliamentary Elections Regulations 2004, SI 2004/293, reg 33(8). For the meaning of 'registered party' for these purposes see PARA 237 note 30 ante.

3 In accordance with the European parliamentary elections rules in *ibid* reg 9(1), Sch 1 (as amended) (as to which see PARA 388 post). For the meaning of 'European parliamentary elections rules' see PARA 388 note 18 post.

4 *Ibid* reg 33(1). As to the establishment of electoral regions for the purpose of elections to the European Parliament see PARA 76 ante.

5 *Ibid* reg 33(2). Accordingly, 'national election agent' means the person appointed under reg 33: reg 2(1). In regs 34-126 (as amended) (except regs 38-41), any reference to an election agent must, in the case of a registered party to which reg 33 applies, be construed as a reference to a national election agent; and any reference to the election agent of a candidate must, in the case of a registered party to which reg 33 applies, be construed as a reference to that party's national election agent: reg 33(9). As to the latest time for the withdrawal of a notice of election see PARA 269 post.

6 As to the Secretary of State see PARA 2 ante.

7 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 33(3). Any person before whom a declaration is authorised to be made under the European Parliamentary Elections Regulations 2004, SI 2004/293, may take the declaration: reg 123(3).

8 *Ibid* reg 33(4).

9 *Ibid* reg 33(4).

10 *Ibid* reg 33(5).

11 *Ibid* reg 33(6).

12 *Ibid* reg 33(7).

13 *Ibid* reg 34(1).

14 Where for any reason the nominating officer of a registered party is unable to act, functions conferred on him by *ibid* reg 34 must be discharged by the person registered as leader of that party under the Political Parties, Elections and Referendums Act 2000 (see PARA 260 post) or, where that person is also the nominating officer, the person who holds some other office in the party and is registered in pursuance of it under s 24 (as amended) (see PARA 260 post): European Parliamentary Elections Regulations 2004, SI 2004/293, reg 33(8); applied by reg 34(8).

15 *Ibid* reg 34(2). In regs 35-126 (as amended) (except regs 38-41), any reference to the election agent of a candidate must, in the case of a registered party to which reg 34 applies, be construed as a reference to that party's election agent: reg 34(9).

16 In ibid Pt 2 (regs 31-81) (as amended), unless the context otherwise requires, 'appropriate officer' means the returning officer: reg 31(1). As to returning officers for European parliamentary elections see PARA 365 et seq post.

17 Ibid reg 34(3).

18 Ibid reg 34(4).

19 Ibid reg 34(4).

20 Ibid reg 34(5).

21 Ibid reg 34(6).

22 Ibid reg 34(7).

23 For the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante.

24 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 38(1).

25 Ibid reg 38(2).

26 Ibid reg 38(3).

27 Ibid reg 38(3).

28 Ibid reg 38(4).

29 Ibid reg 38(5).

30 Ibid reg 38(6). A public notice required by or under the European Parliamentary Elections Regulations 2004, SI 2004/293, to be given by a returning officer for a European parliamentary election must be given by posting the notice in some conspicuous place or places in the electoral region and may also be given in such other manner as he thinks desirable for publicising it: reg 123(1). Such a notice required to be given by a local returning officer must be given by posting the notice in some conspicuous place or places in the local counting area and may also be given in such other manner as he thinks fit: reg 123(2). In the application of reg 123(1) to the combined region, the notice must be given by posting it in some conspicuous place or places in that part of the combined region which is in the United Kingdom and in some conspicuous place or places in that part which is in Gibraltar: reg 123(4). For the meaning of 'United Kingdom' see PARA 13 note 1 ante; and for the meaning of 'local counting area' for the purposes of a European parliamentary election see PARA 230 note 11 ante. As to the combined region see PARA 76 ante. As to local returning officers appointed for the purposes of elections to the European Parliament see PARA 365 post.

UPDATE

246 Appointment of election agent for European parliamentary elections

NOTES 2, 5--SI 2004/293 reg 2(1) substituted: SI 2009/186.

NOTE 30--As to the requirements applying to any document which is required or authorised to be given to voters or displayed in any place for the purposes of a European Parliamentary election, see SI 2004/293 reg 122A (added by SI 2009/186).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(i) The Candidate and Election Agent/B. APPOINTMENT AND DUTIES OF ELECTION AGENT/247. Effect of default in appointment of election agent for European parliamentary elections.

247. Effect of default in appointment of election agent for European parliamentary elections.

If, by the latest time for delivery of notices of withdrawals¹, no person's name and address are given as the national election agent² of a registered party³, or as the election agent⁴ of a registered party for an electoral region⁵, the nominating officer is deemed to have named himself as the national election agent or, as the case may be, the election agent and to have revoked any appointment of another person as that agent⁶. If the person whose name and address have been so given as those of the party's national election agent or, as the case may be, election agent (not being the party's nominating officer⁷) dies⁸ and if a new appointment is not made on the day of the death or the following day⁹, the party's nominating officer is deemed to have appointed himself as from the time of the death to the office in question¹⁰. If the appointment of a party's national election agent or, as the case may be, election agent is revoked without a new appointment being made, the party's nominating officer is deemed to have been appointed (or re-appointed) to the office in question¹¹. The deemed appointment of a nominating officer as his party's national election agent or, as the case may be, election agent may be revoked as if it were an actual appointment¹². On being satisfied that a party's nominating officer¹³ is¹⁴ to be treated as the party's national election agent¹⁵ or as the party's election agent¹⁶, the Secretary of State¹⁷ or the appropriate officer¹⁸ (as the case may be) must forthwith proceed to publish the like notice as if that officer's name and address and the address of his office had been duly given to him¹⁹.

If no person's name and address is given²⁰ as the election agent of an individual candidate²¹ who remains validly nominated²² at the latest time for delivery of notices of withdrawals, the individual candidate is deemed at that time to have named himself as election agent and to have revoked any appointment of another person as his election agent²³. If the person whose name and address have been so given as those of the individual candidate's election agent (not being the individual candidate himself) dies²⁴ and if a new appointment is not made on the day of the death or on the following day²⁵, the individual candidate is deemed to have appointed himself as from the time of death²⁶. If the appointment of an individual candidate's election agent is revoked without a new appointment being made, the individual candidate himself is deemed to have been appointed (or re-appointed) election agent²⁷. The deemed appointment of an individual candidate as his own election agent may be revoked as if it were an actual appointment²⁸. Where an individual candidate is²⁹ to be treated as his own election agent, he is deemed to have his office at his address as given in the statement as to persons nominated³⁰. The appropriate officer, on being satisfied that an individual candidate is to be treated as his own election agent, must forthwith proceed to publish the like notice as if the name and address of the individual candidate and the address of his office had been duly given to him³¹.

1 As to the latest time for the withdrawal of a notice of election see PARA 269 post.

2 For the meaning of 'national election agent' for the purposes of a European parliamentary election see PARA 246 note 5 ante.

3 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 37(1)(a). The text refers to the name and address required to be given by reg 33 (see PARA 246 ante). For the meaning of 'registered party' for these purposes see PARA 237 note 30 ante.

4 As to references to the election agent of a candidate at a European parliamentary election see PARA 246 note 15 ante.

5 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 37(1)(b). The text refers to the name and address required to be given by reg 34 (see PARA 246 ante), where reg 33 does not apply. As to the establishment of electoral regions for the purpose of elections to the European Parliament see PARA 76 ante.

6 Ibid reg 37(1).

7 For the meaning of 'nominating officer' for the purposes of a European parliamentary election see PARA 246 note 2 ante.

8 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 37(2)(a).

9 Ibid reg 37(2)(b).

10 Ibid reg 37(2). Where for any reason the nominating officer of a registered party is unable to act, functions conferred on him by reg 37 must be discharged by the person registered as leader of that party under the Political Parties, Elections and Referendums Act 2000 (see PARA 260 post) or, where that person is also the nominating officer, the person who holds some other office in the party and is registered in pursuance of it under s 24 (as amended) (see PARA 260 post): European Parliamentary Elections Regulations 2004, SI 2004/293, reg 33(8); applied by reg 37(5). Where a party's nominating officer or officer determined under reg 33(8), as applied by reg 37(5), is by virtue of reg 37 to be treated as the party's national election agent or, as the case may be, election agent, he is deemed to have his office at the address registered under the Political Parties, Elections and Referendums Act 2000 (see PARA 260 post) as the party's headquarters (or, if it has no headquarters, the address to which communications to the party may be sent): European Parliamentary Elections Regulations 2004, SI 2004/293, reg 37(6).

11 Ibid reg 37(3). See note 10 supra.

12 Ibid reg 37(4).

13 Ie or other officer determined under ibid reg 37(5) (as to which see note 10 supra).

14 Ie by virtue of ibid reg 37.

15 Ibid reg 37(7)(a).

16 Ibid reg 37(7)(b).

17 As to the Secretary of State see PARA 2 ante.

18 For the meaning of the 'appropriate officer' in relation to a European parliamentary election see PARA 246 note 16 ante.

19 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 37(7). The text refers to the way that the name and address of a national election agent must be given under reg 33 (see PARA 246 ante) and reg 36 (see PARA 249 post) and the way that the name and address of an election agent must be given under reg 34 (see PARA 246 ante) and reg 36. As to the manner in which notice is to be given see PARA 246 note 30 ante.

20 Ie as required by ibid reg 38 (see PARA 246 ante).

21 For the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante.

22 As to the nomination of candidates see PARA 260 et seq post.

23 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 41(1).

24 Ibid reg 41(2)(a).

25 Ibid reg 41(2)(b).

26 Ibid reg 41(2).

27 Ibid reg 41(3).

28 Ibid reg 41(4).

29 Ie by virtue of ibid reg 41.

30 Ibid reg 41(5). As to the statement of persons nominated see PARA 272 post.

31 Ibid reg 41(6). The text refers to the way that the name and address of an election agent for an individual candidate must be given under reg 38 (see PARA 246 ante) and reg 40 (see PARA 249 post). As to the manner in which notice is to be given see PARA 246 note 30 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(i) The Candidate and Election Agent/B. APPOINTMENT AND DUTIES OF ELECTION AGENT/248. Nomination of sub-agent for European parliamentary elections.

248. Nomination of sub-agent for European parliamentary elections.

A national election agent¹ or a person authorised by him may appoint one, but not more than one, deputy election agent (referred to as a 'sub-agent') to act in any electoral region² and one, but not more than one, deputy election agent to act in any part of an electoral region³. An election agent of a registered party⁴ may appoint one, but not more than one, deputy election agent (also referred to as a 'sub-agent') to act in any part of the electoral region⁵. As regards matters in the area for which there is a sub-agent, the election agent (including the national election agent), may act by the sub-agent⁶ and anything done for the purposes of the European Parliamentary Elections Regulations 2004⁷ by or to the sub-agent in his area is deemed to be done by or to the election agent (including the national election agent)⁸.

Not later than the fifth day before the day of the poll⁹, the national election agent or a person acting on his behalf or, as the case may be, the election agent must declare in writing to the returning officer¹⁰ the name and address of every sub-agent¹¹ and the area for which he is appointed to act¹². The appointment of a sub-agent is not vacated by the national election agent or, as the case may be, the election agent who appointed him ceasing to be such an agent¹³; but the appointment of a sub-agent may be revoked by whoever is for the time being the national election agent or, as the case may be, election agent¹⁴. Where the appointment of a sub-agent is revoked or the sub-agent dies, another sub-agent may be appointed, and the national election agent or a person acting on his behalf or, as the case may be, the election agent must forthwith declare in writing to the returning officer¹⁵ the name and address of the sub-agent¹⁶ and the area for which he is appointed to act¹⁷. On receipt of such a declaration (either in the normal course of events¹⁸ or upon the revocation of a sub-agent's appointment or where the sub-agent dies¹⁹), the returning officer must forthwith give public notice of the name, address and area so declared²⁰.

An election agent for an individual candidate²¹ may appoint to act in any part of the electoral region one, but not more than one, deputy election agent (referred to as a 'sub-agent')²². As regards matters in a part of the electoral region for which there is a sub-agent, the election agent²³ may act by the sub-agent²⁴ and anything done for the purposes of the European Parliamentary Elections Regulations 2004 by or to the sub-agent in his part of the electoral region is deemed to be done by or to the election agent²⁵.

Not later than the fifth day before the day of the poll, the election agent must declare in writing the name and address of every sub-agent to the appropriate officer²⁶, and the appropriate officer must forthwith give public notice of the name and address of every sub-agent so declared²⁷. The appointment of a sub-agent is not vacated by the election agent who appointed him ceasing to be election agent²⁸, but may be revoked by whoever is for the time being the individual candidate's election agent²⁹. In the event of the revocation of the appointment or of the death of a sub-agent another sub-agent may be appointed, and his name and address must be forthwith declared in writing to the appropriate officer, who must forthwith give public notice of the name and address so declared³⁰.

¹ For the meaning of 'national election agent' for the purpose of elections to the European Parliament see PARA 246 note 5 ante.

2 As to the establishment of electoral regions for the purpose of elections to the European Parliament see PARA 76 ante.

3 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 35(1).

4 References in *ibid* reg 35 to an election agent are to the election agent of a registered party: reg 35(9). For the meaning of 'registered party' for these purposes see PARA 237 note 30 ante.

5 *Ibid* reg 35(2).

6 *Ibid* reg 35(3).

7 *Ie* the European Parliamentary Elections Regulations 2004, SI 2004/293.

8 *Ibid* reg 35(3)(a). Any act or default of a sub-agent which, if he were the election agent (including the national election agent), would be an illegal practice or other offence against the European Parliamentary Elections Regulations 2004, SI 2004/293, is an illegal practice and offence against those regulations committed by the sub-agent; and the sub-agent is liable to punishment accordingly: reg 35(3)(b).

9 As to the day of the poll at a European parliamentary election see PARA 229 ante.

10 As to the making of declarations see PARA 246 note 7 ante; and as to returning officers for European parliamentary elections see PARA 365 et seq post.

11 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 35(4)(a).

12 *Ibid* reg 35(4)(b).

13 *Ibid* reg 35(5).

14 *Ibid* reg 35(6).

15 *Ibid* reg 35(7).

16 *Ibid* reg 35(7)(a).

17 *Ibid* reg 35(7)(b).

18 *Ie* under reg 35(4) (see the text and notes 9-12 *supra*).

19 *Ie* under reg 35(7) (see the text and notes 15-17 *supra*).

20 *Ibid* reg 35(8). As to the manner in which notice is to be given see PARA 246 note 30 ante.

21 For the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante.

22 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 39(1).

23 For the purposes of *ibid* reg 39(2)-(4) (see the text and notes 24-30 *infra*), references to an election agent are to an election agent of an individual candidate: reg 39(6).

24 *Ibid* reg 39(2).

25 *Ibid* reg 39(2)(a). Any act or default of a sub-agent which, if he were the election agent, would be an illegal practice or other offence against the European Parliamentary Elections Regulations 2004, SI 2004/293, is an illegal practice and offence against those regulations committed by the sub-agent; and the sub-agent is liable to punishment accordingly: reg 39(2)(b).

26 For the meaning of the 'appropriate officer' in relation to a European parliamentary election see PARA 246 note 16 ante.

27 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 39(3). As to references to an election agent for these purposes see note 23 *supra*. The declaration mentioned in the text to be made to the appropriate officer, and the notice to be given by him, under reg 39(3) must specify the part of the electoral region within which any sub-agent is appointed to act: reg 39(5).

28 *Ibid* reg 39(4)(a). As to references to an election agent for these purposes see note 23 *supra*.

29 Ibid reg 39(4)(b).

30 Ibid reg 39(4). The declaration to be made to the appropriate officer, and the notice to be given by him, under reg 39(4) must specify the part of the electoral region within which any sub-agent is appointed to act: reg 39(5).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(i) The Candidate and Election Agent/B. APPOINTMENT AND DUTIES OF ELECTION AGENT/249. Office of agents for European parliamentary elections.

249. Office of agents for European parliamentary elections.

Every national election agent¹, every election agent² and every sub-agent³ of a registered party⁴ must have an office to which all claims, notices, writs, summonses and documents may be sent⁵. The office of a national election agent must be in the United Kingdom⁶ and must be declared to the Secretary of State⁷ at the same time as the appointment of the agent is declared to him⁸, and stated in the public notice of the name of the agent⁹. The office of the election agent or sub-agent of a registered party must be within the United Kingdom¹⁰ and must be declared to the appropriate officer¹¹ at the same time as the appointment of the agent is declared to him¹² and stated in the public notice of the name of the agent¹³. Any claim, notice, writ, summons or document delivered at the address of the national election agent, election agent or sub-agent and addressed to him, is deemed to have been served on him; and every national election agent, election agent or sub-agent may in respect of any matter connected with the election in which he is acting be sued in any court having jurisdiction at the place where his office is situated¹⁴.

Every election agent and every sub-agent of an individual candidate¹⁵ must have an office to which all claims, notices, writs, summonses and legal process and other documents may be sent¹⁶. The address of the office must be declared to the appropriate officer at the same time as the appointment of the agent is declared to him¹⁷ and stated in the public notice of the name of the agent¹⁸. The office of the election agent or sub-agent must be within the United Kingdom¹⁹. Any claim, notice, writ, summons or legal process or other document delivered at the office of the election agent or sub-agent and addressed to him, is deemed to have been served on him; and every election agent or sub-agent may in respect of any matter connected with the election in which he is acting be sued in any court having jurisdiction at the place where his office is situated²⁰.

1 For the meaning of 'national election agent' for the purposes of a European parliamentary election see PARA 246 note 5 ante.

2 As to references to the election agent of a candidate at a European parliamentary election see PARA 246 note 15 ante.

3 For the meaning of 'sub-agent' see PARA 248 ante.

4 For the meaning of 'registered party' for the purposes of European parliamentary elections for these purposes see PARA 237 note 30 ante.

5 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 36(1).

6 Ibid reg 36(2). For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

7 As to the Secretary of State see PARA 2 ante.

8 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 36(2)(a). As to the making of declarations see PARA 246 note 7 ante.

9 Ibid reg 36(2)(b). As to the public notice mentioned in the text see PARAS 246, 248 ante.

10 Ibid reg 36(3). In the case of a party standing for election in the combined region, the office must be in Gibraltar: reg 36(3). As to the combined region see PARA 76 ante.

11 For the meaning of the 'appropriate officer' in relation to a European parliamentary election see PARA 246 note 16 ante.

12 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 36(3)(a).

13 Ibid reg 36(3)(b).

14 Ibid reg 36(4).

15 For the purposes of ibid reg 40, references to an election agent and sub-agent are to an election agent or sub-agent of an individual candidate: reg 40(4). For the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante.

16 Ibid reg 40(1).

17 Ibid reg 40(1)(a).

18 Ibid reg 40(1)(b).

19 Ibid reg 40(2). In the case of a candidate standing for election in the combined region, the office must be in Gibraltar: reg 40(2).

20 Ibid reg 40(3).

UPDATE

249 Office of agents for European parliamentary elections

TEXT AND NOTES 1-5--SI 2004/293 reg 36(1) amended: SI 2009/186.

TEXT AND NOTE 14--SI 2004/293 reg 36(4) amended: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(i) The Candidate and Election Agent/B. APPOINTMENT AND DUTIES OF ELECTION AGENT/250. Duties of election agent.

250. Duties of election agent.

The duties of an election agent¹ with respect to the authorising and incurring of election expenses, the payment of all claims, and the return and declarations respecting such expenses, are dealt with elsewhere in this work². All books, accounts and documents should be carefully preserved until after any possible election petition³. The election agent must take all reasonable steps for preventing the commission of corrupt and illegal practices at the election⁴.

The election agent may appoint unpaid polling or counting agents⁵ and may do or assist in doing anything which a polling or counting agent is authorised to do; and anything required or authorised to be done in the presence of the polling or counting agents may be done in the presence of an election agent instead of the polling or counting agents⁶.

1 As to the requirement to appoint election agents see PARA 238 et seq ante.

2 See PARA 274 et seq post.

3 This is prudent practice. For examples of the problems and consequences if documents are destroyed see eg *Dorsetshire, Eastern Division, Case* (1910) 6 O'M & H 22 at 37 per Lawrence J; *Cork, Eastern Division, Case* (1911) 6 O'M & H 318 at 343 per Gibson J.

4 See the Representation of the People Act 1983 s 158(3)(b); and PARA 899 post.

5 See PARA 399 post.

6 See PARA 399 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(i) The Candidate and Election Agent/C. ELECTORAL AGENCY/251. Candidate's liability.

C. ELECTORAL AGENCY

251. Candidate's liability.

A candidate's liability to have his election avoided under the doctrines of election agency¹ is distinct from, and wider than, his liability under the criminal² or civil law of agency³. Once the agency is established, a candidate is liable to have his election avoided⁴ for corrupt or illegal practices committed by his agents even though the act was not authorised by the candidate or was expressly forbidden⁵. The reason for this stringent law is that candidates put forward agents to act for them; and if it were permitted that these agents should play foul, and that the candidate should have all the benefit of their foul play without being responsible for it in the way of losing his seat, great mischief would arise⁶. In this respect the relationship between candidate and agent resembles that of employer and employee⁷. Other comparisons of the relationship between candidate and agent that have been made are that between the sheriff and his bailiffs⁸, or that of a yachtsman who is responsible in a yacht race for the conduct of every person who is on board his vessel⁹ or that of the owner of a racehorse and the jockey he employs¹⁰.

An agent may be employed to act generally or in some particular transaction¹¹. Similarly a canvasser may be employed to canvass only particular voters. A candidate's liability for corrupt or illegal practices committed by such an agent is limited to acts within the agent's authority, and thus if a canvasser is employed to canvass particular voters, his illegal acts in respect of other voters will not affect the candidate¹².

An agent may turn an innocent act into a guilty act by the manner of his doing it¹³.

1 The doctrines originated in the principles, practice and rules on which committees of the House of Commons acted in dealing with election petitions and which have to be followed, as far as may be, by election courts: see PARA 769 post. In particular the principles and rules with regard to agency are to be observed, as far as may be, in the case of a petition questioning an election under the Local Government Act 1972 as in the case of a petition questioning a parliamentary election: see PARA 815 post.

2 A candidate's liability to penalties for corrupt practices committed by an agent is, it seems, in general the same as that of a principal under the ordinary criminal law relating to agency (see AGENCY vol 1 (2008) PARA 155; CRIMINAL LAW, EVIDENCE AND PROCEDURE); the candidate is liable only on proof that the agent acted on the candidate's express or implied authority or that the candidate ratified the act after it was done or appointed the agent to do all acts legal or illegal which he might think proper to support the candidate's interest: see *Cooper v Slade* (1858) 27 LJQB 449 at 464 (a decision under enactments now replaced by the Representation of the People Act 1983 s 113(2) (as amended), cited in PARA 712 post); and see also *Norwich Case, Tillett v Stracey* (1869) 1 O'M & H 8 at 10. For statutory provisions limiting the candidate's liability for the acts of his agents in particular cases see the Representation of the People Act 1983 s 61(7)(b) (cited in PARA 703 post); s 75(5)(ii) (cited in PARA 710 post); s 86(5) (cited in PARA 691 post); s 106(2) (cited in PARA 683 post); s 189(2) (cited in PARA 703 post); and s 90 (as amended), Sch 4 para 1(2) (cited in PARA 678 post).

3 *Greenock Case* (1869) 1 O'M & H 247 at 251; *Norfolk, Northern Division, Case* (1869) 1 O'M & H 236 at 240; *Taunton Borough Case* (1874) 2 O'M & H 66.

4 See PARAS 892-895 post.

5 *Taunton Case, Williams and Mellor v Cox* (1869) 1 O'M & H 181; *Great Yarmouth Borough Case* (1906) 5 O'M & H 176 at 179 per Channell J; *Norwich Case, Tillett v Stracey* (1869) 1 O'M & H 8 at 10; *Lichfield Case,*

Anson v Dyott (1869) 1 O'M & H 22; *Barnstaple Case* (1874) 2 O'M & H 105; *Harwich Borough Case* (1880) 3 O'M & H 61 at 69; *Sligo Borough Case* (1869) 1 O'M & H 300 at 302.

6 *Staleybridge Case, Ogden, Woolley and Buckley v Sidebottom, Gilbert's Case* (1869) 1 O'M & H 66 at 67. See also *Coventry Case, Berry v Eaton and Hill* (1869) 1 O'M & H 97; and see (1869) 20 LT 405 at 409 per Willes J ('I shall ever hold it to be [. . .] a wise and beneficial rule of constitutional law that for the purpose of securing purity and freedom of election candidates shall be answerable for the acts of their agents as well as for their own acts').

7 *Westminster Borough Case* (1869) 1 O'M & H 89 at 95; *Norwich Case* (1869) 1 O'M & H 8 at 10-11; *Aylesbury Case* (1886) 4 O'M & H 59 at 62; *Shoreditch, Haggerston Division, Case, Cremer v Lowles* (1896) 5 O'M & H 68 at 70, 84.

8 *Harwich Borough Case* (1880) 3 O'M & H 61 at 69.

9 *Westbury Case, Laverton v Phipps, Harrop's Case* (1869) 1 O'M & H 47 at 55; *Tamworth Case, Hill and Walton v Peel and Bulwer* (1869) 1 O'M & H 75 at 81; *Coventry Case, Berry v Eaton and Hill* (1869) 1 O'M & H 97 at 107; *Blackburn Case* (1869) 1 O'M & H 198 at 202; *Wigan Case, Spencer and Prestt v Powell* (1881) 4 O'M & H 1 at 11.

10 *Coventry Case, Berry v Eaton and Hill* (1869) 1 O'M & H 97 at 107; *Blackburn Case* (1869) 1 O'M & H 198 at 202; *Wigan Case, Spencer and Prestt v Powell* (1881) 4 O'M & H 1 at 11.

11 *Harwich Borough Case* (1880) 3 O'M & H 61 at 69; *Plymouth, Drake Division, Case* (1929) 7 O'M & H 101 at 126.

12 *Bodmin Case* (1869) 1 O'M & H 117 at 120; *Sligo Borough Case* (1869) 1 O'M & H 300 at 302. On the other hand the candidate cannot escape liability by confining the agent's authority to lawful acts: see *Sligo Borough Case* *supra*.

13 *Boston Borough Case, Malcolm v Parry* (1874) LR 9 CP 610, where an act intended by the candidate to be an act of charity became bribery.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(i) The Candidate and Election Agent/C. ELECTORAL AGENCY/252. Evidence of agency.

252. Evidence of agency.

In order to prove agency it is not necessary to show that the person was actually appointed by the candidate¹ or that he was paid². The crucial test is whether there has been employment or authorisation of the agent by the candidate to do some election work or the adoption of his work when done³. The candidate, however, is liable not only for the acts of the agents whom he has himself appointed or authorised, but also for the acts of agents employed by his election agent or by any other agent having authority to employ others⁴. He may be liable even though his election agent refused to employ the agent⁵.

In the absence of authorisation or ratification the candidate must be proved either by himself or by his acknowledged agents to have employed the agent to act on his behalf, or to have to some extent put himself in the agent's hands, or to have made common measure with him for the purpose of promoting the candidate's election⁶. The candidate must have entrusted the alleged agent with some material part of the business of the election⁷. Mere non-interference on the candidate's part with persons who, feeling interested in the candidate's success, may act in support of his canvass is not sufficient to saddle the candidate with any unlawful acts of theirs of which the candidate and his election agent are ignorant⁸. Employment in the business of the election is a question of degree⁹, but it has never yet been distinctly and precisely defined what degree of evidence is required to establish such a relationship between the candidate and the person guilty of corruption as should constitute agency. No one yet has been able to go further than to say that, as to some cases, enough has been established, but as to others, enough has not been established, to vacate the seat¹⁰. All the circumstances of the case must be taken into consideration, and the evidence may be regarded cumulatively as establishing the agency¹¹. Agency at a previous election is not admissible in itself to prove agency at a subsequent election¹², but where there has been organized bribery by a person as a candidate's agent at a previous election and the person has canvassed for the same candidate at a subsequent election and bribed voters, it is difficult, if not impossible, for the candidate to prove that the person was not his agent at the subsequent election¹³.

1 *Harwich Borough Case* (1880) 3 O'M & H 61. For the current statutory definition of 'candidate' see PARA 237 ante.

2 *Bewdley Case* (1869) 1 O'M & H 16 at 17.

3 *Great Yarmouth Borough Case* (1906) 5 O'M & H 176 at 189; *Plymouth, Drake Division, Case* (1929) 7 O'M & H 101. For the ratification to be effective the candidate must be fully aware of the character of the act at the time when he ratifies it: *Tamworth Case, Hill and Walton v Peel and Bulwer* (1869) 1 O'M & H 75 at 81.

4 *Bewdley Case* (1869) 1 O'M & H 16; *Staleybridge Case, Ogden, Woolley and Buckley v Sidebottom, Gilbert's Case* (1869) 1 O'M & H 66; *Plymouth Case* (1880) 3 O'M & H 107; *Hartlepool Case* (1910) 6 O'M & H 1; *Sunderland Borough Case* (1896) 5 O'M & H 53; *Barnstaple Case* (1874) 2 O'M & H 105; *Cashel Borough Case* (1869) 1 O'M & H 286.

5 *Stroud Case, Holloway v Brand* (1874) 3 O'M & H 7 at 11.

6 *Taunton Borough Case* (1874) 2 O'M & H 66 at 74; *Wakefield Case* (1874) 2 O'M & H 100 at 102.

7 *Dungannon Borough Case* (1880) 3 O'M & H 101.

8 *Taunton Borough Case* (1874) 2 O'M & H 66 at 74.

- 9 *Hereford Borough Case* (1869) 1 O'M & H 194 at 195.
- 10 *Bridgewater Case* (1869) 1 O'M & H 112 at 115.
- 11 *Bewdley Case* (1869) 1 O'M & H 16 at 18; *Staleybridge Case, Ogden, Woolley and Buckley v Sidebottom, Gilbert's Case* (1869) 1 O'M & H 66 at 70; *Wakefield Case* (1874) 2 O'M & H 100 at 102; *Tewkesbury Case, Collins v Price* (1880) 3 O'M & H 97 at 99; *Bridgewater Case* (1869) 1 O'M & H 112 at 115; *Taunton Case, Williams and Mellor v Cox* (1869) 1 O'M & H 181; *Hereford Borough Case* (1869) 1 O'M & H 194 at 195.
- 12 *Ashburton Case* (1859) Wolf & B 1.
- 13 *Waterford Borough Case* (1870) 2 O'M & H 1.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(i) The Candidate and Election Agent/C. ELECTORAL AGENCY/253. Agency where only one act of corruption.

253. Agency where only one act of corruption.

It would appear that stricter evidence of agency is required where only one act of corruption has been committed. In strict logic, if a man would be an agent if he was shown to have corrupted one hundred people by paying them £5 each, then, if he corrupts only a single man by giving him a glass of beer, he ought to be regarded as an agent equally¹. Nevertheless it would appear that where there is satisfactory proof that it was intended that an election should be conducted honestly and in accordance with the law, strong evidence of agency is required in order to fix the candidate with the responsibility for a single unlawful act on the agent's part². It would not, however, suffice for the candidate merely to say that he did not contemplate the acts that were done or did not intend that anything illegal should be done³.

1 *Hastings Case, Calthorpe and Sutton v Brassey and North* (1869) 1 O'M & H 217 at 218.

2 *Barnstaple Case* (1874) 2 O'M & H 105 at 106; *Wigan Case* (1869) 1 O'M & H 188 at 192; *Hastings Case, Calthorpe and Sutton v Brassey and North, Foster's Case* (1869) 21 LT 234 at 237, 1 O'M & H 217 at 218; *Taunton Borough Case* (1874) 2 O'M & H 66 at 75; *Great Yarmouth Borough Case* (1895) 5 O'M & H 176 at 179; but see *Shrewsbury Case* (1870) 2 O'M & H 36 at 37. The distinction appears to be that a single act of bribery if proved will suffice to avoid an election: see PARA 723 post. An election court, however, will be unwilling to upset an otherwise honest election because of an isolated and insignificant act of bribery. Accordingly the court will require clear evidence both of the act of bribery and of the person bribing acting as an agent of the candidate.

3 *Sligo Borough Case* (1869) 1 O'M & H 300 at 302.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(i) The Candidate and Election Agent/C. ELECTORAL AGENCY/254. Canvassers as agents.

254. Canvassers as agents.

A canvasser is a person who solicits and persuades individual voters, although not necessarily one by one separately, to vote for a candidate¹. General canvassing is strong evidence of agency, and evidence which requires a very strong case to rebut it, if it can be rebutted². On the other hand, a voluntary canvasser who canvasses without authority is not an agent³. A person who, although nominally called a canvasser, is in substance not a man whose influence is relied on, but is a mere messenger sent round for information as to how voters intend to vote rather than with a view to his exercising any influence, either personally or by his powers of persuasion, is not necessarily an agent⁴. Merely introducing voters to the candidate does not constitute agency⁵.

1 *Plymouth, Drake Division, Case* (1929) 7 O'M & H 101 at 125. See also the Representation of the People Act 1983 s 100(1) (cited in PARA 750 post), which prevents canvassing by members of the police force who may not 'by word, message, writing or in any other manner, endeavour to persuade any person to give, or dissuade any person from giving, his vote'.

2 *Wigan Case, Spencer and Prestt v Powell* (1881) 4 O'M & H 1 at 13; *Westbury Case, Laverton v Phipps, Harrop's Case* (1869) 1 O'M & H 47 at 55; *Lichfield Case, Anson v Dyott* (1869) 1 O'M & H 22 at 25.

3 *Bolton Case* (1874) 2 O'M & H 138 at 141; *Harwich Borough Case* (1880) 3 O'M & H 61 at 69; *Westbury Case* (1880) 3 O'M & H 78.

4 *Bodmin Case* (1869) 1 O'M & H 117 at 120; *Plymouth, Drake Division, Case* (1929) 7 O'M & H 101 at 125.

5 *Shrewsbury Case* (1870) 2 O'M & H 36; *Salisbury Case, Rigden v Edwards and Grenfell* (1880) 3 O'M & H 130; but see *Bewdley Case* (1869) 19 LT 676, 1 O'M & H 16; *Rochester Borough Case* (1892) Day 98 at 102.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(i) The Candidate and Election Agent/C. ELECTORAL AGENCY/255. Member of election committee as agent.

255. Member of election committee as agent.

Being a member of a candidate's election committee is strong evidence of agency¹. Agency cannot be evaded merely by not appointing a committee; persons who do what members of the committee generally do are just as much members of the committee as if they were expressly called so for that reason², but a member of a self-constituted voluntary committee does not become an agent of the candidate³. Evidence of agency may be rebutted⁴.

1 In the *Dublin City Case* (1869) 1 O'M & H 270 at 272, it was proved that there were district committees in all the wards which were sent instructions by the election agent; it was held that all the members of these committees were agents. In the *Southampton Borough Case* (1895) 5 O'M & H 17, a person who was a chairman of a ward Conservative association and a member of the candidate's committee was held to be an agent. See also *Huddersfield Borough Case* (1853) 2 Pow R & D 124 at 128; *Liverpool Case* (1853) 2 Pow R & D 248; *Tynemouth Case* (1853) 2 Pow R & D 181; *Nottingham Town Case (No 2)* (1843) Bar & Arn 136 at 156; *Preston Case* (1859) Wolf & B 71.

2 *Lichfield Case, Anson v Dyott* (1869) 1 O'M & H 22 at 25; *Wakefield Case* (1874) 2 O'M & H 100; *Shoreditch, Haggerston Division, Case, Cremer v Lowles* (1895) 5 O'M & H 68; *Rochester Borough Case* (1892) 4 O'M & H 156, Day 98.

3 *Westminster Borough Case* (1869) 1 O'M & H 89 at 92; *Drogheda Borough Case* (1857) Wolf & D 206 at 209; *Staleybridge Case, Ogden, Woolley and Buckley v Sidebottom, Gilbert's Case* (1869) 1 O'M & H 66; *Wareham Case* (1857) Wolf & D 85 at 95.

4 In *Windsor Case, Herbert v Gardiner* (1874) 31 LT 133, 2 O'M & H 88, the only evidence of a person being an agent was that he was a member of a candidate's election committee; it was not proved who put him on the committee, what his duties were or what he did; his own statement was that he understood he was to do his best for the candidate. He was held not to be an agent.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(i) The Candidate and Election Agent/C. ELECTORAL AGENCY/256. Political associations as agents.

256. Political associations as agents.

It has been recognised that there may be a political association existing for the purpose of a political party, advocating the cause of a particular candidate and largely contributing to his success, yet in no privity with the candidate or his agents, and an independent agency and acting on its own behalf¹. It has been said that such an association would not be one for whose acts the candidate would be responsible². There may, on the other hand, be a political association advocating the views of a candidate of which that candidate is not a member, to the funds of which he does not subscribe, and with which he personally is not ostensibly connected, but at the same time in intimate relationship with his agents respecting the canvassing of voters, and the conduct of the election, and largely contributing to the result. Such an association could be held to be one for whose acts the candidate was responsible³.

An association representing one of the political parties may further the general interests of the party it represents, including work in connection with the preparation of the electors' lists, without necessarily becoming an agent of a candidate; but the moment it appears that the candidate or his election agent adopts, either individually or collectively, the work that is done by that association in such a manner as to benefit by its agency regarding the election, the association will become the candidate's agent⁴.

1 *Bewdley Case, Spencer v Harrison* (1880) 3 O'M & H 145 at 146.

2 *Bewdley Case, Spencer v Harrison* (1880) 3 O'M & H 145 at 146; and see eg *Westbury Case* (1880) 3 O'M & H 78 (cited in note 4 infra).

3 *Bewdley Case, Spencer v Harrison* (1880) 3 O'M & H 145 at 146.

4 *Cork, Eastern Division, Case* (1911) 6 O'M & H 318 at 342; *Worcester Borough Case, Glaszard and Turner v Allsopp* (1892) 4 O'M & H 153; *Walsall Borough Case* (1892) 4 O'M & H 123; *Northumberland, Hexham Division, Case, Hudspeth and Lyal v Clayton* (1892) Day 90 at 91. In *Rochester Borough Case* (1892) 4 O'M & H 156 at 160, Cave J approved the practice of political associations suspending their activities as soon as an election commences. In *Northumberland, Berwick-upon-Tweed Division, Case* (1923) 7 O'M & H 1, a political association was founded by an agent of the candidate and wholly financed by the candidate, and expenses were incurred by it in paying an organiser on the candidate's behalf and were continued even after it had been nominally dissolved; the court decided that payments made by it from the date when the election was held to have begun ought to have been returned by the candidate. In *Westbury Case* (1880) 3 O'M & H 78, a political association invited a candidate to become its representative, and he attended some of its meetings to expound his political views, but there was no further substantial connection between them; the court decided that members of the association had not become agents of the candidate. On the other hand, in *Bewdley Case, Spencer v Harrison* (1880) 3 O'M & H 145, an association had been formed before the election to promote the candidature of a certain candidate and was subsequently in constant communication with his election agent who attended the association's meetings, supplied its minute book at the candidate's expense, from time to time reported progress to the association and used, in common with the association, a marked register of voters, and the leading members of the association were actively engaged in the conduct of the election; the court held that members of the association were agents of the candidate. In *Taunton Case, Williams and Mellor v Cox* (1869) 1 O'M & H 181, during an election people met at the rooms of a Conservative Association, papers and circulars were sent out by it and members of the association canvassed; the court held that members of the association were agents of the candidate. In *St George's Division, Tower Hamlets, Case* (1896) 5 O'M & H 89 at 97, it was stated that if the object of a political association was simply to secure the election of a particular individual, it would be difficult, if not impossible, for the candidate to take part in its operations without becoming responsible for its acts during the election; and if its object were to procure the election of some candidate professing the political views of one of the two great parties which were supposed to divide the country, and the candidate attended its meetings and availed himself of its assistance, its officers would probably be held to

constitute his agents. See also *Westminster Borough Case* (1869) 1 O'M & H 89; *Gravesend Case* (1880) 44 LT 64, 3 O'M & H 81.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(i) The Candidate and Election Agent/C. ELECTORAL AGENCY/257. Other examples of agents.

257. Other examples of agents.

Priests may become agents of a candidate¹.

An association (other than a political association) which holds meetings to promote its own views does not necessarily become an agent of a candidate, even though it incidentally promotes his interests².

A circular urging all persons to aid in securing a certain candidate's return has been held to make every person the candidate's agent who acted on it and took up his interests³.

The mere fact that the alleged agent is a brother of the candidate⁴ or the business partner⁵ or son⁶ of an authorised agent is not sufficient to establish agency. A confidential employee, even though active in the election, is not necessarily an agent⁷.

The fact that the candidate and a person are closely associated in philanthropic work and that the candidate accepts a testimonial from that person does not necessarily make that person an agent of the candidate⁸. If there are joint candidates, as may happen at local government elections, the agents of the one would thereby become the agents of the other⁹, unless it was made clear that an agent was acting on behalf of one candidate only¹⁰. One candidate does not, however, become liable for the previously committed acts of an agent of the other candidate where he was not aware of those acts¹¹.

1 *Limerick Borough Case* (1869) 1 O'M & H 260 at 262; *Galway County Case* (1872) 2 O'M & H 46; *Galway Borough Case* (1874) 2 O'M & H 196; *Meath, Southern Division, Case* (1892) 4 O'M & H 130; *Meath, Northern Division, Case* (1892) 4 O'M & H 185. As to spiritual influence amounting to undue influence at election see PARA 729 post.

2 *Walsall Borough Case* (1892) 4 O'M & H 123 (licensed victuallers' association). However, where a candidate who knew that a procession was being formed on behalf of a licensed victuallers' association for political electioneering purposes got into the vehicle at the head of it on the invitation of the organizer, the candidate was held to have made the organizer his agent: *West Bromwich Case* (1911) 6 O'M & H 256 at 278.

3 *Blackburn Case* (1869) 1 O'M & H 198. In a later case, however, it was held by one judge (the other judge dissenting) that a letter addressed to 5,000 persons who had signed a letter requesting the candidate to stand, and which asked the recipients to enter heartily into the contest and secure the votes and interest of others, did not make the persons receiving and acting upon it the candidate's agents: *Norwich Case, Birbeck v Bullard* (1886) 4 O'M & H 84.

4 *Ipswich Case* (1857) Wolf & D 173 at 178; and see *Dorsetshire, Eastern Division, Case* (1911) 6 O'M & H 22.

5 *Mallow Borough Case* (1870) 2 O'M & H 18 at 21.

6 *Westminster Borough Case* (1869) 1 O'M & H 89 at 96.

7 *Cockermouth Case* (1853) 2 Pow R & D 167 at 170.

8 *Plymouth, Drake Division, Case* (1929) 7 O'M & H 101 at 107, 118.

9 *North Norfolk Case* (1869) 1 O'M & H 236 at 240.

10 *Norwich Case* (1871) 23 LT 701, 2 O'M & H 38.

11 *Malcolm v Parry (2nd Case)* (1875) LR 10 CP 168, sub nom *Boston Case, Malcolm v Ingram and Parry* (1875) 31 LT 845.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(i) The Candidate and Election Agent/C. ELECTORAL AGENCY/258. Termination of agency.

258. Termination of agency.

An ordinary agency will be taken to have terminated when the election is over¹ unless the candidate's privity is shown². The agency may also be terminated by the repudiation and withdrawal of the agent's authority³. Statements made by an ordinary agent after the election is over are not admissible as evidence against the candidate⁴. Evidence of acts done after the election may be admitted if the acts are connected with, or throw light on, some transaction which took place during the election⁵.

1 *King's Lynn Case*, *Armes and Holditch v Bourke* (1896) 1 O'M & H 206 at 208; *North Norfolk Case* (1869) 1 O'M & H 236 at 243; *Longford Case* (1870) 2 O'M & H 6 at 12.

2 *Salford Case* (1869) 1 O'M & H 133 at 140. This rule does not apply to the election agent who has certain duties to perform in connection with election expenses after the election is over: *Salford Case* supra at 140.

3 *Taunton Case*, *Williams and Mellor v Cox* (1869) 1 O'M & H 181 at 183.

4 *Harwich Borough Case* (1880) 3 O'M & H 61 at 64; *Cheltenham Borough Election Case* (1880) 3 O'M & H 86 at 88; *Bodmin Case* (1869) 1 O'M & H 117 at 119; *Taunton Borough Case* (1874) 2 O'M & H 66 at 69. It has been stated that the election is not over until the declaration of the result is made: *Galway County Case* (1872) 2 O'M & H 46 at 49.

5 *Southampton Case* (1869) 1 O'M & H 222.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(i) The Candidate and Election Agent/C. ELECTORAL AGENCY/259. Statutory prohibition on agency by election officials and canvassing by police officers.

259. Statutory prohibition on agency by election officials and canvassing by police officers.

Any returning officer or any officer or clerk appointed under elections rules¹, or any partner or clerk of any such a person who acts as a candidate's agent in the conduct or management of the election is guilty of an offence².

Any member of a police force who canvasses any person to give his vote at any election held wholly or partly within the police area is also guilty of an offence³.

1 le the rules made for parliamentary and local government elections, for European parliamentary elections or for elections to the National Assembly for Wales (as to which see PARA 388 post).

2 See the Representation of the People Act 1983 s 99 (as amended); and PARA 749 post.

3 See *ibid* s 100 (as amended); and PARA 750 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(ii) Nomination of Candidates/260. Registration of party and officials as condition precedent to participation in election.

(ii) Nomination of Candidates

260. Registration of party and officials as condition precedent to participation in election.

A person may not be nominated as a candidate¹ at a parliamentary election², a local government election³ (except a parish or community election⁴), an election to the National Assembly for Wales⁵ or an election to the European Parliament⁶ (a 'relevant election') unless⁷ he is a person who stands in the name of a qualifying registered party⁸ or is a person who does not purport to represent any party⁹. Where the election is one for which registered parties may be nominated, the party must be a qualifying registered party¹⁰.

A party may not be registered unless a person has been registered as its leader, as its nominating officer and as its treasurer¹¹. The person registered as a party's nominating officer has responsibility for the arrangements for the submission by representatives of the party of lists of candidates for the purpose of elections¹², the issuing of a certificate giving the party's authorised description¹³ and the approval of descriptions and emblems used on nomination and ballot papers at elections¹⁴. The person registered as a party's treasurer is responsible for the party's compliance with the provisions relating to accounting requirements¹⁵ and the control of donations¹⁶ and, unless a person is registered as the party's campaigns officer¹⁷, with the provisions relating to campaign expenditure¹⁸, third party expenditure¹⁹ and referendums²⁰ as well²¹. The registers of political parties are maintained by the Electoral Commission²².

A broadcaster is prohibited from including in its broadcasting services any party political broadcast made on behalf of a party which is not a registered party under the Political Parties, Elections and Referendums Act 2000²³.

1 For the meaning of 'candidate' generally see PARA 237 ante.

2 For the meaning of 'parliamentary election' see PARA 9 ante.

3 For the meaning of 'local government election' see PARA 10 ante.

4 I.e. an election of councillors for a parish in England or a community in Wales: see the Political Parties, Elections and Referendums Act 2000 s 40(1). For the meanings of 'England' and 'Wales' see PARA 13 note 1 ante. As to the election of councillors for parish or community councils see PARA 207 et seq ante.

5 As to elections to the National Assembly for Wales see PARA 12 et seq ante.

6 As to elections to the European Parliament see PARA 13 et seq ante.

7 Political Parties, Elections and Referendums Act 2000 s 22(1), (4), (5)(a), (b), (d), (f).

8 Ibid s 22(1)(a). For these purposes, a person stands for election in the name of a registered party if his nomination paper includes a description authorised by a certificate issued by or on behalf of the registered nominating officer of the party: ss 22(6), 160(3). A party (other than a minor party) is a 'qualifying registered party' in relation to a relevant parliamentary, local government or Welsh Assembly election if the constituency, local government area or electoral region in which the election is held is in England or Wales and the party was, on the day (the 'relevant day') which is two days before the last day for the delivery of nomination papers at that election, registered in respect of that part of Great Britain in the Great Britain register maintained by the Electoral Commission under s 23 (new registers of political parties: see CONSTITUTIONAL LAW AND HUMAN RIGHTS): s 22(2)(a) (amended by the Electoral Administration Act 2006 s 52(4), (5)(a)). For these purposes, any day falling

within the Representation of the People Act 1983 Sch 1 r 2(1) (as amended) (see PARA 203 note 1 ante) is disregarded: Political Parties, Elections and Referendums Act 2000 s 22(2A) (added by the Electoral Administration Act 2006 s 52(4), (6)). In relation to a European parliamentary election, a party is a 'qualifying registered party' if the electoral region in which the election is held is in England or Wales, or is the electoral region of Wales, and the party was, on the last day for publication of notice of the election, registered in respect of that part of Great Britain in the Great Britain register maintained by the Commission under the Political Parties, Elections and Referendums Act 2000 s 23 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see s 22(2). For the purposes of Pt II (ss 22-40) (as amended), 'party' includes any organisation or person; and 'registered' (unless the context otherwise requires) means registered under Pt II (as amended): s 40(1). For these purposes, 'minor party' means (in accordance with s 34(1): see CONSTITUTIONAL LAW AND HUMAN RIGHTS) a party registered in the Great Britain register in pursuance of a declaration falling within s 28(2)(d) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS); and the 'Great Britain register' means the register of political parties referred to in s 23(2)(a) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): s 160(1). As to applications for the registration of political parties for these purposes see ss 28-29, Sch 4 (as amended); and CONSTITUTIONAL LAW AND HUMAN RIGHTS. The registration of minor parties differs in various respects to that of other parties: see s 34; and CONSTITUTIONAL LAW AND HUMAN RIGHTS. As to the requirement for certain party office holders to be registered see the text and note 11 infra. As to publication of the notice for a local government election see PARA 218 ante; and as to nomination papers related to candidature at elections see PARA 262 et seq post. For the meaning of 'Assembly electoral region' in relation to elections to the National Assembly for Wales see PARA 3 note 1 ante; for the meaning of 'constituency' for the purposes of parliamentary elections see PARA 9 ante; and for the meaning of 'local government area' see PARA 18 note 2 ante. As to the establishment of electoral regions for the purpose of elections to the European Parliament see PARA 76 ante. For the meaning of 'Great Britain' see PARA 13 note 1 ante.

9 Ibid s 22(1)(b). For these purposes, a person does not purport to represent any party if either the description of the candidate given in his nomination paper is 'Independent' (or where the candidate is the Speaker of the House of Commons seeking re-election, 'The Speaker seeking re-election') or no description of the candidate is given in his nomination paper: s 22(3). See also the National Assembly for Wales (Elections: Nomination Papers) (Welsh Form) Order 2001, SI 2001/2914, art 2, which prescribes the form of words in Welsh to be used instead of the word 'Independent' specified by the Political Parties, Elections and Referendums Act 2000 s 22(3).

10 Ibid s 22(1)(c).

11 See ibid s 24(1); and CONSTITUTIONAL LAW AND HUMAN RIGHTS. The person registered as leader may also be registered as nominating officer or treasurer (or both): see s 24(1); and CONSTITUTIONAL LAW AND HUMAN RIGHTS. As to who may be registered as a party's leader see s 24(2); and CONSTITUTIONAL LAW AND HUMAN RIGHTS. As to offences created in relation to false statements made in connection with the registration of political parties see s 39; and CONSTITUTIONAL LAW AND HUMAN RIGHTS.

12 As to the system of candidature whereby registered parties submit lists of candidates see PARA 345 post.

13 Ie as mentioned in the Political Parties, Elections and Referendums Act 2000 s 22(6) (see note 8 supra).

14 See ibid s 24(3); and CONSTITUTIONAL LAW AND HUMAN RIGHTS. A party may request the registration of up to three emblems to be used by it on ballot papers: see s 29; and CONSTITUTIONAL LAW AND HUMAN RIGHTS.

15 Ie ibid Pt III (ss 41-49) (as amended) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS). In the case of a party with accounting units, the person registered as the party's treasurer, in relation to the provisions of Pt III (as amended), is responsible for compliance on the part of the party's central organisation (rather than of the party): see s 24(5); and CONSTITUTIONAL LAW AND HUMAN RIGHTS. For these purposes, a registered party is a 'party with accounting units' if the party's scheme under s 26 identifies the party as being taken to consist of a central organisation and one or more separate accounting units, that is to say constituent or affiliated organisations each of which is to be responsible for its own financial affairs and transactions for the purposes of Pt III (as amended); 'accounting unit' means such a constituent or affiliated organisation; and, in the case of such a party, the 'central organisation' of the party is the central organisation so referred to: see ss 26(2)(b), (11), 160(1); and CONSTITUTIONAL LAW AND HUMAN RIGHTS. A party may not be registered unless it has adopted a scheme which sets out the arrangements for regulating the financial affairs of the party and which has been approved by the Electoral Commission: see s 26; and CONSTITUTIONAL LAW AND HUMAN RIGHTS. As to accounting units see further s 27; and CONSTITUTIONAL LAW AND HUMAN RIGHTS.

16 Ie ibid Pt IV (ss 50-71) (as amended). As to weekly reporting of donations made to registered parties during election periods see PARA 316 post; and CONSTITUTIONAL LAW AND HUMAN RIGHTS. As to the control of donations to registered political parties generally see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

17 A person may be registered as a party's campaigns officer in accordance with ibid s 25 (parties with campaign officers: see CONSTITUTIONAL LAW AND HUMAN RIGHTS).

18 Ie ibid Pt V (ss 72-84) (as amended) (see PARA 304 et seq post).

19 le ibid Pt VI (ss 85-100) (as amended) (see PARA 318 et seq post).

20 le ibid Pt VII (ss 101-129) (as amended) (see PARA 519 et seq post).

21 See ibid s 24(4); and CONSTITUTIONAL LAW AND HUMAN RIGHTS.

22 See ibid ss 23(1), 160(1); and CONSTITUTIONAL LAW AND HUMAN RIGHTS. As to maintenance of the registers see ss 30-33 (as amended); and CONSTITUTIONAL LAW AND HUMAN RIGHTS. As to the Electoral Commission see PARA 31 et seq ante. As to the Commission's further duties with regard to the registration of political parties see ss 35-36; and CONSTITUTIONAL LAW AND HUMAN RIGHTS.

23 See ibid s 37 (as amended); para 337 post; and CONSTITUTIONAL LAW AND HUMAN RIGHTS.

UPDATE

260-273 Nomination of Candidates

SI 2000/427 replaced: Greater London Authority Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(ii) Nomination of Candidates/261. Selection of candidates by political parties.

261. Selection of candidates by political parties.

Electoral law does not regulate the procedures by which political parties select candidates to stand at an election. However, the effect of the Sex Discrimination Act 1975, in so far as it prohibits discrimination by qualifying bodies¹, is not restricted to discrimination in the employment field and as drafted it applies to the selection of candidates by political parties². The Sex Discrimination (Election Candidates) Act 2002 (which is subject to expiry³) enables a political party, should it wish to do so, to adopt measures which regulate the selection of candidates for relevant elections⁴ in order to reduce inequality in the numbers of men and women elected as candidates of the party⁵. A political party, in conferring an approval on a member seeking selection as a party candidate, is not a 'qualifying body' for the purposes of the Race Relations Act 1976⁶.

It seems that a political party otherwise has discretion to select its own candidates to stand at elections, at least in so far as the rules which govern the party empower an administrative authority of the party to intervene if necessary by the deselection and imposition of candidates⁷.

1 See the Sex Discrimination Act 1975 s 13 (as amended) (discrimination by authority or body which can confer an authorisation or qualification: see DISCRIMINATION vol 13 (2007 Reissue) PARA 368).

2 See *Jepson and Dyas-Elliot v Labour Party* [1996] IRLR 116, which constrained a political party's ability to take positive action to increase, in that case, the number of women elected to the House of Commons.

3 The Sex Discrimination (Election Candidates) Act 2002 expires at the end of 2015 unless an order is made under s 3: see s 3(1); and DISCRIMINATION 13 (2007 Reissue) PARA 367.

4 For these purposes, the relevant elections are parliamentary elections, elections to the European Parliament, elections to the National Assembly for Wales and local government elections (within the meaning of the Representation of the People Act 1983 s 203 (as amended) excluding any election of the Mayor of London: see PARA 10 ante); see the Sex Discrimination Act 1975 s 42A(3) (added by the Sex Discrimination (Election Candidates) Act 2002 s 1); and DISCRIMINATION vol 13 (2007 Reissue) PARA 367. For the meaning of 'parliamentary election' see PARA 9 ante. As to elections to the National Assembly for Wales see PARA 12 ante; and as to elections to the European Parliament see PARA 13 et seq ante.

5 The Sex Discrimination (Election Candidates) Act 2002 s 1 adds, subject to expiry, the Sex Discrimination Act 1975 s 42A, which provides that the Sex Discrimination Act 1975 Pt II (ss 6-20A) (as amended) (employment field), Pt III (ss 21A-36) (as amended) (discrimination in other fields) and Pt IV (ss 37-42) (as amended) (other unlawful acts) (see DISCRIMINATION) do not apply to arrangements made by a registered political party which regulate the selection of the party's candidates in a relevant election and which are adopted for the purpose of reducing inequality in the numbers of men and women elected, as candidates of the party, to be members of the body concerned: see DISCRIMINATION.

6 See *Ali v McDonagh* [2002] EWCA Civ 93, [2002] ICR 1026; on appeal [2003] ICR 88, HL (overruling *Sawyer v Ahsan* [2000] ICR 1, [1999] IRLR 609, EAT). See also *Ahsan v Carter* [2005] EWCA Civ 990, [2005] ICR 1817. The text refers to a 'qualifying body' for the purposes of the Race Relations Act 1976 s 12 (as amended) (see DISCRIMINATION vol 13 (2007 Reissue) PARA 452).

7 See *Choudhry v Triesman* [2003] EWHC 1203 (Ch), [2003] 22 LS Gaz R 29, (2003) Times, 2 May (following an investigation conducted by the Labour Party, which concluded that the procedures used to select its candidates in certain wards were 'unsound', some candidates whose selection was impugned applied for injunctive relief to ensure that their names were presented to the returning officer and for declaratory relief to the effect that their selections be allowed to stand; the applications failed). As to legal challenges to election proceedings see PARA 668 et seq post.

UPDATE

260-273 Nomination of Candidates

SI 2000/427 replaced: Greater London Authority Rules 2007, SI 2007/3541.

261 Selection of candidates by political parties

NOTE 6--*Ahsan*, cited, reversed: [2007] UKHL 51, [2008] 1 All ER 869, [2008] 2 WLR 17.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(ii) Nomination of Candidates/262. Form and supply of nomination papers.

262. Form and supply of nomination papers.

Each candidate¹ at a parliamentary election² must be nominated by a separate nomination paper, the form of which is prescribed³. The returning officer⁴ must supply any elector⁵ with a form of nomination paper at the place and during the time for delivery of nomination papers⁶, but it is not necessary for a nomination to be on a form supplied by the returning officer⁷. At any such elector's request, the returning officer must prepare a nomination paper for signature⁸.

Each candidate⁹ at a local government election¹⁰, or at the election for the return of an elected local authority mayor¹¹, must be nominated by a separate nomination paper, the form of which is prescribed¹². The returning officer¹³ must supply any elector¹⁴ with as many forms of nomination papers as may be required¹⁵ at the place and during the time for delivery of nomination papers¹⁶, but it is not necessary for a nomination to be on a form supplied by the returning officer¹⁷. At the request of any such elector, the returning officer must prepare a nomination paper for signature¹⁸. A registered party's¹⁹ list of candidates to be elected as London members of the London Assembly²⁰ must be in the appropriate form²¹ and that party is nominated by the submission of that list to the Greater London returning officer²² by the party's nominating officer²³ or by a person authorised in writing by him²⁴.

Each candidate at a constituency election for the National Assembly for Wales²⁵, and each individual candidate²⁶ at a regional election²⁷, must be nominated by a separate individual nomination paper, the form of which is prescribed²⁸. The constituency returning officer²⁹ or the regional returning officer³⁰ (as the case may be) must supply any person upon request with a form of individual nomination paper at the place, and during the time, for delivery of nomination papers³¹ but it is not necessary for a nomination to be on a form supplied by the relevant returning officer³². Each group of party list candidates³³ at a regional election must be nominated by a separate party nomination paper in the prescribed form³⁴ delivered in the prescribed manner³⁵. The regional returning officer must supply any person on request with a form of party nomination paper at the place, and during the time, for delivery of individual or party nomination papers but it is not necessary for nominations included on a party list to be on a form supplied by the regional returning officer³⁶.

Each individual candidate at a European parliamentary election³⁷ must be nominated by a separate nomination paper³⁸. A registered party³⁹ which is to stand for election in a European parliamentary electoral region⁴⁰ must be nominated by a nomination paper delivered in the prescribed manner⁴¹.

1 For the meaning of 'candidate' generally see PARA 237 ante.

2 For the meaning of 'parliamentary election' see PARA 9 ante.

3 Representation of the People Act 1983 s 23(1), Sch 1 r 6(1). As to the prescribed form see Sch 1, Appendix of Forms (Form of nomination paper) (amended by the Electoral Administration Act 2006 s 21(1), (4), (5)); and see PARA 263 post. Any form in the Representation of the People Act 1983 Sch 1, Appendix of Forms may be adapted so far as circumstances require: Sch 1, Appendix of Forms (Note). A Welsh version of the form that may be used at elections in Wales has also been prescribed: see the Parliamentary Elections (Welsh Forms) Order 2005, SI 2005/1105, arts 4-5, Sch 1 (Form 5: form of nomination paper, ffurflen y papur enwebur).

4 As to returning officers for parliamentary elections see PARA 355 et seq post.

5 'Elector' in this context means a person who is registered in the register of parliamentary electors for the constituency on the last day for publication of notice of the election: Representation of the People Act 1983 Sch 1 r 7(6)(a) (Sch 1 r 7(6) substituted by the Representation of the People Act 2000 s 8, Sch 1 paras 1, 23(1), (2)). This includes a person then shown in that register as below voting age if (but only if) it appears from the register that he will be of voting age on the day fixed for the poll: Representation of the People Act 1983 Sch 1 r 7(6)(b) (as so substituted). However, for these purposes, 'elector' does not include a person who has an anonymous entry in the register: Sch 1 r 7(7) (added by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 2, 14(1), (2)). For the meaning of 'constituency' for the purposes of parliamentary elections see PARA 9 ante; and for the meaning of 'anonymous entry' in relation to a register of electors see PARA 174 ante. As to voting age for parliamentary elections see PARA 110 note 2 ante; as to registration as a parliamentary elector see PARA 128 et seq ante; and as to the registers of electors see PARA 160 et seq ante. As to the date of the poll at a parliamentary general election or by-election see PARA 202 ante; and as to publication of the notice for a parliamentary election see PARA 203 ante.

6 Representation of the People Act 1983 Sch 1 r 7(4)(a). As to the timetable for the delivery of nomination papers see PARA 267 post.

7 Ibid Sch 1 r 7(4).

8 Ibid Sch 1 r 7(4)(b).

9 In each 'individual candidate' in the case of an election of London members of the London Assembly: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 2 r 6(1). In such elections, party lists operate and the term 'individual candidate' is used to indicate a person standing for election who is not included in the list of candidates of a registered party (see notes 19-24 infra). For the meaning of 'London member', in relation to the London Assembly, see PARA 10 note 5 ante. As to elections for the return of the London members of the London Assembly see PARA 206 et seq ante. As to individual candidates to be London members see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 99.

10 For the meaning of 'local government election' see PARA 10 ante. There is no provision for the nomination of candidates at a poll consequent on a parish meeting (as to which see PARA 207 et seq ante) because they will already have been nominated at the meeting. As to when no fresh nomination is necessary in the event that a local government election has not been held or has failed or become void see PARA 216 ante.

11 As to elections for the return of elected local authority mayors see PARA 205 et seq ante.

12 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), (3), Sch 1 r 6(1), Sch 2 r 6(1), Sch 3 r 6(1), (2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 6(1), (2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 4(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 4(1).

As to the form prescribed for principal area elections see the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 Appendix of Forms (Form of nomination paper); and where such elections are taken together with another relevant election or referendum see r 4, Sch 3 Appendix of Forms (Form of nomination paper). As to the form prescribed for parish or community elections see the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 Appendix of Forms (Form of nomination paper); and where such elections are taken together with another relevant election or referendum see r 4, Sch 3 Appendix of Forms (Form of nomination paper). As to the forms prescribed for the election of the Mayor of London and of members of the London Assembly see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 4, Sch 5 (Form 1: nomination paper (constituency member and London member (individual) candidates); Form 3: candidate to be the Mayor of London); and as to the form prescribed for the return of an elected local authority mayor see the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1, Appendix of Forms (Form 1: nomination paper) (Appendix of Forms substituted by SI 2004/225). Any of these forms may be adapted so far as circumstances require.

As to the Welsh version of the form that may be used at principal area elections in Wales see the Local Elections (Principal Areas) (Welsh Forms) Order 1987, SI 1987/562, art 2, Schedule Pt I (nomination paper, ffurflen papur enwebu); and where such an election is held together with another election or referendum see the Local Elections (Principal Areas) (Welsh Forms) Order 2004, SI 2004/1234, art 3, Schedule Pt I (Form of nomination paper, ffurflen y papur enwebu). As to the Welsh version of the form which is prescribed to be used at community elections in Wales see the Local Elections (Communities) (Welsh Forms) Order 1987, SI 1987/561, art 2, Schedule Pt I (nomination paper, ffurflen papur enwebu); and where such an election is held together with another election or referendum see the Local Elections (Communities) (Welsh Forms) Order 2004, SI 2004/1233, art 3, Schedule Pt I (Form of nomination paper, ffurflen y papur enwebu).

13 As to returning officers for local government elections see PARA 359 et seq post. The Greater London returning officer is specified in relation to any election of the Mayor of London: see the Greater London

Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 7(4). For the meaning of the 'Greater London returning officer' see PARA 218 note 7 ante.

14 For these purposes, in relation to local government elections (including elections for the return of an elected local authority mayor but excluding London Authority elections), 'elector' means a person who is registered in the register of local government electors for the electoral area in question on the last day for the publication of notice of the election: Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 7(5); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 6(7)(a), Appendix of Forms (Form of nomination paper, note 7(a)); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 6(7)(a), Appendix of Forms (Form of nomination paper, note 6(a)). This includes a person then shown in the register as below voting age if (but only if) it appears from the register that he will be of voting age on the day fixed for the poll: Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 7(5); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 6(7)(b), Appendix of Forms (Form of nomination paper, note 7(b)); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 6(7)(b), Appendix of Forms (Form of nomination paper, note 6(b)). However, in relation to local government elections for principal areas, parishes and communities, 'elector' does not include a person who has an anonymous entry in the register and accordingly such a person may not nominate a candidate for such elections: Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 6(8), Appendix of Forms (Form of nomination paper, note 8); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 6(8), Appendix of Forms (Form of nomination paper, note 7). In relation to any election of the Mayor of London (but not in relation to London Assembly elections), 'elector' means either a person who is registered as a local government elector for any London Assembly constituency in the register to be used at the election or a person who, pending publication of that register, appears from the electors' lists for that register, as corrected by the registration officer, to be entitled to be so registered: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 7(5). Accordingly, this definition includes a person shown in the register of electors' lists as below voting age if it appears from it that he will be of voting age on the day fixed for the poll, but not otherwise: Sch 3 r 7(5). For the meaning of 'Assembly constituency' in relation to the London Assembly, and for the meaning of 'electoral area' generally, see PARA 10 ante. As to voting age for local government elections see PARA 112 note 14 ante; as to entitlement to vote at local authority mayoral elections see PARA 113 ante; and as to registration as a local government elector see PARA 128 et seq ante. As to the date of the poll at an election for the return of a local authority elected mayor see PARA 205 ante; and as to the date of the poll at local government elections (including elections to fill vacancies) see PARAS 213-216 ante. As to publication of the notice for a local government election (including an election for the return of an elected local authority mayor) see PARA 218 ante.

15 This duty applies equally to the supply of forms of the candidate's consent to nomination: see PARA 265 post.

16 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 7(4)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 7(4)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 6(4)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 6(4)(a). As to the delivery of nomination papers see PARA 267 post.

17 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 7(4); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 7(4); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 6(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 6(4).

18 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 7(4)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 7(4)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 6(4)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 6(4)(b).

19 For the meaning of 'registered political party' see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 90; definition applied by virtue of the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 2(2).

20 For the meaning of 'London member', in relation to the London Assembly, see PARA 10 note 5 ante; definition applied by virtue of *ibid* r 2(2). As to elections for the return of London members of the London Assembly see PARA 206 et seq ante. As to London members of the London Assembly generally see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 97.

21 As to the form mentioned in the text see *ibid* r 4, Sch 5 (Form 2 (nomination paper: London member (party list) candidates)) (amended by SI 2001/3789).

22 *Ie* submitted in accordance with the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 2 r 7(8) (see PARA 267 post).

23 As to a party's nominating officer see PARA 260 ante.

24 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 7(1). Accordingly, for the purposes of rr 8-60 (as amended), unless the context indicates otherwise, any reference to a nomination paper includes a reference to a party list and a party list must be treated as the nomination paper of each person whose name is included in the list: r 7(10).

25 For the meaning of 'constituency election' for the purposes of elections to the National Assembly for Wales see PARA 3 note 1 ante. As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

26 For the meaning of 'individual candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante.

27 For the meaning of 'regional election' for the purposes of elections to the National Assembly for Wales see PARA 3 note 1 ante.

28 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 paras 4(1), 6(1). The forms prescribed as mentioned in the text are set out in English and in Welsh in the Appendix of Forms (Form of individual nomination paper (constituency election), Form of individual nomination paper (regional election)).

29 *Ie* in the case of constituency elections. For the meaning of 'constituency returning officer' for the purposes of elections to the National Assembly for Wales see PARA 18 note 2 ante.

30 *Ie* in the case of regional elections. For the meaning of 'regional returning officer' for the purposes of elections to the National Assembly for Wales see PARA 18 note 2 ante.

31 *Ie* the delivery of individual nomination papers in the case of a constituency election and the delivery of individual or party nomination papers in the case of a regional election.

32 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 paras 4(5), 6(5).

33 For the meaning of 'party list candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante.

34 As to the form so prescribed, which is set out in English and in Welsh, see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5, Appendix of Forms (Form of party nomination paper: regional election).

35 *Ibid* Sch 5 para 7(1). As to the delivery of nomination papers see PARA 267 post.

36 *Ibid* Sch 5 para 7(8).

37 For the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante. As to European parliamentary elections see PARA 13 et seq ante.

38 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9, Sch 1 para 4(1).

39 In the application of *ibid* Sch 1 para 6 in relation to a European parliamentary election, 'registered party' means a party which was registered under the Political Parties, Elections and Referendums Act 2000 Pt II (ss 22-40) (as amended) (see PARA 260 ante) at the time by which the notice of election is required to be published: European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 6(8). As to the publication of the notice of a European parliamentary election see PARA 230 ante.

40 As to the establishment of electoral regions for the purpose of elections to the European Parliament see PARA 76 ante.

41 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 6(1).

UPDATE

260-273 Nomination of Candidates

SI 2000/427 replaced: Greater London Authority Rules 2007, SI 2007/3541.

262-274 Form and supply of nomination papers ... Statutory definition of 'election expenses'

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

262 Form and supply of nomination papers

NOTE 3--SI 2005/1105 replaced: Parliamentary Elections (Welsh Forms) Order 2007, SI 2007/1014. See now arts 4-5, Sch 1 (Form 3) (art 4, Sch 1 amended by SI 2010/1078). Representation of the People Act 1983 Sch 1, Appendix of Forms (Form of nomination paper) further amended: Political Parties and Elections Act 2009 Sch 6 para 8.

NOTES 12, 14, 16-18--SI 2002/185 reg 3(1), Sch 1 rr 6, 7, Appendix of Forms, Form 1 now the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 rr 6-8, Appendix of Forms, Form 1.

NOTE 12--SI 1987/561, SI 2004/1233 replaced: Local Elections (Communities) (Welsh Forms) Order 2007, SI 2007/1013. SI 1987/562, SI 2004/1234 replaced: Local Elections (Principal Areas) (Welsh Forms) Order 2007, SI 2007/1015.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(ii) Nomination of Candidates/263. Particulars required in nomination papers.

263. Particulars required in nomination papers.

The nomination paper for a parliamentary election¹, or at local government elections for principal areas, parishes and communities², must state the candidate's full names³, home address in full⁴ and, if desired, description⁵. The description, if any, must, except in the case of a parish or community council election⁶, consist of either a description which is properly authorised⁷ or the word 'Independent'⁸. Any such nomination paper may not include a description of a candidate which is likely to lead electors to associate the candidate with a registered political party (or with two or more registered political parties)⁹ unless the party (or each of the parties, as the case may be) is a qualifying party¹⁰ in relation to the constituency or electoral area (as the case may be) and the description is authorised by a certificate¹¹: (1) issued by or on behalf of the registered nominating officer of the party (or of each of the parties, as the case may be)¹²; and (2) received by the returning officer¹³ at some time during the period for delivery of nomination papers¹⁴.

The nomination paper for an Authority election or for an election for the return of an elected local authority mayor¹⁵ must state the candidate's full names¹⁶, home address in full¹⁷ and, if desired, description¹⁸. The description, if any, may not comprise more than six words and must consist of either a description which is properly authorised¹⁹ or the word 'Independent'²⁰. Any such nomination paper may not include a description of a candidate that is likely to lead voters to associate the candidate with a registered political party unless²¹ the party is a qualifying party in relation to the electoral area²² and the description is authorised by a certificate²³: (a) issued by or on behalf of the registered nominating officer of the party²⁴; and (b) received by the returning officer²⁵ before the last time for the delivery of nomination papers²⁶. For the purposes of elections for the return of London members of the London Assembly, each party list²⁷ must set out the full names and home addresses in full of each candidate included in that list²⁸ and must include a statement that it is issued by the nominating officer of the party or by a person authorised in writing by him²⁹. Each party list may be accompanied by a request made by or on behalf of the nominating officer of the party that the ballot paper must contain against the party's name the party's registered emblem³⁰ (or, as the case may be, one of the party's registered emblems)³¹.

The individual nomination paper for each candidate at a constituency election to the National Assembly for Wales³² and for each individual candidate³³ at a regional election to the National Assembly for Wales³⁴ must state the candidate's full names³⁵, home address in full³⁶, and, if desired, description³⁷. The description, if any, must consist of either a description of not more than six words in length³⁸ (which, in the case of a constituency election, is properly authorised³⁹) or the word 'Independent'⁴⁰. At a Welsh Assembly election, an individual nomination paper may not include a description of a candidate which is likely to lead voters to associate the candidate with a registered political party⁴¹, subject to the proviso, in the case of a constituency election, that such an association may be made if the party is a qualifying party in relation to the constituency⁴² and the description is authorised by a certificate in the prescribed form⁴³ which is: (i) issued by the party's registered nominating officer⁴⁴; and (ii) received by the constituency returning officer⁴⁵ at some time during the period for the delivery of nomination papers⁴⁶. In respect of each candidate to be included on a party list⁴⁷ at a Welsh Assembly regional election, the party nomination paper must state the candidate's full names⁴⁸ and home address in full⁴⁹, and must include the name of the party which has been duly registered⁵⁰. The order in which those persons appear on the party nomination paper will be the order in which they are

included on the party's list⁵¹. The name of the party required to be contained in a party nomination paper⁵² must be authorised by a certificate in the prescribed form⁵³ issued by the registered nominating officer of the registered political party⁵⁴.

The nomination paper for an individual candidate at a European parliamentary election⁵⁵ must state the candidate's full names⁵⁶, home address in full⁵⁷ and, if desired, description⁵⁸. The description, if any, must consist of either the word 'Independent'⁵⁹ or (in the case of an individual candidate standing on behalf of a registered party⁶⁰ at a by-election⁶¹) a description of not more than six words in length which is properly authorised⁶². A nomination paper may not include a description of an individual candidate which is likely to lead voters to associate the candidate with a registered political party⁶³ unless the individual candidate is standing on behalf of a registered party at a European parliamentary by-election⁶⁴, the party is a qualifying party in relation to the electoral region⁶⁵ and the description in question is authorised by a certificate⁶⁶ which is: (A) issued by the party's registered nominating officer⁶⁷; and (B) received by the returning officer⁶⁸ at some time during the period for the delivery of nomination papers⁶⁹. The nomination paper for a registered party that is to stand for election in a European parliamentary electoral region must state the name, not exceeding six words in length, by which the registered party is to stand⁷⁰. That name need not be the party's registered name but must not be such as would be likely to lead voters to associate that party with another registered party⁷¹. The nomination paper must include a statement that the party is nominated by or on behalf of the nominating officer of the registered party in question and the statement must be signed by the person making it⁷². The nomination paper must be accompanied by a list of candidates⁷³ which sets out the full names and home addresses in full of each candidate⁷⁴. The number of candidates in such a list must not exceed the number of members of the European Parliament ('MEPs') to be elected in the electoral region at the election⁷⁵.

No misnomer⁷⁶ or inaccurate description of any person or place named in any nomination paper affects the full operation of that document with respect to that person or place in any case where the description of the person or place is such as to be commonly understood⁷⁷. Thus it has been held that a mere mis-spelling of a surname, not calculated to mislead electors, does not give good ground for objection⁷⁸; nor does the use in an address of an outdated street name which had been recently changed⁷⁹. It has also been held that the use of a contraction of a Christian name which is well known and in ordinary use as representing that name, such as 'Wm' for 'William', is permissible instead of setting out the forename in full⁸⁰.

1 For the meaning of 'parliamentary election' see PARA 9 ante. As to the form and supply of nomination papers see PARA 262 ante.

2 As to the ordinary election of councillors for local government principal areas see PARA 204 et seq ante; and as to ordinary elections of councillors for parishes or communities see PARA 207 et seq ante. As to London Authority elections see the text and notes 15-31 infra. For the meanings of 'Authority election' and 'local government election' see PARA 10 ante.

3 Representation of the People Act 1983 s 23(1), Sch 1 r 6(2)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 4(2)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 4(2)(a). For the meaning of 'candidate' generally see PARA 237 ante. There appears to be no case on what is meant by the 'full names' of a person but see the text and notes 76-80 infra.

The surname must be placed first in the list of the candidate's names: Representation of the People Act 1983 Sch 1 r 6(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 4(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 4(2). Where a candidate is commonly known by some title, he may be described by his title as if it were his surname: Representation of the People Act 1983 Sch 1, Appendix of Forms (Form of nomination paper, note 2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 Appendix of Forms (Form of nomination paper, note 2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 Appendix of Forms (Form of nomination paper, note 2). If a candidate commonly uses a surname which is different from any other surname he has or a forename which is different from any other forename he has, the nomination paper may state the commonly used surname or forename in addition to the other name: Representation of the People Act 1983 Sch 1 r 6(2A) (added by the Electoral Administration Act

2006 s 21(1), (2)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 4(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 4(3). Where a candidate commonly uses a name which is different from any other name he has, and the commonly used name appears on the nomination paper, the commonly used name (instead of any other name) will appear on the ballot paper: Representation of the People Act 1983 Sch 1, Appendix of Forms (Form of nomination paper, note 2A) (Form of nomination paper, notes 2A, 2B added by the Electoral Administration Act 2006 s 21(1), (5)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 Appendix of Forms (Form of nomination paper, note 3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 Appendix of Forms (Form of nomination paper, note 3). However, the ballot paper will show the other name if the returning officer thinks either that the use of the commonly used name may be likely to mislead or confuse electors, or that the commonly used name is obscene or offensive: Representation of the People Act 1983 Sch 1, Appendix of Forms (Form of nomination paper, note 2B) (as so added); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 Appendix of Forms (Form of nomination paper, note 4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 Appendix of Forms (Form of nomination paper, note 4). As to decisions regarding the validity of nomination papers see PARA 271 post. Names likely to mislead or confuse electors may constitute a fraudulent device under applicable electoral law: see PARA 730 post.

Any amendment effected by the Electoral Administration Act 2006 s 21 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

4 Representation of the People Act 1983 Sch 1 r 6(2)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 4(2)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 4(2)(b). A person's home address is the place where he lives with his family and sleeps at night and is not his place of business, even if the proprietor is better known by his place of business than by his place of residence: *R v Hammond* (1852) 17 QB 772, 21 LJQB 153 (election of borough councillors). The object of the statutory provisions is to give one address by which the candidate can be easily identified: *Allen v Greensill* (1847) 4 CB 100; *R v Hammond* supra. See also the text and notes 76-80 infra. For a case where a person was twice nominated, once by a correct and once by an incorrect address, see PARA 271 note 5 post.

5 Representation of the People Act 1983 Sch 1 r 6(2)(c); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 4(2)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 4(2)(c).

6 In relation to local government elections for parishes and communities, the description, if any, must not exceed six words in length and need not refer to the candidate's rank, profession or calling so long as, with the candidate's other particulars, it is sufficient to identify him: Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 4(4).

7 Representation of the People Act 1983 Sch 1 r 6(3)(a) (Sch 1 r 6(3) substituted by the Political Parties, Elections and Referendums Act 2000 s 38(1), (2); and the Representation of the People Act 1983 Sch 1 r 6(3)(a) amended by the Electoral Administration Act 2006 ss 19(1), (4)(a), (b), 74(2), Sch 2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 4(4)(a), Appendix of Forms (Form of nomination paper, note 5(a)).

In relation to a parliamentary election, the description must be authorised as mentioned in the text under either the Representation of the People Act 1983 Sch 1 r 6A(1) (as added and amended) or Sch 1 r 6(1B) (as added) (see the text and notes 9-14 infra): Sch 1 r 6(3)(a) (as so substituted and amended). In relation to local government elections for principal areas, the description referred to in the text must be authorised as mentioned in either the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 5(1) or r 5(3) (see the text and notes 9-14 infra): see Sch 2 r 4(4)(a).

Any amendment effected by the Electoral Administration Act 2006 s 19 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. Until that date, the description mentioned in the text must be of not more than six words in length and authorised as mentioned in the text under the Representation of the People Act 1983 Sch 1 r 6A(1) (as added and amended): Sch 1 r 6(3)(a) (as so substituted).

8 Representation of the People Act 1983 Sch 1 r 6(3)(b) (as substituted: see note 7 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 4(4)(b), Appendix of Forms (Form of nomination paper, note 5(b)). Where the candidate at a parliamentary election is the Speaker of the House of Commons seeking re-election, the words 'The Speaker seeking re-election' may be used as the description instead of the word 'Independent': see the Representation of the People Act 1983 Sch 1 r 6(3)(b) (as so substituted).

See also the Elections (Welsh Forms) Order 2001, SI 2001/1204, art 3, which prescribes the form of words in Welsh to be used instead of the word 'Independent' specified by the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 4(3)(b) (as substituted).

9 For these purposes, 'registered political party' means a party which was registered under the Political Parties, Elections and Referendums Act 2000 Pt II (ss 22-40) (as amended) (see PARA 260 ante) on the day (the 'relevant day') which is two days before the last day for the delivery of nomination papers at that election (as to which see PARA 267 post): Representation of the People Act 1983 Sch 1 r 6A(3)(a) (Sch 1 r 6A added by the Registration of Political Parties Act 1998 s 13, Sch 2 para 2; the Representation of the People Act 1983 Sch 1 r 6A(3) substituted by the Political Parties, Elections and Referendums Act 2000 s 38(1), (3)(b); and the Representation of the People Act 1983 Sch 1 r 6A(3)(a) amended by the Electoral Administration Act 2006 s 52(1), (2)(a)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 5(6)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 5(6)(a). For these purposes, any day is disregarded which falls, in relation to a parliamentary election, within the Representation of the People Act 1983 Sch 1 r 2(1) (as amended) (see PARA 203 note 1 ante) or, in relation to a local government election for principal areas, within the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 2(1) or, in relation to a local government election for parishes and communities, within the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 2(1) (see PARA 218 note 1 ante): Representation of the People Act 1983 Sch 1 r 6A(4) (Sch 1 r 6A as so added; and Sch 1 r 6A(4) added by the Electoral Administration Act 2006 s 52(3)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 5(7); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 5(7).

10 For these purposes, in relation to a parliamentary election, a registered political party is a qualifying party in relation to a constituency if the constituency is in England or Wales and the party was on the day (the 'relevant day') registered in respect of England or Wales in the Great Britain register maintained under the Political Parties, Elections and Referendums Act 2000 Pt II (as amended): Representation of the People Act 1983 Sch 1 r 6A(3)(b) (as added and substituted (see note 9 supra); and amended by the Electoral Administration Act 2006 s 52(1), (2)(b)). For these purposes, in relation to local government elections for principal areas, parishes and communities, a registered political party is a qualifying party in relation to an electoral area if the electoral area is in England or Wales and the party was on the day (the 'relevant day') registered in respect of England or Wales in the Great Britain register maintained under the Political Parties, Elections and Referendums Act 2000 Pt II (as amended): Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 5(6)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 5(6)(b). For the meaning of 'constituency' for the purposes of parliamentary elections see PARA 9 ante; for the meaning of 'electoral area' generally see PARA 10 ante; for the meanings of 'England', 'Great Britain' and 'Wales' see PARA 13 note 1 ante; and for the meaning of the 'Great Britain register' see PARA 260 note 8 ante. The requirement for the party to be a qualifying party in relation to the electoral area does not apply to parish and community council elections.

11 Representation of the People Act 1983 Sch 1 r 6A(1) (as added (see note 9 supra); and amended by the Political Parties, Elections and Referendums Act 2000 s 38(1), (3)(a); and the Electoral Administration Act 2006 s 74(1), Sch 1 paras 104, 129(1), (2)); Representation of the People Act 1983 Sch 1 r 6A(1B) (Sch 1 r 6A as so added; and Sch 1 r 6A(1A)-(1C) added by the Electoral Administration Act 2006 s 49(3)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 5(1), (3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 5(1), (3).

For the purposes of the Representation of the People Act 1983 Sch 1 r 6A(1) (as added and amended), the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 5(1) and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 5(1), an authorised description may be either the name of the party registered under the Political Parties, Elections and Referendums Act 2000 s 28 (as amended) (registration of parties: see CONSTITUTIONAL LAW AND HUMAN RIGHTS) or a description of the party registered under s 28A (as added) (descriptions: see CONSTITUTIONAL LAW AND HUMAN RIGHTS): Representation of the People Act 1983 Sch 1 r 6A(1A) (as so added); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 5(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 5(2). For the purposes of the Representation of the People Act 1983 Sch 1 r 6A(1B) (as added), the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 5(3) or the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 5(3), a description is a registered description if it is a description registered for use by the parties under the Political Parties, Elections and Referendums Act 2000 s 28B (as added) (joint descriptions: see CONSTITUTIONAL LAW AND HUMAN RIGHTS): Representation of the People Act 1983 Sch 1 r 6A(1C) (as so added); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 5(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 5(4).

Any amendment effected by the Electoral Administration Act 2006 s 49(3) or by Sch 1 paras 104, 129 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

12 Representation of the People Act 1983 Sch 1 r 6A(1)(a) (as added: see note 9 supra); Sch 1 r 6A(1B)(a) (as added: see note 11 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 5(1)(a), (3)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 5(1)(a), (3)(a). See note 11 supra. In *R (on the application of De Beer) v Balabanoff* [2002] EWHC 670 (Admin), (2002) Times, 25 April, a returning officer's decision to reject nomination papers on which the description was not as authorised by a certificate (for the purposes of what is now the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 5(1), (3)) was held to be reasonable and he was not in error in failing to look beyond those papers when exercising his judgment on the matter; Parliament has conferred duties (but not discretions) on returning officers and has made express provisions as to how any decision of a returning officer might be challenged, namely by petition before an election court after the election (as to which see PARA 759 et seq post).

A person is guilty of a corrupt practice if he fraudulently purports to be authorised to issue a certificate under the Representation of the People Act 1983 Sch 1 r 6A(1) (as added and amended) or Sch 1 r 6A(1B) (as added) or under the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 5(1), (3) or the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 5(1), (3) on behalf of a registered political party's nominating officer: see the Representation of the People Act 1983 Sch 1 r 6A(2) (as added); the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 5(5); the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 5(5); and PARA 709 post. As to the registered nominating officer of a party see PARA 260 ante.

13 As to the returning officer for parliamentary elections see PARA 355 et seq post.

14 Representation of the People Act 1983 Sch 1 r 6A(1)(b) (as added: see note 9 supra); Sch 1 r 6A(1B)(b) (as added: see note 11 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 5(1)(b), (3)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 5(1)(b), (3)(b). See also note 11 supra. As to the period for delivery of nomination papers see PARA 267 post.

15 As to elections for the return of an elected local authority mayor see PARA 205 et seq ante.

16 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), (3), Sch 1 r 6(2)(a), Sch 2 r 6(2)(a), Sch 3 r 6(3)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 6(3)(a). The surname must be placed first in the list of the candidate's names: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 6(2), Sch 2 r 6(2), Sch 3 r 6(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 6(3). Where a candidate is commonly known by some title, he may be described by his title as if it were his surname: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 4, Sch 5 (Form 3: Candidate to be the Mayor of London, note 2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1, Appendix of Forms (Form 1: nomination paper, note 2) (Appendix of Forms substituted by SI 2004/225). In the case of an election of London members of the London Assembly, the nomination of an individual candidate is specified: see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 2 r 6(2). For the meaning of 'London member', in relation to the London Assembly, see PARA 10 note 5 ante. As to elections for the return of the London members of the London Assembly see PARA 206 et seq ante. As to individual candidates to be London members see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 99.

17 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 6(2)(b), Sch 2 r 6(2)(b), Sch 3 r 6(3)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 6(3)(b).

18 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 6(2)(c), Sch 2 r 6(2)(c), Sch 3 r 6(3)(c); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 6(3)(c).

19 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 6(3)(a) (Sch 1 r 6(3)-(6) substituted by SI 2001/3789); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 6(3)(a) (Sch 2 r 6(3)-(6) substituted by SI 2001/3789); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 6(4)(a) (Sch 3 r 6(4)-(7) substituted by SI 2001/3789); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 6(4)(a). The description referred to in the text must be authorised under the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 6(4) (as substituted), Sch 2 r 6(4) (as substituted), Sch 3 r 6(5) (as substituted) (see the text and notes 21-26 infra) or under the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 6(5) (see the text and notes 21-26 infra), as the case may be.

20 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 6(3)(b) (as substituted: see note 19 supra); Sch 2 r 6(3)(b) (as substituted: see note 19 supra); Sch 3 r 6(4)(b) (as substituted: see note 19 supra); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 6(4)(b).

21 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 6(4) (as substituted: see note 19 supra); Sch 2 r 6(4) (as substituted: see note 19 supra); Sch 3 r 6(5) (as substituted: see note 19 supra); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 6(5). For these purposes, 'registered political party' means a party which was registered under the Political Parties, Elections and Referendums Act 2000 Pt II (as amended) at the time (the 'relevant time') by which the notice of election is required to be published (as to which see PARA 218 ante): Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 6(6) (as substituted: see note 19 supra); Sch 3 r 6(7) (as substituted: see note 19 supra); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 6(7).

22 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 6(4)(a) (as substituted: see note 19 supra); Sch 2 r 6(4)(a) (as substituted: see note 19 supra); Sch 3 r 6(5)(a) (as substituted: see note 19 supra); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 6(5) (a). For these purposes, a registered political party is a qualifying party in relation to an electoral area if the electoral area is in England or Wales and the party was at the relevant time registered in respect of England or Wales in the Great Britain register maintained under the Political Parties, Elections and Referendums Act 2000 Pt II (as amended): Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 6(6) (as substituted: see note 19 supra); Sch 2 r 6(6) (as substituted: see note 19 supra); Sch 3 r 6(7) (as substituted: see note 19 supra); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 6(7).

23 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 6(4)(b) (as substituted: see note 19 supra); Sch 2 r 6(4)(b) (as substituted: see note 19 supra); Sch 3 r 6(5)(b) (as substituted: see note 19 supra); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 6(5) (b).

24 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 6(4)(b)(i) (as substituted: see note 19 supra); Sch 2 r 6(4)(b)(i) (as substituted: see note 19 supra); Sch 3 r 6(5)(b)(i) (as substituted: see note 19 supra); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 6(5)(b)(i).

A person is guilty of a corrupt practice if he fraudulently purports to be authorised to so issue a certificate on behalf of a registered political party's nominating officer: see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 6(5), Sch 2 r 6(5), Sch 3 r 6(6) (all as substituted); the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 6(6); and PARA 709 post.

25 As to returning officers for local government elections see PARA 359 et seq post. In the case of elections for the return of constituency members of the London Assembly, the constituency returning officer ('CRO') is specified (see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 6(4)(b)(ii) (as substituted: see note 19 supra)); and in the case of elections for the return of London members of the London Assembly or for the return of an elected Mayor of London, the Greater London returning officer ('GLRO') is specified (see Sch 2 r 6(4)(b)(ii) (as substituted: see note 19 supra); and the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 6(5)(b)(ii) (as substituted: see note 19 supra)). For the meaning of 'constituency member', in relation to the London Assembly, see PARA 10 note 6 ante; definition applied by virtue of r 2(2). For the meaning of the 'Greater London returning officer' see PARA 218 note 7 ante; and for the meaning of the 'constituency returning officer' in this context see PARA 218 note 8 ante. As to elections for the return of an elected Mayor of London see PARA 206 et seq ante. As to constituency members of the London Assembly generally see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 92; and as to the London Assembly see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 82.

26 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 6(4)(b)(ii) (as substituted: see note 19 supra); Sch 2 r 6(4)(b)(ii) (as substituted: see note 19 supra); Sch 3 r 6(5)(b)(ii) (as substituted: see note 19 supra); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 6(5)(b)(ii). As to the time for the delivery of nomination papers in relation to local government elections see PARA 267 post.

27 As to references to nomination papers and party lists in elections for the return of London members of the London Assembly see PARA 262 note 24 ante.

28 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 7(4).

29 Ibid Sch 2 r 7(5). A person is guilty of a corrupt practice if he fraudulently purports to be authorised to make the statement required by Sch 2 r 7(5) on behalf of a registered party's nominating officer: see Sch 2 r 7(6); and PARA 709 post.

30 As to a party's registered emblem see PARA 260 ante; and CONSTITUTIONAL LAW AND HUMAN RIGHTS.

31 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 7(7).

32 For the meaning of 'constituency election' for the purposes of elections to the National Assembly for Wales see PARA 3 note 1 ante. As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

33 For the meaning of 'individual candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante.

34 For the meaning of 'regional election' for the purposes of elections to the National Assembly for Wales see PARA 3 note 1 ante.

35 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 paras 4(2)(a), 6(2)(a). The surname must be placed first in the list of the candidate's names: Sch 5 paras 4(2), 6(2).

36 Ibid Sch 5 paras 4(2)(b), 6(2)(b). Where a candidate is commonly known by some title he may be described by his title as if it were his surname: Sch 5, Appendix of Forms (Form of individual nomination paper (constituency election), note 2; Form of individual nomination paper (regional election), note 2).

37 Ibid Sch 5 paras 4(2)(c), 6(2)(c). This provision is subject to Sch 5 para 5(1) (see the text and notes 41-46 infra).

38 Ibid Sch 5 paras 4(3)(a), 6(3)(a).

39 Ibid Sch 5 para 4(3)(a). The description must be authorised as mentioned in the text under Sch 5 para 5 (see the text and notes 41-46 infra).

40 Ibid Sch 5 paras 4(3)(b), 6(3)(b). Where the equivalent form of words in Welsh is prescribed by an order made under the Welsh Language Act 1993 s 26(2) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 44) for use at an Assembly election, the description, if any, may consist of that form of words, as well as or in place of the word 'Independent': National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 paras 4(3)(b), 6(3)(b). At the date at which this volume states the law, no such order had been made. For the meaning of 'Assembly election' for the purposes of elections to the National Assembly for Wales see PARA 3 note 1 ante.

41 Ibid Sch 5 paras 5(1), 6(3)(a). For these purposes, 'registered political party' means a party which was registered under the Political Parties, Elections and Referendums Act 2000 Pt II (as amended) at the time (the 'relevant time') by which the notice of election is required to be published (see PARA 223 ante): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 5(5)(a).

42 For these purposes, a registered political party is a qualifying party in relation to an Assembly constituency if the party was at the relevant time registered in respect of Wales in the Great Britain register maintained under the Political Parties, Elections and Referendums Act 2000 Pt II (as amended): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 5(5)(b). For the meaning of 'Assembly constituency' for the purposes of elections to the National Assembly for Wales see PARA 3 note 1 ante.

43 Ibid Sch 5 para 5(1). The form prescribed as mentioned in the text is set out in English and in Welsh in Sch 5, Appendix of Forms (Form of certificate referred to in PARAGRAPH 5(1)).

44 Ibid Sch 5 para 5(1)(a). If it is proposed that the party's registered emblem (or, as the case may be, one of the party's registered emblems) is to be shown on the ballot paper against the candidate's particulars, such a certificate must request that it be so shown: Sch 5 para 5(2). A certificate issued under Sch 5 para 5(1) may be combined with an individual nomination paper delivered under Sch 5 para 4(1) (see PARA 267 post): Sch 5 para 5(3). A person is guilty of a corrupt practice if he fraudulently purports to be authorised to issue a certificate under Sch 5 para 5(1) on behalf of a party's registered nominating officer: see Sch 5 para 5(4); and PARA 709 post.

45 For the meaning of 'constituency returning officer' for the purposes of elections to the National Assembly for Wales see PARA 18 note 2 ante.

46 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 5(1)(b). As to the time for the delivery of nomination papers in relation to elections to the National Assembly for Wales see PARA 267 post.

47 For the meanings of 'party list' and 'party list candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante.

48 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 7(3)(a). The surname of each candidate to be included on a party list must be placed first in the list of his names: Sch 5

para 7(3). Where a candidate is commonly known by some title he may be described by his title as if it were his surname: Sch 5, Appendix of Forms (Form of party nomination paper (regional election), note 2).

49 Ibid Sch 5 para 7(3)(b).

50 Ibid Sch 5 para 7(2). The text refers to the name of the party which has been registered under the Political Parties, Elections and Referendums Act 2000 Pt II (as amended): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 7(2).

51 Ibid Sch 5 para 7(4).

52 Ie by ibid Sch 5 para 7(2) (see the text and note 50 supra).

53 The form prescribed as mentioned in the text is set out in English and in Welsh in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5, Appendix of Forms (Form of certificate referred to in PARAGRAPH 8(1)).

54 Ibid Sch 5 para 8(1). If it is proposed that the party's registered emblem (or, as the case may be, one of the party's registered emblems) is to be shown on the ballot paper against the party's name, such a certificate must request that it be so shown: Sch 5 para 8(2). A certificate issued under Sch 5 para 8(1) may be combined with the party nomination paper delivered under Sch 5 para 7(1) (see PARA 267 post): Sch 5 para 8(3). A person is guilty of a corrupt practice if he fraudulently purports to be authorised to issue a certificate under Sch 5 para 8(1) on behalf of a party's registered nominating officer: see Sch 5 para 8(4); and PARA 709 post.

55 For the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante. As to European parliamentary elections see PARA 13 et seq ante.

56 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9, Sch 1 para 4(2)(a). The individual candidate's surname must be placed first in the list of his names: Sch 1 para 4(2).

57 Ibid Sch 1 para 4(2)(b).

58 Ibid Sch 1 para 4(2)(c).

59 Ibid Sch 1 para 4(3)(b).

60 See note 63 infra.

61 As to European parliamentary by-elections see PARA 225 ante.

62 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 4(3)(a). The description must be authorised as mentioned in the text under Sch 1 para 5(1) (see the text and notes 63-69 infra).

63 Ibid Sch 1 para 5(1). For these purposes, 'registered political party' means a party which was registered under the Political Parties, Elections and Referendums Act 2000 Pt II (as amended) at the time (the 'relevant time') by which the notice of election is required to be published (as to which see PARA 230 ante): European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 5(3)(a).

64 Ibid Sch 1 para 5(1)(a).

65 Ibid Sch 1 para 5(1)(b). For these purposes, a registered political party is a qualifying party in relation to a European parliamentary electoral region if the region is in England (including the combined region) or is Wales and the party was at the relevant time registered in respect of that part of Great Britain in the Great Britain register maintained under the Political Parties, Elections and Referendums Act 2000 Pt II (as amended): European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 5(3)(b). As to the establishment of electoral regions (including the combined region) for the purpose of elections to the European Parliament see PARA 76 ante.

66 Ibid Sch 1 para 5(1)(c).

67 Ibid Sch 1 para 5(1)(c)(i). A person is guilty of a corrupt practice if he fraudulently purports to be authorised to issue a certificate under Sch 1 para 5(1) on behalf of a registered party's nominating officer: see Sch 1 para 5(2); and PARA 709 post.

68 As to returning officers at European parliamentary elections see PARA 365 et seq post.

69 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 5(1)(c)(ii). As to the time for the delivery of nomination papers in relation to European parliamentary by-elections see PARA 267 post.

70 Ibid Sch 1 para 6(2), (3).

71 Ibid Sch 1 para 6(2).

72 Ibid Sch 1 para 6(5). A person is guilty of a corrupt practice if he fraudulently purports to be authorised to make the statement required by Sch 1 para 6(5) on behalf of a registered party's nominating officer: see Sch 1 para 6(7); and PARA 709 post.

73 Ibid Sch 1 para 6(4).

74 Ibid Sch 1 para 7(2).

75 Ibid Sch 1 para 7(1).

76 In *R v Plenty* (1869) LR 4 QB 346, the use of 'W' for 'William' in a voting paper was held to be a misnomer that was cured by the statutory provision on misnomers. It was agreed in *Mather v Brown* (1876) 1 CPD 596 that the use of an initial instead of setting out the name in full ('Robert V Mather' for 'Robert Vicars Mather') was a misnomer but it was held that the statutory provision about misnomers did not apply to misnomers in nomination papers.

77 Representation of the People Act 1983 s 50; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 25; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 18.

In the context of the conduct of elections, it has been held that the addition of 'Junior' is not part of a person's real name: *Gledhill v Crowther* (1889) 23 QBD 136, DC (nomination paper for the election of a county councillor was valid, being signed with the ordinary signature of the nominator, who was generally known as 'James Sykes, junior', although his father was dead, and although the word 'junior' did not appear against the nominator's name in the register of county electors). In *R v Casey* [1914] 2 IR 243, a candidate for councillor described himself in nomination papers as Michael B Walsh, the letter 'B' being assumed, his mother's name being Barry, for use in the register of voters and transactions requiring his signature in order to distinguish him from other persons in the neighbourhood also called Michael Walsh. Kenny J stated that 'on the evidence we hold that the relator is known in the district as Michael B Walsh. Even if his full name is Michael Barry Walsh, he is entitled to call himself Michael B Walsh and has done so for many years'. See also *R v Fox* (1887) 16 Cox CC 166 (man applied to the presiding officer for a ballot paper in a name which appeared on the register of voters, and which was inserted therein by the overseers in the belief that it was the name of the applicant, and for the purpose of putting him on the register; no offence of personation). As to a person's liberty generally to change his name see PERSONAL PROPERTY vol 35 (Reissue) PARA 1272.

Where a nomination paper gives an address which is not the candidate's home address, the nomination is invalid: *R v Election Court, ex p Sheppard* [1975] 2 All ER 723, [1975] 1 WLR 1319, DC; *R v Coward* (1851) 16 QB 819 (election of a town councillor whose place of residence had been in a different ward; the inaccurate description of a right place may be cured by the statutory provision but not the accurate description of a wrong place); *R v Deighton* (1844) 5 QB 896 (inaccurate description of party's place of abode in voting papers commonly understood to be that of the party but vote avoided). See also *R v Gregory* (1853) 1 E & B 600, 22 LJQB 120 (vote was improperly rejected on the ground of misdescription in circumstances where a corner house had two doors which each opened onto different streets and where a voting ticket was signed with one of the addresses but the burgess roll gave the address in the other street; it was held that the description in the burgess roll and that in the voting paper would both be commonly understood to mean the proper address).

As to the implications of particulars that are deliberately misleading, especially as to whether they may amount to a fraudulent device, see PARA 730 post.

78 *Miller v Everton* (1895) 64 LJQB 692, DC.

79 *Soper v Basingstoke Corpn* (1877) 2 CPD 440 (property of seconder of candidate was sufficiently described as no one had been or could be misled by the description).

80 *R v Bradley* (1861) 3 E & E 634, 3 LT 853; *R v Plenty* (1869) LR 4 QB 346, 20 LT 521; *Henry v Armitage* (1883) 12 QBD 257, 50 LT 4, CA; *R v Casey* [1914] 2 IR 243.

UPDATE

260-273 Nomination of Candidates

SI 2000/427 replaced: Greater London Authority Rules 2007, SI 2007/3541.

262-274 Form and supply of nomination papers ... Statutory definition of 'election expenses'

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

263 Particulars required in nomination papers

TEXT AND NOTES--The nomination paper must be accompanied by a form (the 'home address form') which states the candidate's full names, and home address in full; provision in the Representation of the People Act 1983 Sch 1 r 6(1) about delivery of the nomination paper applies also to the home address form: Sch 1 r 6(4) (Sch 1 r 6(4), (5) added by the Political Parties and Elections Act 2009 s 24(1), (2)(b)). The home address form may contain a statement made and signed by the candidate that he requires the home address not to be made public and if it does so, must state the constituency within which that address is situated, or, if that address is outside the United Kingdom, the country within which it is situated: Sch 1 r 6(5).

TEXT AND NOTES 1-8--Representation of the People Act 1983 Sch 1 r 6 amended: Political Parties and Elections Act 2009 Sch 6 para 8.

TEXT AND NOTE 4--Representation of the People Act 1983 Sch 1 r 6(2)(b) repealed: Political Parties and Elections Act 2009 s 24(1), (2)(a).

NOTE 8--SI 2001/1204 replaced: Local Elections (Principal Areas) (Welsh Forms) Order 2007, SI 2007/1015.

NOTES 16-26--SI 2002/185 reg 3(1), Sch 1 r 6, Appendix of Forms, Form 1 now the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 rr 6, 7, Appendix of Forms, Form 1.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(ii) Nomination of Candidates/264. Subscription of nomination paper.

264. Subscription of nomination paper.

The nomination paper¹ for any election (except the election of members of the London Assembly)² must be subscribed. Except in the case of a London mayoral election³, the nomination paper must be subscribed by two electors⁴ as proposer and seconder⁵, and (except for the election of councillors for a parish or community⁶) by a specified number of other electors as assenting to the nomination⁷. The particulars of the candidate should be filled in first; then the paper should be signed by the proposer and seconder; and then it should be signed by the persons assenting (where applicable)⁸. The nomination paper of a candidate⁹ for a London mayoral election must be subscribed by at least 330 persons each of whom is entitled to a mayoral vote¹⁰. In all cases, the nomination paper must give the electoral number¹¹ of each person subscribing it¹². Where a nomination paper bears the signatures of more than the required number of persons as proposing or seconding (or, where applicable, assenting) to the nomination of a candidate, the signature¹³ appearing first on the paper in each category must be taken into account to the exclusion of any others in that category¹⁴. A person must not subscribe more than one nomination paper at the same parliamentary election¹⁵ or subscribe more nomination papers than there are vacancies to be filled in the electoral area at an election of principal area councillors or parish or community councillors¹⁶. If he does, his signature is inoperative on all but the paper¹⁷ first delivered¹⁸. A person is not prevented from subscribing a nomination paper by reason only of his having subscribed that of a candidate who has died or withdrawn before delivery of the first mentioned paper¹⁹. A person must not subscribe more than one nomination paper for the same local authority mayoral election²⁰. Each nomination paper for a candidate at a constituency election and for each individual candidate or party list candidate²¹ at a regional election to the National Assembly for Wales which is duly delivered²² must be subscribed by one person who must also (if he is not the candidate) set out his full name and address²³. Each separate nomination paper for an individual candidate at a European parliamentary election²⁴ must be signed by the individual candidate himself or by a person authorised in writing by him²⁵.

A person whose name is entered in the appropriate register may not subscribe a nomination paper if the entry gives as the date on which he will become of voting age²⁶ a date later than the day fixed for the poll²⁷.

1 As to the form and supply of nomination papers and the particulars required see PARA 262 et seq ante.

2 I.e. at a parliamentary election, a local government election, an election for the return of an elected local authority mayor, a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'local government election' see PARA 10 ante; and for the meanings of 'constituency election' and 'regional election' for the purposes of Welsh Assembly elections see PARA 3 note 1 ante. As to elections for the return of a local authority mayor see PARA 205 ante; as to elections for the return of London Assembly members see PARA 206 ante; as to elections to the National Assembly for Wales generally see PARA 220 et seq ante; and as to European parliamentary elections see PARA 224 et seq ante.

3 As to elections for the return of an elected Mayor of London see PARA 206 ante.

4 For the meaning of 'elector' in this context for the purposes of a parliamentary election see PARA 262 note 5 ante; and for the meaning of 'elector' in this context in relation to local government elections and elections for the return of an elected local authority mayor see PARA 262 note 14 ante.

5 Representation of the People Act 1983 s 23(1), Sch 1 r 7(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 7(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 6(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 6(1).

6 As to the election of parish or community councillors see PARA 207 et seq ante.

7 In the case of a parliamentary election or principal area local government election, eight other electors must assent: see the Representation of the People Act 1983 Sch 1 r 7(1); and the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 6(1). For the return of an elected local authority mayor, 28 other electors must assent: see the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 7(1). No assenters are required at an election of parish or community councillors. As to the election of councillors for local government principal areas see PARA 204 et seq ante.

The nomination paper may bear the ordinary signatures of the proposer, seconder and assenters: *Gothard v Clarke* (1880) 5 CPD 253 at 262 per Grove J; *Re Melton Mowbray (Egerton Ward) UDC Election* [1969] 1 QB 192, [1968] 3 All ER 761, DC. The proposer, seconder and assenters need not give their full names: *Bowden v Besley* (1888) 21 QBD 309, DC. Nor is it necessary that their names should be given in the precise form of the register: *Re Melton Mowbray (Egerton Ward) UDC Election* supra; *Bowden v Besley* supra; *Gledhill v Crowther* (1889) 23 QBD 136, DC; *Harding v Cornwell* (1889) 60 LT 959, DC. In *Moorhouse v Linney* (1885) 15 QBD 273, DC, two electors were entered in the register as Joseph Burman and Charles Burman. Charles Burman subscribed a nomination paper as Charles Arthur Burman which was his full name and added his correct number in the register; the court held the nomination paper to be invalid apparently on the ground that the person subscribing the nomination paper must subscribe in the same name as appeared on the register as otherwise voters might be misled into thinking that Charles Burman and Charles Arthur Burman were father and son, that the addition of the number on the register did not assist, and that this was not a misnomer which could be cured by the statutory provision as to misnomers (see PARA 263 ante). It is not easy to reconcile this case with the later cases cited supra.

8 *Harmon v Park* (1881) 7 QBD 369, DC. However, the order in which the nomination paper was completed or when any alterations were made is unlikely to be known to the returning officer unless, as in *Harmon v Park* supra, the alteration takes place at his office. The observation in *Re Melton Mowbray (Egerton Ward) UDC Election* [1969] 1 QB 192 at 198, [1968] 3 All ER 761 at 763 per Paull J that the returning officer has the opportunity to make such enquiries as he may think right was doubted by Wien J in *Greenway-Stanley v Paterson* [1977] 2 All ER 663 at 671, DC, and he thought that if the returning officer has a right to investigate it must be solely because the nomination paper on its face value puts him on enquiry (see *Greenway-Stanley v Paterson* supra at 671).

It is not clear to what extent subsequent alterations or the filling in and signing of a nomination paper in any order invalidate the nomination paper: see *Harmon v Park* supra (where an alteration was made after delivery to the town clerk by substituting another burgess as proposer in the absence of the seconder and assenting burgesses, the nomination paper was held invalid on the ground that the persons assenting should be able to see who were the proposer and seconder); *Cox v Davies* [1898] 2 QB 202, DC (where only a proposer and seconder were required, a nomination paper in which the name of the candidate was inserted after the proposer and seconder had signed the nomination paper was held valid); *Howes v Turner* (1876) 1 CPD 670 (where an alteration made after delivery of the nomination paper to the town clerk to correct a supposed mistake was held in itself unobjectionable). As to decisions as to the validity of nomination papers see further PARAS 270-271 post.

9 For the meaning of 'candidate' generally see PARA 237 ante.

10 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 7(1). In relation to those subscribers, the election and each London borough and the City of London, at least ten of the subscribers must be electors who are ordinarily resident in the borough or, as the case may be, the City: Sch 3 r 7(1). For the meaning of 'elector' in this context in relation to any election of the Mayor of London see PARA 262 note 14 ante. As to the mayoral vote see PARA 346 post. As to the London boroughs and the City of London generally see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 30 et seq.

11 For the meaning of 'electoral number' generally see PARA 160 ante. For these purposes, in relation to any election of the Mayor of London, 'electoral number' means either a person's number in the register to be used at the election (including the distinctive letter of the parliamentary polling district in which he is registered) except that before publication of the register his number (if any) in the electors' lists for that register must be used instead: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 4, Sch 3 r 7(5)(a), Sch 5 (Form 3: candidate to be the Mayor of London, note 3).

12 Representation of the People Act 1983 Sch 1 r 7(3); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 7(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 7(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 6(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 6(3).

It has been held that the giving of a wrong electoral number invalidates the nomination paper and the same result would apparently have followed if the electoral number had been omitted: *Gothard v Clarke* (1880) 5 CPD 253; *Baldwin v Ellis* [1929] 1 KB 273, DC. In *Gothard v Clarke* supra, a wrong electoral number was given contrary to the requirement of a note to the prescribed form of nomination paper, at the date of that case there being no express requirement in the relevant rules that the electoral number must be stated, the requirement deriving from the prescribed form of nomination paper. Without expressly deciding the point Grove J thought that the note was mandatory and not directory. Although the use of a form to the like effect was permitted, Grove J and Lopes J decided that the use of a wrong number was not to the like effect as the right number although Grove J thought that a clerical error such as the substitution of '0' for '9' might perhaps be treated differently. They also decided that there was no power to remedy the mistake because the only power to remedy mistakes then in question, which was a provision corresponding to the Representation of the People Act 1983 ss 23(3), 48(1) (see PARA 670 post), did not apply to decisions on nomination papers by the returning officer. In *Baldwin v Ellis* supra, there was a rule requiring a candidate at an election of rural district councillors to state, in addition to his description, his qualification as a local government elector for a particular parish. A candidate merely stated in his nomination paper that he was a local government elector without stating, as required, for which parish he was qualified. The returning officer held the nomination paper invalid and the court held that this was right on the ground that there had been no compliance with the rule. The court also held that the rule corresponding to the Representation of the People Act 1983 s 50 (see PARA 263 ante), relating to misnomers or inaccurate descriptions, did not apply because the omission of the name of the parish for which the candidate was qualified as a local government elector was neither a misnomer nor an inaccurate description of the candidate but a failure to comply with the rule.

13 le or signatures, up to the required number, where applicable.

14 Representation of the People Act 1983 Sch 1 r 7(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 7(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 7(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 6(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 6(2).

15 Representation of the People Act 1983 Sch 1 r 7(5), Sch 1, Appendix of Forms (Form of nomination paper, note 4).

16 Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 6(5), Appendix of Forms (Form of nomination paper, note 6(a)); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 6(5), Appendix of Forms (Form of nomination paper, note 5(a)). Nor may a person subscribe any nomination paper in respect of an election in any other electoral area of the same local government principal area or in any other ward of the same parish or community whilst the election in the first-mentioned electoral area or ward is taking place: Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 6(5), Appendix of Forms (Form of nomination paper, note 6(b)); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 6(5), Appendix of Forms (Form of nomination paper, note 5(b)). For the meaning of 'electoral area' see PARA 10 ante; and for the meaning of 'local government area' see PARA 18 note 2 ante.

17 le or papers, up to the required number, where applicable.

18 Representation of the People Act 1983 Sch 1 r 7(5); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 6(6); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 6(6). As to the delivery of nomination papers see PARA 267 post.

19 Representation of the People Act 1983 Sch 1 r 7(5); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 6(5); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 6(5).

20 See the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1, Appendix of Forms (Form 1: nomination paper, note 3) (Appendix of Forms substituted by SI 2004/225).

21 For the meaning of 'party list candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante.

22 le delivered under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 4 (nomination paper for candidate at a constituency election) or Sch 5 para 6 (nomination paper for individual candidate at a regional election) or Sch 5 para 7 (group of party list candidates at a regional election), as the case may be (see PARA 267 post).

23 Ibid Sch 5 paras 4(4), 6(4), 7(7).

24 For the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante.

25 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 4(1).

26 'Voting age' is currently 18 years for all purposes: see PARAS 110 note 2, 112 note 14, 117 note 9 ante.

27 Representation of the People Act 1983 Sch 1, Appendix of Forms (Form of nomination paper, note 5); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 5 (Form 3: candidate to be the Mayor of London, note 4); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1, Appendix of Forms (Form 1: nomination paper, note 4) (Appendix of Forms substituted by SI 2004/225). In relation to local government elections for principal areas, parishes and communities, see the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 Appendix of Forms (Form of nomination paper, note 7(b)) and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 Appendix of Forms (Form of nomination paper, note 6(b)) (definition of 'elector': see PARA 262 note 14 ante), which have the same effect as the provision set out in the text.

UPDATE

260-273 Nomination of Candidates

SI 2000/427 replaced: Greater London Authority Rules 2007, SI 2007/3541.

262-274 Form and supply of nomination papers ... Statutory definition of 'election expenses'

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

264 Subscription of nomination paper

NOTES--SI 2002/185 reg 3(1), Sch 1 r 7, Appendix of Forms, Form 1 now the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 8, Appendix of Forms, Form 1.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(ii) Nomination of Candidates/265. Consent of candidate to nomination.

265. Consent of candidate to nomination.

A person is not validly nominated¹ for a parliamentary election², a local government election³, or an election for the return of a local authority mayor⁴, unless his consent to nomination is given in writing on or within one month before the day fixed as the last day for the delivery of nomination papers⁵, is attested by one witness⁶ and is delivered at the place and within the time for the delivery of nomination papers⁷. However, if the returning officer for a parliamentary election⁸ is satisfied that, owing to the absence of a person from the United Kingdom⁹, it has not been reasonably practicable for his consent in writing to be so given, a telegram (or any similar means of communication) consenting to his nomination and purporting to have been sent by him is deemed for these purposes to be consent in writing given by him on the day on which it purports to have been sent, and attestation of his consent is not required¹⁰. A candidate's consent at a parliamentary election additionally must state: (1) the day, month and year of his birth¹¹; (2) both that he is aware of the provisions of the House of Commons Disqualification Act 1975¹² and that to the best of his knowledge and belief he is not disqualified for membership of the House of Commons¹³; and (3) that he is not a candidate¹⁴ at an election for any other constituency¹⁵ the poll for which is to be held on the same day as that for the election to which the consent relates¹⁶. The consent to nomination of a candidate for election as a London member of the London Assembly additionally must contain a statement that he has read the provisions setting out who may not be such a candidate¹⁷.

For the purposes of elections for the return of members of the National Assembly for Wales¹⁸, a person is not validly nominated either at a constituency election¹⁹ or at a regional election²⁰, unless his consent to nomination is given and dated in writing on, or within one month before, the day fixed as the last day for the delivery of nomination papers²¹, is attested by one witness²², and is delivered at the place, and within the time, for the delivery of nomination papers²³. However, if the appropriate returning officer²⁴ is satisfied that owing to the absence of a person from the United Kingdom it has not been reasonably practicable for his consent in writing to be so given, a facsimile communication (or any similar means of communication) consenting to his nomination and purporting to have been sent by him is deemed for these purposes to be consent in writing by him on the day on which it purports to have been sent, and attestation of his consent is not required²⁵. For the purposes of elections for the return of members of the National Assembly for Wales, a candidate's consent additionally must state: (a) the day, month and year of his birth²⁶; and (b) both that he is aware of the provisions relating to disqualification from being an Assembly member²⁷ and that to the best of his knowledge and belief he is not disqualified for membership of the Assembly²⁸. A candidate is required to so give his consent notwithstanding that he has subscribed the nomination paper by virtue of which he is nominated²⁹.

For the purposes of European parliamentary elections³⁰, a person is not validly nominated as either an individual candidate³¹ or a candidate on a registered party's list³² unless his consent to nomination: (i) is given in writing on or within one month before the day fixed as the last day for the delivery of nomination papers³³; (ii) is attested by one witness³⁴; (iii) in the case of a candidate on a registered party's list, identifies the party in question³⁵; and (iv) is delivered at the place and within the time for the delivery of nomination papers³⁶. However, if the returning officer³⁷ is satisfied that owing to the absence of a person from the United Kingdom³⁸ it has not been reasonably practicable for his consent in writing so to be given, a telegram (or any similar means of communication) consenting to his nomination and purporting to have been sent by

him is deemed for these purposes to be consent in writing given by him on the day on which it purports to have been sent, and attestation of his consent is not required³⁹. For the purposes of European parliamentary elections, a candidate's consent additionally must state: (A) the day, month and year of his birth⁴⁰; and (B) both that he is aware of the provisions relating to disqualification from being a member of the European Parliament ('MEP')⁴¹ and that to the best of his knowledge and belief he is not disqualified for membership of the office of MEP⁴².

Where a person has been declared by others without his consent to be a candidate at a parliamentary or local government election or at an election for the return of members of the National Assembly for Wales, nothing in the provisions relating to the election campaign⁴³ is to be construed to impose any liability on that person, unless he has afterwards given his assent to the declaration or has been nominated⁴⁴.

- 1 As to the form and supply of nomination papers and the particulars required see PARA 262 et seq ante.
- 2 For the meaning of 'parliamentary election' see PARA 9 ante.
- 3 The law for an election of councillors for a principal area or for a parish or community; or elections for the return of an elected Mayor of London or for the return of constituency members or London members of the London Assembly. For the meaning of 'local government election' generally see PARA 10 ante. As to the election of councillors for local government principal areas see PARA 204 et seq ante; as to elections for the return of an elected Mayor of London and for the return of London Assembly members see PARA 206 ante; and as to the ordinary elections of parish or community councillors see PARA 207 et seq ante.
- In the case of an election for the return of London members of the London Assembly, the provisions as to a candidate's consent to nomination (see the text and notes 5-7 infra) apply to a person whether as an individual candidate or a list candidate: see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 2 r 8. For the meaning of 'London member', in relation to the London Assembly, see PARA 10 note 5 ante; and for the meaning of 'constituency member', in relation to the London Assembly, see PARA 10 note 6 ante (definitions applied by virtue of r 2(2)). As to elections for the return of the London members of the London Assembly see PARA 206 et seq ante; and as to references to nomination papers and to party lists in elections for the return of London members of the London Assembly see PARA 262 note 24 ante. As to individual candidates to be London members see LONDON GOVERNMENT vol 29(2) (Réissue) PARA 99.
- 4 As to elections for the return of a local authority mayor see PARA 205 ante.
- 5 Representation of the People Act 1983 s 23(1), Sch 1 r 8(1)(a); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), (3), Sch 1 r 7(a), Sch 2 r 8(a), Sch 3 r 8(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 8(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 7(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 7(a).

For the purposes of local government elections for a principal area or for a parish or community, the consent as mentioned in the text must be given in the prescribed form, or a form to the like effect, as set out in the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 7(b), Appendix of Forms (Form of candidate's consent to nomination); and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 7(b), Appendix of Forms (Form of candidate's consent to nomination); and where such elections are taken together with another relevant election or referendum see the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 4, Sch 3 Appendix of Forms (Form of candidate's consent to nomination); and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 4, Sch 3 Appendix of Forms (Form of candidate's consent to nomination) respectively. The returning officer must supply any elector with as many forms of consent to nomination as may be required at the place and during the time for delivery of nomination papers (as to which see PARA 267 post) but it is not necessary for a consent to nomination to be on a form supplied by the returning officer: Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 6(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 6(4). For the purposes of elections for the return of an elected Mayor of London or for the return of constituency members or London members of the London Assembly, the consent must be given as mentioned in the text in the prescribed form, or a form to the like effect, as set out in the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 7(a), Sch 2 r 8(a), Sch 3 r 8(a), Sch 5 Form 4 (candidate's consent to nomination); and the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 8(a), Appendix of Forms (Form 2: candidate's consent to nomination). As to the Welsh version of the form that may be used at principal area elections in Wales see the Local Elections (Principal Areas) (Welsh Forms) Order 1987, SI 1987/562, art 2, Schedule Pt I (candidate's consent to nomination, ffurflen caniatad ymgeisydd i gael ei enwebu); and where such an election is held together with another election or referendum see the Local Elections (Principal Areas)

(Welsh Forms) Order 2004, SI 2004/1234, art 3, Schedule Pt I (Form of candidate's consent to nomination, ffurflen cydsyniad ymgeisydd i gael ei enwebu). As to the Welsh version of the form which is prescribed to be used at community elections in Wales see the Local Elections (Communities) (Welsh Forms) Order 1987, SI 1987/561, art 2, Schedule Pt I (candidate's consent to nomination, ffurflen caniatad ymgeisydd i gael ei enwebu); and where such an election is held together with another election or referendum see the Local Elections (Communities) (Welsh Forms) Order 2004, SI 2004/1233, art 3, Schedule Pt I (Form of candidate's consent to nomination, ffurflen cydsyniad ymgeisydd i gael ei enwebu). Amongst other things, the forms for local government principal area and parish or community elections require the candidate to declare that, to the best of his knowledge and belief, he is not disqualified for being elected by reason of any decision made under the Local Government Act 2000 s 79 (as amended) (case tribunal decisions regarding compliance with code of conduct of relevant authority: see LOCAL GOVERNMENT vol 69 (2009) PARA 283) or any disqualification set out in ss 80, 81 (as amended) (disqualification for election and holding office as member of local authority: see LOCAL GOVERNMENT vol 69 (2009) PARA 119), copies of which provisions are included with the consent to nomination form. The nomination form for a candidate for elected local authority mayor requires a declaration referring to the disqualifications set out in s 80 (as amended) only and the nomination form used for London mayoral and Assembly elections requires a declaration referring to the disqualifications set out in the Greater London Authority Act 1999 s 21 (as amended), or specified in an order under s 21(1)(b) which designates certain offices or appointments (disqualification for office of Mayor of London or member of the London Assembly: see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 86) as well as any decision made under the Local Government Act 2000 s 79 (as amended).

6 Representation of the People Act 1983 Sch 1 r 8(1)(b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 7(b), Sch 2 r 8(c), Sch 3 r 8(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 8(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 7(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 7(c).

For the purposes of elections for the return of either constituency members or London members of the London Assembly, it is specified that the witness's full names and address should be given: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 7(b), Sch 2 r 8(c).

7 Representation of the People Act 1983 Sch 1 r 8(1)(c); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 7(c), Sch 2 r 8(d), Sch 3 r 8(c); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 8(c); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 7(d); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 7(d). As to the delivery of nomination papers see PARA 267 post.

8 As to the returning officer for parliamentary elections see PARA 355 et seq post.

9 For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

10 Representation of the People Act 1983 Sch 1 r 8(2).

11 Ibid Sch 1 r 8(3)(a).

12 Ibid Sch 1 r 8(3)(b)(i). As to the provisions of the House of Commons Disqualification Act 1975 see PARLIAMENT vol 78 (2010) PARA 905 et seq.

13 Ibid Sch 1 r 8(3)(b)(ii). As to disqualification for membership of the House of Commons see PARA 231 ante.

14 For the meaning of 'candidate' generally see PARA 237 ante.

15 For the meaning of 'constituency' for the purposes of parliamentary elections see PARA 9 ante.

16 Representation of the People Act 1983 Sch 1 r 8(3)(c) (added by the Electoral Administration Act 2006 s 22). Any amendment effected by the Electoral Administration Act 2006 s 22 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. Until that date, head (3) in the text is omitted.

17 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 8(b). The text refers to whichever of the Greater London Authority Act 1999 s 4(6), Sch 2 para 5(5) (list of candidates: see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 98) or Sch 2 para 5(6) (individual candidate: see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 99) applies in the case of the candidate in question: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 8(b).

18 As to elections for the National Assembly for Wales generally see PARA 220 et seq ante. As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

19 For the meaning of 'constituency election' for the purposes of elections to the National Assembly for Wales see PARA 3 note 1 ante.

20 For the meaning of 'regional election' for the purposes of elections to the National Assembly for Wales see PARA 3 note 1 ante. In the case of a regional election, the provisions as to a candidate's consent to nomination (see the text and notes 5-7 supra) apply to a person whether as an individual candidate or as a party list candidate: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 9(2). For the meanings of 'individual candidate' and 'party list candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante.

21 Ibid Sch 5 para 9(1)(a), (2)(a). In the case of a regional election, the papers referred to in the text may be either individual or party nomination papers: Sch 5 para 9(2)(a). As to the time for the delivery of nomination papers at a Welsh Assembly election see PARA 267 post.

22 Ibid Sch 5 para 9(1)(b), (2)(b).

23 Ibid Sch 5 para 9(1)(c), (2)(c). In the case of a regional election, the papers referred to in the text may be either individual or party nomination papers: Sch 5 para 9(2)(c).

24 For the meaning of 'appropriate returning officer' at a Welsh Assembly election see PARA 242 note 7 ante.

25 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 9(3).

26 Ibid Sch 5 para 9(4)(a).

27 Ibid Sch 5 para 9(4)(b)(i). By virtue of the Interpretation Act 1978 s 17(2), the provisions referred to in the text are the Government of Wales Act 2006 ss 16-19 (see PARA 234 ante; and CONSTITUTIONAL LAW AND HUMAN RIGHTS) and the National Assembly for Wales (Disqualification) Order 2003, SI 2006/3335 (see PARA 234 ante).

28 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 9(4)(b)(ii).

29 Ibid Sch 5 para 9(5).

30 As to European parliamentary elections see PARA 224 et seq ante.

31 For the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante.

32 For the meanings of 'list' and 'registered party' for these purposes see PARA 237 note 30 ante. As to the system of candidature whereby registered parties submit lists of candidates see PARA 345 post.

33 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9, Sch 1 para 8(1)(a). As to the time for the delivery of nomination papers at a European parliamentary by-election see PARA 267 post.

34 Ibid Sch 1 para 8(1)(b).

35 Ibid Sch 1 para 8(1)(c).

36 Ibid Sch 1 para 8(1)(d).

37 As to returning officers at European parliamentary elections see PARA 365 et seq post.

38 The text also refers to a person's absence from Gibraltar, for the purposes of elections held in the combined region (as to which see PARA 76 ante).

39 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 8(2).

40 Ibid Sch 1 para 8(3)(a).

41 Ibid Sch 1 para 8(3)(b)(i). The provisions referred to in the text are those of the European Parliamentary Elections Act 2002 s 10 (as amended) (see PARA 235 ante).

42 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 8(3)(b)(ii).

43 Ie nothing in the Representation of the People Act 1983 Pt II (ss 67-119) (as amended) or in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Pt III (arts 35-84).

44 Representation of the People Act 1983 s 117(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 82(1). No such saving is made for the purposes of European parliamentary elections in the European Parliamentary Elections Regulations 2004, SI 2004/293. As to candidacy and liability see also PARA 237 ante.

UPDATE

260-273 Nomination of Candidates

SI 2000/427 replaced: Greater London Authority Rules 2007, SI 2007/3541.

262-274 Form and supply of nomination papers ... Statutory definition of 'election expenses'

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

265 Consent of candidate to nomination

NOTES 5-7--SI 2002/185 reg 3(1), Sch 1 r 8, Appendix of Forms, Form 2 now the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 9, Appendix of Forms, Form 2.

NOTE 5--SI 1987/561, SI 2004/1233 replaced: Local Elections (Communities) (Welsh Forms) Order 2007, SI 2007/1013. SI 1987/562, SI 2004/1234 replaced: Local Elections (Principal Areas) (Welsh Forms) Order 2007, SI 2007/1015.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(ii) Nomination of Candidates/266. Requirement for deposit at certain elections.

266. Requirement for deposit at certain elections.

A person is not validly nominated at a parliamentary election¹ or as a candidate² for the return of an elected local authority mayor³ unless the sum of £500 is deposited by him or on his behalf⁴ with the returning officer at the place and during the time for delivery of nomination papers⁵. The deposit may be made either by the deposit of any legal tender⁶, or by means of a banker's draft⁷, or, with the returning officer's consent, in any other manner⁸. For the purposes of a London Authority election⁹, a person is not validly nominated as a candidate unless the required sum¹⁰ is deposited by him¹¹ or on his behalf¹² with the appropriate returning officer at the place and within the time for delivery of nomination papers¹³. The deposit may be made either by the deposit of any legal tender¹⁴, or by means of a banker's draft¹⁵, or, with the consent of the appropriate returning officer, in any other manner¹⁶.

For the purposes of elections for the return of members of the National Assembly for Wales¹⁷, a candidate is not validly nominated at a constituency election¹⁸, nor are candidates validly nominated at a regional election¹⁹, unless the sum of £500 is deposited by him or by them²⁰ (as the case may be) or deposited on his behalf²¹ or on their behalf²² (as the case may be) with the appropriate returning officer at the place and during the time for delivery of nomination papers²³. The deposit may be made either by the deposit of any legal tender²⁴, or by means of a banker's draft²⁵, or, with the consent of the appropriate returning officer, in any other manner²⁶.

For the purposes of European parliamentary elections²⁷, a person is not validly nominated as an individual candidate²⁸ unless the sum of £5,000 is deposited by him or on his behalf²⁹ with the returning officer³⁰ at the place and during the time for delivery of nomination papers³¹. A registered party³² is not validly nominated for these purposes unless the sum of £5,000 is deposited on its behalf³³ with the returning officer at the place and during the time for the delivery of nomination papers³⁴. The deposit may be made either by the deposit of any legal tender³⁵, or by means of a banker's draft³⁶, or, with the returning officer's consent, in any other manner³⁷.

1 For the meaning of 'parliamentary election' see PARA 9 ante.

2 For the meaning of 'candidate' generally see PARA 237 ante.

3 As to elections for the return of a local authority mayor see PARA 205 ante.

4 Where the deposit is made on behalf of the candidate, the person making the deposit must, at the time he makes it, give his name and address to the returning officer, unless they have previously been given to him under the Representation of the People Act 1983 s 67 (as amended) (appointment of election agent for parliamentary and local government elections: see PARA 238 ante) or (for the purposes of a parliamentary election only) s 23(1), Sch 1 r 6(1) (nomination of candidates: see PARA 262 ante): Sch 1 r 9(3) (added by the Representation of the People Act 1985 s 24, Sch 4 para 75); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 9(3). As to returning officers for parliamentary elections see PARA 355 et seq post; and as to returning officers for local government elections (including elections for the return of an elected mayor) see PARA 359 et seq post. A deposit is not required for nominations at a local government principal area or parish or community election but as to London Authority elections see the text and notes 9-16 infra.

5 Representation of the People Act 1983 Sch 1 r 9(1) (amended by the Representation of the People Act 1985 s 13); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 9(1). As to the delivery of nomination papers see PARA 267 post.

6 Representation of the People Act 1983 Sch 1 r 9(2)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 9(2)(a). As to legal tender see FINANCIAL SERVICES AND INSTITUTIONS vol 49 (2008) PARA 1278 et seq.

7 Representation of the People Act 1983 Sch 1 r 9(2)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 9(2)(b). The returning officer may refuse to accept a deposit sought to be made by means of a banker's draft if he does not know that the drawer carries on business as a banker in the United Kingdom: Representation of the People Act 1983 Sch 1 r 9(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 9(2). For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

8 Representation of the People Act 1983 Sch 1 r 9(2)(c); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 9(2)(c). In relation to a parliamentary election only, 'any other manner' includes by means of a debit or credit card or the electronic transfer of funds: Representation of the People Act 1983 Sch 1 r 9(2)(c) (amended by the Electoral Administration Act 2006 s 19(1), (5)). Any amendment effected by the Electoral Administration Act 2006 s 19 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. Until that date, 'any other manner' is not defined: see the Representation of the People Act 1983 Sch 1 r 9(2)(c).

9 For the meaning of 'Authority election' see PARA 10 ante.

10 For the purposes of an election for the return of constituency members of the London Assembly, the sum required as a deposit is £1,000 (Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), Sch 1 r 8(1)); for an election for the return of London members of the London Assembly, the sum required as a deposit is £5,000 (r 3(2), Sch 2 r 9(1), (2)); and for the return of an elected Mayor of London, the sum required as a deposit is £10,000 (r 3(3), Sch 3 r 9(1)). For the meaning of 'London member', in relation to the London Assembly, see PARA 10 note 5 ante; and for the meaning of 'constituency member', in relation to the London Assembly, see PARA 10 note 6 ante (definitions applied by virtue of r 2(2)). As to elections for the return of an elected Mayor of London and for the return of elected members of the London Assembly see PARA 206 et seq ante.

11 At an election for the return of London members of the London Assembly, the requirement for a deposit applies to a person whether as an individual candidate or a list candidate and in the latter case the requirement relates to the party list on which the candidate's name appears: see *ibid* Sch 2 r 9(1), (2). As to references to nomination papers and to party lists in elections for the return of London members of the London Assembly see PARA 262 note 24 ante. As to individual candidates to be London members see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 99.

12 Where the deposit is made on behalf of the candidate (or an individual candidate, in the case of a constituency election), the person making the deposit must, at the time he makes it, give his name and address to the appropriate returning officer, unless they have previously been given to him under the Representation of the People Act 1983 s 67 (as amended) (appointment of election agent for parliamentary and local government elections: see PARA 238 ante); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 8(3), Sch 2 r 9(4), Sch 3 r 9(3). In the case of an election for the return of constituency members of the London Assembly only, the appropriate returning officer is the constituency returning officer (for the meaning of which see PARA 218 note 8 ante); and in the case of an election for the return of London members of the London Assembly and for the return of an elected Mayor of London, it is the Greater London returning officer (for the meaning of which see PARA 218 note 7 ante).

13 *Ibid* Sch 1 r 8(1), Sch 2 r 9(1), (2), Sch 3 r 9(1).

14 *Ibid* Sch 1 r 8(2)(a), Sch 2 r 9(3)(a), Sch 3 r 9(2)(a).

15 *Ibid* Sch 1 r 8(2)(b), Sch 2 r 9(3)(b), Sch 3 r 9(2)(b). The appropriate returning officer may refuse to accept a deposit sought to be made by means of a banker's draft if he does not know that the drawer carries on business as a banker in the United Kingdom: Sch 1 r 8(2), Sch 2 r 9(3), Sch 3 r 9(2).

16 *Ibid* Sch 1 r 8(2)(c), Sch 2 r 9(3)(c), Sch 3 r 9(2)(c).

17 As to elections to the National Assembly for Wales generally see PARA 220 et seq ante. As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

18 For the meaning of 'constituency election' for the purposes of elections to the National Assembly for Wales see PARA 3 note 1 ante.

19 For the meaning of 'regional election' in this context see PARA 3 note 1 ante.

20 In the case of a regional election, the requirement for a deposit applies to a person whether as an individual candidate or as a group of party list candidates: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 10(2). For the meaning of 'individual candidate' at a Welsh Assembly regional election, and as to references to a group of party list candidates in that context, see PARA 237 note 23 ante.

21 Where the deposit is made on behalf of a candidate at a constituency election or an individual candidate at a regional election, the person making the deposit must at the time he makes it give his name and address to the appropriate returning officer unless that information has previously been given to him under *ibid* art 35 (appointment of election agent for elections to the National Assembly for Wales: see PARA 242 ante): Sch 5 para 10(4). For these purposes, 'appropriate returning officer' means a constituency returning officer in relation to a constituency election and a regional returning officer in relation to a regional election: see art 2(1); and PARA 242 note 7 ante. For the meanings of 'constituency returning officer' and 'regional returning officer' see PARA 18 note 2 ante.

22 Where the deposit is made on behalf of a group of party list candidates at a regional election the person making the deposit must, at the time he makes it: (1) if he is the registered political party's registered nominating officer, state that fact to the regional returning officer; or (2) if he is not the party's registered nominating officer, give his name and address to the regional returning officer unless that information has previously been given to him under *ibid* art 35 (see PARA 242 ante): Sch 5 para 10(5). For the meaning of 'registered political party' for these purposes see PARA 222 note 8 ante. As to the registered nominating officer of a party see PARA 260 ante.

23 *Ibid* Sch 5 para 10(1), (2). In the case of a regional election, the papers referred to in the text may be either individual or party nomination papers and a place (rather than the place) may be specified for their delivery: Sch 5 para 10(2).

24 *Ibid* Sch 5 para 10(3)(a).

25 *Ibid* Sch 5 para 10(3)(b). The appropriate returning officer may refuse to accept a deposit sought to be made by means of a banker's draft if he does not know that the drawer carries on business as a banker in the United Kingdom: Sch 5 para 10(3).

26 *Ibid* Sch 5 para 10(3)(c).

27 As to European parliamentary elections see PARA 224 *et seq* ante.

28 For the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante.

29 Where the deposit is made on behalf of an individual candidate, the person making the deposit must at the time he makes it give his name and address to the returning officer, unless they have previously been given to him under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 38 (appointment of election agent for individual candidate: see PARA 246 ante): reg 9, Sch 1 para 10(4).

30 As to returning officers at European parliamentary elections see PARA 365 *et seq* post.

31 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 10(1). As to the time for the delivery of nomination papers at a European parliamentary by-election see PARA 267 post.

32 For the meaning of 'registered party' for these purposes see PARA 237 note 30 ante. As to the system of candidature whereby registered parties submit lists of candidates see PARA 345 post.

33 Where the deposit is made on behalf of the registered party, the person making the deposit must at the time he makes it give his name and address to the returning officer, unless they have previously been given to him under the European Parliamentary Elections Regulations 2004, SI 2004/293 reg 33 (appointment of national election agent of registered party: see PARA 246 ante) or reg 34 (appointment of election agent by a registered party standing in one electoral region only: see PARA 246 ante): Sch 1 para 10(4).

34 *Ibid* Sch 1 para 10(2).

35 *Ibid* Sch 1 para 10(3)(a).

36 *Ibid* Sch 1 para 10(3)(b). The returning officer may refuse to accept a deposit sought to be made by means of a banker's draft if he does not know that the drawer carries on business as a banker in the United Kingdom: Sch 1 para 10(3).

37 *Ibid* Sch 1 para 10(3)(c).

UPDATE

260-273 Nomination of Candidates

SI 2000/427 replaced: Greater London Authority Rules 2007, SI 2007/3541.

262-274 Form and supply of nomination papers ... Statutory definition of 'election expenses'

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

266 Requirement for deposit at certain elections

NOTES 4-8--SI 2002/185 reg 3(1), Sch 1 r 9 now the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 10.

NOTE 4--Representation of the People Act 1983 Sch 1 para 9(3) amended: Political Parties and Elections Act 2009 Sch 6 para 8.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(ii) Nomination of Candidates/267. Delivery of nomination papers.

267. Delivery of nomination papers.

Nomination papers¹ for a parliamentary general election² must be delivered between the hours of ten in the morning and four in the afternoon on any day after the date of publication of the notice of election³, but not later than the sixth day after the date of the proclamation summoning the new Parliament⁴. For a parliamentary by-election⁵, the timetable is the same as for a parliamentary general election, except that the last day is a day fixed by the returning officer⁶ and this must be not earlier than the third day after the date of publication of the notice of election nor later than the seventh day after that on which the writ is received⁷. In either case, the nomination paper must be delivered, either by the candidate himself⁸ or by his proposer or seconder⁹, to the returning officer at the place fixed for the purpose¹⁰. However, the paper may be so delivered on the candidate's behalf by his election agent¹¹ if the agent's name and address have been previously given to the returning officer as required¹² or are so given at the time the paper is delivered¹³. If the paper is delivered by anybody else, the candidate will not have been validly nominated¹⁴. The returning officer must fix the place at which nomination papers are to be delivered to him¹⁵ and he must attend there during the time for their delivery and for the making of objections to them¹⁶. The returning officer has no power to extend the time for delivery of nomination papers¹⁷.

Nomination papers for a local government election¹⁸ or an election for the return of an elected local authority mayor¹⁹ must be delivered not later than noon on the nineteenth day before the day of election²⁰; and the relevant papers²¹ must be delivered at the place fixed for the purpose by the appropriate returning officer²². For the purpose of elections to the councils of principal areas²³, the place so fixed must be at the offices of the council of the district or London borough²⁴ in which the electoral area²⁵ wholly or mainly lies²⁶. For the purpose of elections for the return of an elected local authority mayor, the place so fixed must be at the offices of the council of the county, county borough, district or London borough in which the electoral area wholly or mainly lies²⁷. The place so fixed for the purpose of elections for the return of constituency members of the London Assembly must be at the offices of a local authority within the constituency²⁸; and the place so fixed for the purpose of elections for the return of London members of the London Assembly²⁹, or for the return of an elected Mayor of London³⁰, must be at the offices of the Greater London Authority³¹.

Nomination papers for elections for the return of members of the National Assembly for Wales³² must be delivered between the hours of ten in the morning and four in the afternoon after the date of publication of notice of election³³ but before the nineteenth day before the day of election³⁴ or between the hours of ten in the morning and noon on the nineteenth day before the day of election³⁵. The separate individual nomination paper for each candidate at a constituency election³⁶ must be delivered either by the candidate himself³⁷ or, where a certificate³⁸ authorising the description of a candidate at a constituency election is also delivered, by the registered nominating officer³⁹ of a registered political party⁴⁰ to the constituency returning officer⁴¹ at the place fixed for the purpose⁴². The separate individual nomination paper for each individual candidate⁴³ at a regional election⁴⁴ must be delivered by the candidate himself to the regional returning officer⁴⁵ at the place or a place fixed for the purpose⁴⁶. However, in either case, the paper may be so delivered on the candidate's behalf by his election agent⁴⁷ if the agent's name and address have been previously given to the returning officer as required⁴⁸ or are so given at the time the paper is delivered⁴⁹. Each group of party list candidates⁵⁰ at a regional election must be nominated by a separate party nomination

paper in the prescribed form which is delivered by the registered political party's registered nominating officer to the regional returning officer at the place or a place fixed for the purpose⁵¹. In relation to a constituency election, the constituency returning officer must fix the place at which individual nomination papers are to be delivered to him and he must attend there during the time for their delivery and for making of objections to them⁵². The place in relation to a constituency election must be in either the Assembly constituency⁵³ or the registration area⁵⁴ which includes the Assembly constituency⁵⁵. In relation to a regional election, the regional returning officer must fix the place or places⁵⁶ at which individual or party nomination papers are to be delivered to him, and he must attend there during the time for their delivery and for making objections to them⁵⁷.

Nomination papers and lists of candidates of registered parties⁵⁸ for European parliamentary elections⁵⁹ must be delivered between the hours of ten in the morning and four in the afternoon in the United Kingdom⁶⁰ on any day after the date of the publication of the notice of election⁶¹ but not later than the nineteenth day before the date of the poll⁶². Each separate nomination paper for an individual candidate⁶³ must be delivered by the individual candidate himself or by a person authorised in writing by him⁶⁴. A nomination paper for each registered party which is to stand for election in the electoral region⁶⁵ must be delivered to the returning officer⁶⁶ at the place which he has fixed for the purpose, by the party's nominating officer or a person authorised in writing by him⁶⁷. The returning officer must fix the place in the electoral region at which nomination papers are to be delivered to him, and he must attend there during the time for their delivery and for the making of objections to them⁶⁸.

1 As to the form and supply of nomination papers and the particulars required see PARA 262 et seq ante.

2 As to parliamentary general elections see PARA 196 et seq ante. For the meaning of 'parliamentary election' see PARA 9 ante.

3 As to the publication of the notice of election at a parliamentary election see PARA 203 ante. As to the calculation of dates for these purposes see PARA 203 note 1 ante.

4 Representation of the People Act 1983 s 23(1), Sch 1 r 1. As to proclamations summoning a new Parliament see PARA 196 ante.

5 As to parliamentary by-elections see PARA 198 et seq ante.

6 As to the returning officer for parliamentary elections see PARA 355 et seq post.

7 Representation of the People Act 1983 Sch 1 r 1. As to the issue and conveyance of writs for parliamentary by-elections see PARA 199 ante.

8 Ibid Sch 1 r 6(1)(a). For the meaning of 'candidate' generally see PARA 237 ante.

9 Ibid Sch 1 r 6(1)(b). As to the subscription of nomination papers see PARA 264 ante.

10 Ibid Sch 1 r 6(1). As to fixing the place for the delivery of nomination papers see the text and notes 15-16 infra.

11 As to the appointment of an election agent for parliamentary elections see PARA 238 ante.

12 Ie as required by the Representation of the People Act 1983 s 67 (as amended) (appointment of election agent for parliamentary and local government elections: see PARA 238 ante).

13 Ibid Sch 1 r 6(1).

14 *Monks v Jackson* (1876) 1 CPD 683.

15 For these purposes, the place must be in: (1) the constituency (Representation of the People Act 1983 Sch 1 r 10(2)(a)); or (2) the registration area which includes the constituency (Sch 1 r 10(2)(b)); or (3) unless the constituency is a borough constituency, in a district or Welsh county or county borough adjoining the constituency or registration area (Sch 1 r 10(2)(c) (amended by the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 68(17))). For the purposes of head (2) supra, 'registration area' means the area of two or more

constituencies in England and Wales which have the same registration officer: Representation of the People Act 1983 Sch 1 r 10(2)(i). For the meaning of 'constituency' for the purposes of parliamentary elections see PARA 9 ante; and for the meanings of 'England' and 'Wales' see PARA 13 note 1 ante. As to the distinction between county constituencies and borough constituencies at parliamentary elections see PARA 72 ante; and as to registration officers and the areas for which they act see PARA 154 et seq ante. As to counties and county boroughs in Wales see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq; and as to districts in England see LOCAL GOVERNMENT vol 69 (2009) PARA 24 et seq.

16 Ibid Sch 1 r 10(1). As to the time for the making of objections to nomination papers at a parliamentary general election or by-election see PARA 271 note 16 post.

17 *Howes v Turner* (1876) 1 CPD 670; *Cutting v Windsor* (1924) 40 TLR 395.

18 For the meaning of 'local government election' see PARA 10 ante.

19 As to elections for the return of a local authority mayor see PARA 205 ante.

20 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)-(3), Sch 1 r 3(1), Sch 2 r 3(1), Sch 3 r 3(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 1; Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 1; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 1. It is the nominee's duty to present valid nomination papers in time and the rules do not raise a legitimate expectation that the returning officer's duty to assess their validity (as to which see PARA 271 post) will identify any errors in them within the time limits: *R (on the application of De Beer) v Balabanoff* [2002] EWHC 670 (Admin), (2002) Times, 25 April, applied in *R (on the application of Begum) v Tower Hamlets London Borough Council* [2006] EWCA Civ 733, [2006] All ER (D) 19 (May) (deputy returning officer's filing error was causative of the fact that putative nominees were not able to stand in the election but the invalidity of the papers arose from the nominees' actions whose duty to present valid nomination papers in time had not been transferred to the returning officer). As to the date of the poll at an election for the return of a local authority elected mayor see PARA 205 ante; and as to the date of the poll at local government elections (including elections to fill vacancies) see PARAS 213-216 ante. As to the calculation of time for these purposes see PARA 218 note 1 ante.

21 In the nomination papers for each election, including a party list for the purpose of an election for the return of London members of the London Assembly. In the latter case, a registered party is nominated by the submission of its list of candidates to be London members to the Greater London returning officer in accordance with the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 7(8) (see the text and notes 29, 31 infra): see Sch 2 r 7(1); and PARA 262 ante. Where a nomination paper and list of candidates are delivered in respect of the same registered party after an earlier paper and list have been so delivered, that later paper and list is deemed to supersede the earlier ones: Sch 2 r 7(9). For the meaning of 'London member', in relation to the London Assembly, see PARA 10 note 5 ante; definition applied by virtue of r 2(2). For the meaning of 'registered political party' in this context see PARA 233 note 16 ante. For the meaning of 'Greater London returning officer' see PARA 218 note 7 ante. As to elections for the return of the London members of the London Assembly see PARA 206 et seq ante; and as to references to nomination papers and to party lists in elections for the return of London members of the London Assembly see PARA 262 note 24 ante.

22 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 6(1), Sch 2 r 7(8), Sch 3 r 6(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 6(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 4(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 4(1). The provisions as to the time and place for the delivery of nomination papers are mandatory: *R v Soothill, ex p Ashdown* (1955) Times, 21 April. However, there is no limitation (as there is in the case of parliamentary or European parliamentary elections or elections to the National Assembly for Wales) on the person delivering the nomination paper nor is it necessary for the nomination paper to be delivered to the returning officer. As to returning officers for local government elections (including elections for the return of an elected mayor) see PARA 359 et seq post. In the case of an election for the return of constituency members of the London Assembly, the constituency returning officer (for the meaning of which see PARA 218 note 8 ante) is specified as the returning officer; and in the case of an election for the return of London members of the London Assembly and for the return of an elected Mayor of London, it is the Greater London returning officer. For the meaning of 'constituency member', in relation to the London Assembly, see PARA 10 note 6 ante; definition applied by virtue of the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 2(2). As to elections for the return of an elected Mayor of London and for the return of constituency members of the London Assembly see PARA 206 et seq ante.

23 As to the election of councillors for a local government principal area see PARA 204 et seq ante.

24 As to London boroughs generally see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 30 et seq.

25 For the meaning of 'electoral area' see PARA 10 ante.

- 26 Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 4(1).
- 27 Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 6(1).
- 28 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 6(1).
- 29 Ie in relation to any such election subsequent to the first ordinary election, as to which see the special provision made in *ibid* Sch 2 r 7(8)(a).
- 30 Ie in relation to any such election subsequent to the first, as to which see the special provision made in *ibid* Sch 3 r 6(2)(a).
- 31 *Ibid* Sch 2 r 7(8)(b), Sch 3 r 6(2)(b). As to the Greater London Authority see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 79 et seq.
- 32 As to elections to the National Assembly for Wales generally see PARA 220 et seq ante. As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.
- 33 As to the publication of the notice of election to the National Assembly for Wales see PARA 223 ante.
- 34 As to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see PARAS 220-221 ante.
- 35 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 1(1). As to the calculation of time for these purposes see PARA 223 note 1 ante.
- 36 For the meaning of 'constituency election' for the purposes of elections to the National Assembly for Wales see PARA 3 note 1 ante.
- 37 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 4(1)(a).
- 38 Ie a certificate issued under *ibid* Sch 5 para 5(1) (see PARA 263 ante).
- 39 As to the registered nominating officer of a party see PARA 260 ante.
- 40 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 4(1)(b). For the meaning of 'registered political party' for these purposes see PARA 222 note 8 ante.
- 41 For the meaning of 'constituency returning officer' for these purposes see PARA 18 note 2 ante.
- 42 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 4(1).
- 43 For the meaning of 'individual candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante.
- 44 For the meaning of 'regional election' in this context see PARA 3 note 1 ante.
- 45 For the meaning of 'regional returning officer' for these purposes see PARA 18 note 2 ante.
- 46 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 6(1).
- 47 As to the appointment of an election agent for elections to the National Assembly for Wales see PARA 242 ante.
- 48 Ie as required by the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 35 (see PARA 242 ante).
- 49 *Ibid* Sch 5 para 4(1), Sch 5 para 6(1).
- 50 As to references to a group of party list candidates for the purposes of a Welsh Assembly regional election see PARA 237 note 23 ante.
- 51 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 7(1). Where a party nomination paper has been delivered in accordance with Sch 5 para 7, the registered political party is regarded as having submitted a party list under the Government of Wales Act 1998 s 5 (see PARA 234 ante): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 7(5). However, where in accordance with Sch 5 a party nomination paper is held to be invalid (see PARA 271 post) or

where all the candidates included on the list otherwise cease to stand nominated, the party ceases to be regarded as having submitted a party list under the Government of Wales Act 1998 s 5: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 7(6). The provisions of the Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for the purposes of submitting a party list after that date see the Government of Wales Act 2006 s 7; and PARA 234 ante.

52 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 11(1). As to the making of objections in relation to nomination papers at a Welsh Assembly election see PARA 271 note 35 post.

53 Ibid Sch 5 para 11(2)(a). For the meaning of 'Assembly constituency' in this context see PARA 3 note 1 ante.

54 For these purposes, 'registration area' means the area of two or more Assembly constituencies which have the same registration officer: ibid Sch 5 para 11(5).

55 Ibid Sch 5 para 11(2)(b).

56 A place in relation to a regional election must be in the Assembly electoral region: ibid Sch 5 para 11(4).

57 Ibid Sch 5 para 11(3).

58 For the meanings of 'list' and 'registered party' for these purposes see PARA 237 note 30 ante. As to the system of candidature whereby registered parties submit lists of candidates see PARA 345 post.

59 As to European parliamentary elections see PARA 224 et seq ante.

60 For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

61 As to publication of the notice of a European parliamentary election see PARA 230 ante.

62 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9, Sch 1 para 1. As to the date of the poll at a European parliamentary election see PARA 229 ante.

63 For the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante.

64 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 4(1). Where a nomination paper is delivered in respect of the same person after an earlier paper in respect of that person has been delivered, that later paper is deemed to supersede the earlier one: Sch 1 para 4(4).

65 As to the establishment of electoral regions for the purpose of elections to the European Parliament see PARA 76 ante.

66 As to returning officers at European parliamentary elections see PARA 365 et seq post.

67 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 6(1). Where a nomination paper and list of candidates are delivered in respect of the same registered party after an earlier paper and list have been so delivered, that later paper and list is deemed to supersede the earlier ones: Sch 1 para 6(6).

68 Ibid Sch 1 para 11.

UPDATE

260-273 Nomination of Candidates

SI 2000/427 replaced: Greater London Authority Rules 2007, SI 2007/3541.

262-274 Form and supply of nomination papers ... Statutory definition of 'election expenses'

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

267 Delivery of nomination papers

NOTES 20, 22, 27--SI 2002/185 reg 3(1), Sch 1 rr 1, 6 now the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 rr 1, 6, 7.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(ii) Nomination of Candidates/268. Nomination proceedings and the inspection of papers.

268. Nomination proceedings and the inspection of papers.

At a parliamentary election¹, except for the purpose of delivering a nomination paper² or assisting the returning officer³, no person is entitled to attend the proceedings during the time for delivery of nomination papers or for making objections to them⁴ unless he is⁵: (1) a person standing nominated as a candidate⁶; or (2) the election agent⁷, proposer or seconder of such a person⁸; or (3) a representative of the Electoral Commission who is entitled⁹ to attend certain election proceedings and to observe the working practices of certain electoral officials¹⁰. For the persons mentioned above¹¹, the right to attend so conferred includes the right to inspect, and to object to the validity of, any nomination paper¹². One other person chosen by the candidate is entitled to be present at the delivery of the candidate's nomination, and may afterwards, so long as the candidate stands nominated, attend the proceedings during the time for delivery of nomination papers or for making objections to them, but without any right to inspect or to object to the validity of any nomination paper¹³.

For the purposes of a local government election¹⁴, or an election for the return of an elected local authority mayor¹⁵, any person may inspect and take copies of, or extracts from, nomination papers and consents to nomination¹⁶ during ordinary office hours on any day, other than an excepted day¹⁷, after the latest time for delivery of nomination papers and before the date of the poll¹⁸.

For the purposes of a constituency election¹⁹ or a regional election²⁰ for the return of members of the National Assembly for Wales²¹, except for the purpose of delivering a nomination paper²² or of assisting the appropriate returning officer²³, no person is entitled to attend the proceedings during the time for delivery of nomination papers²⁴ or for making objections to them unless he is²⁵: (a) a person standing nominated as a candidate²⁶; (b) the election agent of such a person²⁷; or (c) the registered nominating officer of a registered political party²⁸ that has delivered a certificate²⁹ authorising the description of a candidate at a constituency election or that has submitted a party list at a regional election³⁰. The right to attend so conferred includes the right to inspect, and to object to the validity of, any nomination paper³¹. A candidate's spouse or civil partner is entitled to be present at the delivery of the nomination paper by which that candidate is nominated, and may afterwards, so long as the candidate stands nominated, attend the proceedings during the time for delivery of nomination papers or for making objections to them, but without any right to inspect or to object to the validity of any nomination paper³².

For the purposes of a European parliamentary election³³, except for the purpose of delivering a nomination paper or of assisting the returning officer³⁴, no person is entitled to attend the proceedings during the time for delivery of nomination papers or for making objections to them unless he is³⁵: (i) a person standing nominated as an individual candidate³⁶ or included in a list of candidates³⁷; (ii) the election agent either of a registered party which has submitted a nomination or of an individual candidate³⁸; or (iii) a person authorised in writing to deliver a nomination paper³⁹. The right to attend so conferred includes the right to inspect, and to object to the validity of, any nomination paper or list of candidates⁴⁰.

Where the proceedings for or in connection with nomination at a parliamentary election, at an election for the return of members of the National Assembly for Wales, or at a European parliamentary election, are on any day interrupted or obstructed by riot or open violence, the proceedings must be abandoned for that day⁴¹. If that day is the last day for the delivery of

nomination papers⁴², the proceedings must be continued on the next day as if that were the last day for their delivery⁴³; and that day is treated for these purposes as being the last day for such delivery unless there is further interruption or obstruction⁴⁴. Where proceedings are so abandoned, nothing may be done after they are continued if the time for doing it had passed at the time of the abandonment⁴⁵; and nothing done before the abandonment is invalidated by reason of the abandonment⁴⁶.

1 For the meaning of 'parliamentary election' see PARA 9 ante.

2 As to the time and place for the delivery of nomination papers see PARA 267 ante.

3 As to the returning officer for parliamentary elections and the performance of his duties see PARA 355 et seq post.

4 As to the making of objections to nomination papers at a parliamentary election see PARA 271 note 16 post.

5 Representation of the People Act 1983 s 23(1), Sch 1 r 11(1).

6 Ibid Sch 1 r 11(1)(a). For the meaning of 'candidate' generally see PARA 237 ante. As to the nomination of candidates see PARA 260 et seq ante.

7 Where a candidate acts as his own election agent he may name one other person who is entitled to attend in place of his election agent: ibid Sch 1 r 11(1). As to the appointment of an election agent for parliamentary elections see PARA 238 ante.

8 Ibid Sch 1 r 11(1)(b). Where a person stands nominated by more than one nomination paper, only the persons subscribing as proposer and seconder to such one of those papers as he may select or, in default of such a selection, to that one of those papers which is first delivered, is entitled to attend as his proposer and seconder: Sch 1 r 11(2). As to the subscription of nomination papers see PARA 264 ante.

9 Ie by virtue of the Political Parties, Elections and Referendums Act 2000 ss 6A, 6B (both as added) (see PARA 48 ante).

10 Representation of the People Act 1983 Sch 1 r 11(1)(c) (added by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 83(1), (2)).

11 The rights conferred by the Representation of the People Act 1983 Sch 1 r 11(3) (see the text and note 12 infra) do not apply to a person mentioned in Sch 1 r 11(1)(c) (as added) (see text head (3)): Sch 1 r 11(3A) (added by the Electoral Administration Act 2006 Sch 1 paras 69, 83(1), (3)).

12 Representation of the People Act 1983 Sch 1 r 11(3).

13 Ibid Sch 1 r 11(4) (amended by the Electoral Administration Act 2006 Sch 1 paras 69, 83(1), (4)).

14 For the meaning of 'local government election' see PARA 10 ante.

15 As to elections for the return of a local authority mayor see PARA 205 ante.

16 As to a candidate's consent to nomination see PARA 265 ante.

17 Ie other than a day specified in the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)-(3), Sch 1 r 4(1), Sch 2 r 4(1), Sch 3 r 4(1), the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 4(1), the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 2(1) or the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 2(1) (as to which see PARA 218 note 1 ante).

18 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 11, Sch 2 r 12, Sch 3 r 12; Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 12; Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 11; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 11. As to the date of the poll at an election for the return of a local authority elected mayor see PARA 205 ante; and as to the date of the poll at local government elections (including elections to fill vacancies) see PARAS 213-216 ante.

19 For the meaning of 'constituency election' for the purposes of elections to the National Assembly for Wales see PARA 3 note 1 ante.

20 For the meaning of 'regional election' in this context see PARA 3 note 1 ante.

21 As to elections to the National Assembly for Wales generally see PARA 220 et seq ante. As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

22 In the case of a constituency election, the paper referred to in the text is that of an individual candidate ('an individual nomination paper') and, in the case of a regional election, the paper so referred to may be either an individual nomination paper or a party nomination paper relating to a party list candidate: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 12(1), (2). For the meanings of 'individual candidate', 'party list' and 'party list candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante.

23 For these purposes, 'appropriate returning officer' means a constituency returning officer in relation to a constituency election and a regional returning officer in relation to a regional election: see *ibid* art 2(1); and PARA 242 note 7 ante. For the meanings of 'constituency returning officer' and 'regional returning officer' see PARA 18 note 2 ante.

24 As to the time for delivery of nomination papers see PARA 267 ante. See also note 23 *supra*.

25 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 12(1), (2).

26 *Ibid* Sch 5 para 12(1)(a), (2)(a). In the case of a regional election, the candidate referred to in the text may be either an individual or a party list candidate: Sch 5 para 12(1)(a), (2)(a).

27 *Ibid* Sch 5 para 12(1)(b), (2)(b). However, where an individual candidate at either a constituency or regional election acts as his own election agent, or where a party list candidate at a regional election acts as election agent for a group of party list candidates, he may name one other person who is entitled to attend in place of his election agent: Sch 5 para 12(1), (2). As to references to a group of party list candidates for the purposes of a regional election see PARA 237 note 23 ante. As to the appointment of an election agent for elections to the National Assembly for Wales see PARA 242 ante.

28 For the meaning of 'registered political party' for these purposes see PARA 222 note 8 ante.

29 Is a certificate under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 5(1) (see PARA 263 ante).

30 *Ibid* Sch 5 para 12(1)(c), (2)(c).

31 *Ibid* Sch 5 para 12(3), (4). In relation to a constituency election, the paper referred to in the text is an individual nomination paper: Sch 5 para 12(3), (4). However, in relation to a regional election, the reference may be either to an individual nomination paper or to a party nomination paper and in the latter case the right to attend includes the right to object to the nomination of a party list candidate: Sch 5 para 12(4).

32 *Ibid* Sch 5 para 12(5) (amended by SI 2005/2114).

33 As to European parliamentary elections see PARA 224 et seq ante.

34 As to returning officers at European parliamentary elections see PARA 365 et seq post.

35 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9, Sch 1 para 12(1).

36 For the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante.

37 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 12(1)(a). The text refers to inclusion in a list of candidates under Sch 1 para 7 (see PARA 263 ante).

38 *Ibid* Sch 1 para 12(1)(b). For the meaning of 'registered party' for these purposes see PARA 237 note 30 ante. As to the appointment of the election agent of a registered party or for an individual candidate at a European parliamentary election see PARA 246 ante.

39 *Ibid* Sch 1 para 12(1)(c).

40 *Ibid* Sch 1 para 12(2).

41 Representation of the People Act 1983 Sch 1 r 16(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 19(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 18(1)(a).

42 The nomination papers, in the case of a National Assembly for Wales constituency election, or individual or party nomination papers, in the case of a National Assembly for Wales regional election: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 19(b)(i), (ii).

43 Representation of the People Act 1983 Sch 1 r 16(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 19(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 18(1)(b).

44 Representation of the People Act 1983 Sch 1 r 16(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 19(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 18(1).

45 Representation of the People Act 1983 Sch 1 r 16(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 19(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 18(2)(a).

46 Representation of the People Act 1983 Sch 1 r 16(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 19(2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 18(2)(b). Accordingly, objections made, and decisions taken, before the proceedings are abandoned are preserved.

UPDATE

260-273 Nomination of Candidates

SI 2000/427 replaced: Greater London Authority Rules 2007, SI 2007/3541.

262-274 Form and supply of nomination papers ... Statutory definition of 'election expenses'

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

268 Nomination proceedings and the inspection of papers

TEXT AND NOTES 1-13--The returning officer must not permit a home address form to be inspected otherwise than in accordance with the Representation of the People Act 1983 Sch 1 r 11, or for some other purpose authorised by law: Sch 1 r 11(5) (added by the Political Parties and Elections Act 2009 s 24(3)(b)).

TEXT AND NOTE 12--Representation of the People Act 1983 Sch 1 r 11(3) amended to include reference to 'associated home address form': Political Parties and Elections Act 2009 s 24(3)(a).

NOTES 17, 18--SI 2002/185 reg 3(1), Sch 1 rr 4, 12 now the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 rr 4, 13.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(ii) Nomination of Candidates/269. Withdrawal of candidate.

269. Withdrawal of candidate.

An individual candidate at an election¹ may withdraw his candidature by notice of withdrawal signed by him and attested by one witness² and delivered to the appropriate returning officer³ at the place for delivery of nomination papers⁴. Such notice must be delivered: (1) within the time for the delivery of nomination papers, in the case of a parliamentary or European parliamentary election⁵; (2) not later than noon on the sixteenth day before the day of election, in the case of a local government election or an election for the return of an elected local authority mayor⁶; or (3) not later than noon on the seventeenth day before the day of election, in the case of a Welsh Assembly election⁷. A candidate at a local government principal area council election who is validly nominated for more than one electoral area of the same local government area⁸, or a candidate at a local government parish or community council election who is validly nominated for more than one ward of the same parish or community⁹, must withdraw from his candidature in all those electoral areas or all those wards (as the case may be) except one, and if he does not so withdraw he is deemed to have withdrawn from his candidature in all those electoral areas or all those wards (as the case may be)¹⁰. At a poll consequent on a parish meeting involving an appointment to office¹¹, a candidate may withdraw his candidature by a notice of withdrawal signed by him and attested by one witness and delivered at the office appointed by the returning officer¹² no later than noon on the fourth day after the day on which the poll was demanded¹³.

Where a candidate (except a candidate at a European parliamentary election) is outside the United Kingdom¹⁴, a notice of withdrawal signed: (a) by his proposer¹⁵; or (b) in the case of elections to the Greater London Authority or for the return of an elected local authority mayor, by his election agent¹⁶; or (c) in the case of Welsh Assembly elections, by any person, and accompanied by a written declaration also so signed of the candidate's absence from the United Kingdom, is of the same effect as a notice of withdrawal signed by the candidate¹⁷. In the case of a Welsh Assembly constituency or regional election or any election where the candidate stands nominated by more than one individual nomination paper, the notice of withdrawal must be accompanied, in addition to the declaration, by a written statement signed by the candidate that the person giving the notice is authorised to do so on the candidate's behalf during his absence from the United Kingdom¹⁸. Alternatively, but only in the case of parliamentary elections and local government elections which are not Greater London Authority elections, the notice of withdrawal and the accompanying declaration are also effective if the notice and declaration are signed by all the proposers except any one who is, and is stated in the declaration to be, outside the United Kingdom¹⁹.

At a Welsh Assembly regional election, a registered political party²⁰ may withdraw the candidature of any or all of a group of party list candidates²¹ for the party by notice of withdrawal signed by the party's registered nominating officer²² and delivered to the regional returning officer at the place for the delivery of individual or party nomination papers²³. At a European parliamentary election, the nominating officer of a registered party²⁴ or a person authorised in writing by him may withdraw the nomination of that party by a notice of withdrawal signed by him and delivered to the returning officer at the place for delivery of nomination papers²⁵.

A person who knowingly publishes a false statement of the withdrawal of a candidate for the purposes of promoting the election of another candidate is guilty of an illegal practice²⁶; and a

person who corruptly induces the withdrawal of a candidate, and a candidate withdrawing in pursuance of such an inducement, may be guilty of an illegal payment²⁷.

1 le at a parliamentary election, a local government election, an election for the return of an elected local authority mayor, a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'local government election' see PARA 10 ante; and for the meanings of 'constituency election' and 'regional election' for the purposes of Welsh Assembly elections see PARA 3 note 1 ante. For the meaning of 'candidate' generally see PARA 237 ante. For the meaning of 'individual candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante; and for the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante. As to elections for the return of a local authority mayor see PARA 205 ante; as to elections to the National Assembly for Wales generally see PARA 220 et seq ante; and as to European parliamentary elections see PARA 224 et seq ante.

2 Representation of the People Act 1983 s 23(1), Sch 1 r 13(1)(a); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)-(3), Sch 1 r 12(1)(a), Sch 2 r 13(1)(a), Sch 3 r 13(1)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 13(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 15(1)(a), (2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9, Sch 1 para 14(1)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 13(1)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 13(1)(a). At an election for the return of an elected local authority mayor, and at a London Authority election, it is specified that the name and address of the witness must be given: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 12(1)(a), Sch 2 r 13(1)(a), Sch 3 r 13(1)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 13(1)(a). For the purposes of elections for the return of members of the National Assembly for Wales, 'appropriate returning officer' means a constituency returning officer in relation to a constituency election and a regional returning officer in relation to a regional election: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 2(1); and PARA 242 note 7 ante. For the meanings of 'constituency returning officer' and 'regional returning officer' for these purposes see PARA 18 note 2 ante.

3 As to returning officers for parliamentary elections see PARA 355 et seq post; as to returning officers for local government elections (including elections for the return of a local authority mayor) see PARA 359 et seq post; and as to returning officers at European parliamentary elections see PARA 365 et seq post. In the case of an election for the return of constituency members of the London Assembly only, the appropriate returning officer is the constituency returning officer (for the meaning of which see PARA 218 note 8 ante); and in the case of an election for the return of London members of the London Assembly and for the return of an elected Mayor of London, it is the Greater London returning officer (for the meaning of which see PARA 218 note 7 ante).

4 Representation of the People Act 1983 Sch 1 r 13(1)(b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 12(1)(b), Sch 2 r 13(1)(b), Sch 3 r 13(1)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 13(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 15(1)(b), (2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 14(1)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 13(1)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 13(1)(b). As to the place for the delivery of nomination papers see PARA 267 ante. In the case of a Welsh Assembly regional election, the notice is delivered to the place or a place for delivery of individual or party nomination papers: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 15(2)(b).

5 Representation of the People Act 1983 Sch 1 r 1; European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 1. As to the day of election at a parliamentary election see PARA 202 ante; and as to the day of election at a European parliamentary election see PARA 229 ante.

6 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 3(1), Sch 2 r 3(1), Sch 3 r 3(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 3; Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 1; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 1. As to the day of election at the election of a local authority mayor see PARA 205 ante; and as to the day of election at a local government election see PARA 213 ante.

7 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 1(1). As to the day of election at a Welsh Assembly election see PARA 220 ante.

8 For the meaning of 'electoral area' see PARA 10 ante; and for the meaning of 'local government area' see PARA 18 note 2 ante.

9 As to parishes and their councils generally see LOCAL GOVERNMENT vol 69 (2009) PARA 27 et seq; and as to communities and their councils generally see LOCAL GOVERNMENT vol 69 (2009) PARA 41 et seq.

10 Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 12; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 12.

11 As to polls consequent on a parish or community meeting see PARA 214 et seq ante.

12 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 3(1). As to the returning officer at a poll consequent on parish meeting and the office he appoints for the poll see PARA 361 post.

13 Ibid Schedule r 1.

14 For the meaning of 'United Kingdom' see PARA 13 note 1 ante. As to candidates at European parliamentary elections see PARA 235 ante.

15 As to the subscription of nomination papers see PARA 264 ante.

16 The provisions which govern the appointment of an election agent for parliamentary and local government elections (including London Authority elections) are applied with modifications for the purpose of elections for the return of a local authority mayor: see PARA 238 ante.

17 Representation of the People Act 1983 Sch 1 r 13(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 12(2), Sch 2 r 13(2), Sch 3 r 13(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 13(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 15(3)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 13(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 13(2).

18 Representation of the People Act 1983 Sch 1 r 13(2)(b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 12(2), Sch 2 r 13(2), Sch 3 r 13(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 13(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 15(3)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 13(2)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 13(2)(b).

19 Representation of the People Act 1983 Sch 1 r 13(2)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 13(2)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 13(2)(a).

20 For the meaning of 'registered political party' for these purposes see PARA 222 note 8 ante.

21 For the meanings of 'party list' and 'party list candidate', and as to references to a group of party list candidates, at a Welsh Assembly regional election see PARA 237 note 23 ante.

22 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 15(4) (a). As to a party's registered nominating officer see PARA 260 ante.

23 Ibid Sch 5 para 15(4)(b).

24 For the meaning of 'registered party' for these purposes see PARA 237 note 30 ante.

25 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 14(2).

26 See PARA 683 post.

27 See PARA 686 post.

UPDATE

260-273 Nomination of Candidates

SI 2000/427 replaced: Greater London Authority Rules 2007, SI 2007/3541.

262-274 Form and supply of nomination papers ... Statutory definition of 'election expenses'

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

269 Withdrawal of candidate

NOTES--SI 2002/185 reg 3(1), Sch 1 rr 3, 13 now the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 rr 3, 15.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(ii) Nomination of Candidates/270. Validity of nomination.

270. Validity of nomination.

Where a nomination paper¹ and the candidate's consent to it² are delivered³ (and, where required, a deposit is made⁴ and additional documents delivered⁵) in accordance with the relevant rules, the candidate is deemed to stand nominated unless and until⁶: (1) the appropriate returning officer⁷ decides that the nomination paper is invalid⁸; or (2) proof is given, to the appropriate returning officer's satisfaction, of the candidate's death⁹; or (3) the candidate withdraws¹⁰. Where, for the purposes of an election of London members of the London Assembly, a party list and the consent of each candidate included in such a list are delivered and a deposit is made in accordance with the relevant rules, that party and each candidate on its list are deemed to stand nominated unless and until the Greater London returning officer decides that the list is invalid¹¹. However, where, in respect of a candidate included in such a party list¹²: (a) proof is given, to the satisfaction of the Greater London returning officer, of his death¹³; (b) he withdraws or his candidature is withdrawn¹⁴; (c) his particulars in that list are not as required by law¹⁵; or (d) the consent to nomination of that candidate is not duly delivered¹⁶, the Greater London returning officer must delete the name and address of that candidate from the list¹⁷. A party list candidate at a Welsh Assembly regional election ceases to stand nominated if proof is given, to the regional returning officer's satisfaction, of his death¹⁸ or if he withdraws¹⁹; and the regional returning officer is entitled to hold that the candidate ceases to stand nominated if: (i) the candidate's particulars are not as required by law²⁰; (ii) he is disqualified by the Representation of the People Act 1981²¹; or (iii) he is excluded from the submitted list of candidates under the Government of Wales Act 2006²². Where a party list candidate at a Welsh Assembly regional election ceases to stand nominated in one of these ways, it does not of itself prevent any other candidate included on the party list from continuing to stand nominated²³. In the case of a registered party at a European parliamentary election²⁴, where a nomination paper and list²⁵ are delivered and a deposit is made in accordance with the rules, the party and the candidates on its list are deemed to stand nominated unless and until the returning officer determines that the nomination paper or list is invalid²⁶. However, the returning officer must delete the name and address of any such candidate from the list where²⁷: (A) the particulars of any candidate in the list of candidates accompanying the nomination paper of a political party are not as required by law²⁸; (B) the consent to nomination of any such candidate is not delivered in accordance with the rules²⁹; or (C) any such candidate is a relevant citizen of the Union and a declaration and certificate have not been duly delivered³⁰.

It is submitted that a returning officer could refuse to include in the statement of persons nominated³¹ a candidate who on the foregoing grounds has not been validly nominated³²; but it is doubtful that a returning officer is able to declare a candidate not validly nominated on other grounds³³. A returning officer at a parliamentary election or at a local government election for a principal area, parish or community council may, if he thinks fit, correct minor errors in a nomination paper³⁴, at any time before the publication of the statement of persons nominated³⁵. Anything so done by a returning officer must not be questioned in any proceedings other than proceedings on an election petition³⁶.

1 As to the form and supply of nomination papers and the particulars required see PARA 262 et seq ante. At an election for the return of London members of the London Assembly, or for the return of constituency members of the National Assembly for Wales, or at a European parliamentary election, the nomination paper

referred to in the text is that of an individual candidate ('an individual nomination paper'). At a Welsh Assembly regional election, the nomination paper may be either an individual nomination paper or a party nomination paper relating to a party list candidate. For the meanings of 'constituency election' and 'regional election', in relation to a Welsh Assembly election, see PARA 3 note 1 ante; and for the meanings of 'individual candidate', 'party list' and 'party list candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante. For the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante. As to references to nomination papers and to party lists in elections for the return of London members of the London Assembly see PARA 262 note 24 ante.

2 As to the consent to nomination required of a candidate see PARA 265 ante.

3 As to the delivery of nomination papers see PARA 267 ante.

4 As to the requirement for a deposit to be made by candidates at a parliamentary election, at an election of constituency members or London members of the London Assembly, at an election for the return of a local authority mayor, at an election for the return of constituency or regional members of the National Assembly for Wales, and at a European parliamentary election see PARA 266 ante; and see *Boyce v White* (1905) 92 LT 240, DC; *Brown v Benn* (1889) 53 JP 167, DC. A deposit is also required at an election for the return of a Mayor of London but the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 10(1) does not make the deposit a condition for a candidate being deemed to stand nominated, although Sch 3 r 9(1) does state that a person is not validly nominated as a candidate unless the deposit specified therein is made: see PARA 266 ante.

5 The additional documents mentioned in the text are the declaration and certificate required under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9, Sch 1 para 9(2), (3) where the candidate at a European parliamentary election is a relevant citizen of the Union (see PARA 236 ante). For the meaning of 'relevant citizen of the Union' for these purposes see PARA 159 note 6 ante.

6 Representation of the People Act 1983 s 23(1), Sch 1 r 12(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), (2), Sch 1 r 9(1), Sch 2 r 10(1), Sch 3 r 10(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 10(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 paras 13(1), 14(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 13(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 8(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 8(1).

7 As to returning officers for parliamentary elections see PARA 355 et seq post; as to returning officers for local government elections (including elections for the return of a local authority mayor) see PARA 359 et seq post; and as to returning officers at European parliamentary elections see PARA 365 et seq post. In the case of an election for the return of constituency members of the London Assembly only, the appropriate returning officer is the constituency returning officer (for the meaning of which see PARA 218 note 8 ante); and in the case of an election for the return of London members of the London Assembly and for the return of an elected Mayor of London, it is the Greater London returning officer (for the meaning of which see PARA 218 note 7 ante). For the purposes of elections for the return of members of the National Assembly for Wales, 'appropriate returning officer' means, in relation to a constituency election, a constituency returning officer (for the meaning of which see PARA 18 note 2 ante) and, in relation to a regional election, a regional returning officer (for the meaning of which see PARA 18 note 2 ante): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 2(1); and PARA 242 note 7 ante.

8 Representation of the People Act 1983 Sch 1 r 12(1)(a); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 9(1)(a), Sch 2 r 10(1)(a), Sch 3 r 10(1)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 10(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 paras 13(1)(a), 14(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 13(1)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 8(1)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 8(1)(a). As to decisions regarding the validity of nomination papers see PARA 271 post.

9 Representation of the People Act 1983 Sch 1 r 12(1)(b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 9(1)(b), Sch 2 r 10(1)(b), Sch 3 r 10(1)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 10(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 paras 13(1)(b), 14(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 13(1)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 8(1)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 8(1)(b). Where, for the purposes of an election of London members of the London Assembly, before the date appointed for the poll, proof is given, to the satisfaction of the Greater London returning officer, that one of the persons named or to be named as an individual candidate in the ballot papers has died, the Greater London returning officer must inform each constituency returning officer of that

fact (in addition to complying with any other requirement of the rules relevant to that event): Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 13(3).

10 Representation of the People Act 1983 Sch 1 r 12(1)(c); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 9(1)(c), Sch 2 r 10(1)(c), Sch 3 r 10(1)(c); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 10(1)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 paras 13(1)(c), 14(1)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 13(1)(c); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 8(1)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 8(1)(c). As to withdrawal of a candidate see PARA 269 ante.

11 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 10(3). As to decisions regarding the validity of party lists see PARA 271 post.

12 Ibid Sch 2 r 10(5).

13 Ibid Sch 2 r 10(5)(a). Where, for the purposes of an election of London members of the London Assembly, before the date appointed for the poll, proof is given, to the satisfaction of the Greater London returning officer, that one of the persons whose name appears on a party list has died, the Greater London returning officer must inform each constituency returning officer of that fact (in addition to complying with any other requirement of the rules relevant to that event): Sch 2 r 13(3).

14 Ibid Sch 2 r 10(5)(b). The reference in the text to a candidature being withdrawn is a reference to withdrawal in accordance with Sch 2 r 13(3) (see notes 9, 13 supra; and PARA 269 ante).

15 Ibid Sch 2 r 10(5)(c).

16 Ibid Sch 2 r 10(5)(d). The reference in the text to delivery is a reference to delivery of the consent to nomination of that candidate delivered in accordance with Sch 2 r 8 (see PARA 265 ante).

17 Ibid Sch 2 r 10(5).

18 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 14(3)(a).

19 Ibid Sch 5 para 14(3)(b).

20 Ibid Sch 5 para 14(3)(b)(i).

21 Ibid Sch 5 para 14(3)(b)(ii). The text refers to a candidate being disqualified under the Representation of the People Act 1981 as it is applied by the Government of Wales Act 2006 s 16(3) (see PARA 234 ante). The provisions of the Government of Wales Act 2006 supersede those of the Government of Wales Act 1998 immediately after the ordinary election held in 2007 under s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes before that date see the Government of Wales Act 1998 s 12(3); and PARA 234 ante. As to disqualification by the Representation of the People Act 1981 generally see PARA 271 note 10 post; and as to that Act as applied for these purposes see PARA 271 note 26 post.

22 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 14(3)(b)(iii). The text refers to a person who may not be included in a registered party's list of candidates for return as Welsh Assembly regional members because he falls within the Government of Wales Act 2006 s 7(5) (see PARA 234 ante). The provisions of the Government of Wales Act 2006 supersede those of the Government of Wales Act 1998 immediately after the ordinary election held in 2007 under s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes before that date see the Government of Wales Act 1998 s 5(5); and PARA 234 ante.

23 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 14(4).

24 For the meaning of 'registered party' for these purposes see PARA 237 note 30 ante.

25 I.e. a list of candidates under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 7 (see PARA 263 ante). For the meaning of 'list' for these purposes see PARA 237 note 30 ante. As to the system of candidature whereby registered parties submit lists of candidates see PARA 345 post.

26 Ibid Sch 1 para 13(2).

27 Ibid Sch 1 para 13(5).

28 Ibid Sch 1 para 13(5)(a).

29 Ibid Sch 1 para 13(5)(b).

30 Ibid Sch 1 para 13(5)(c). The text refers to the declaration and certificate duly delivered under Sch 1 para 9(2), (3) where the candidate at a European parliamentary election is a relevant citizen of the Union (see PARA 236 ante).

31 As to the statement of persons nominated see PARA 272 post.

32 *Monks v Jackson* (1876) 1 CPD 683; *Cutting v Windsor* (1924) 40 TLR 395; and see *R v Soothill, ex p Ashdown* (1955) Times, 21 April. In *Howes v Turner* (1876) 1 CPD 670 (a decision under the Municipal Elections Act 1875 s 1 (repealed)), where the notice of the last day for delivery of nomination papers was erroneous, it was argued that the mayor had no power to deal with objections based on the ground that nomination papers were delivered too late; although the headnote to the case states that the mayor had no power to deal with such objections, this appears to go beyond the actual decision of the court which was that the statutory provision in question, namely, that the decision of the mayor disallowing an objection to a nomination paper should be final (cf para 271 post), was limited to objections to the form of a nomination paper (cf para 271 post) and that his decision on other matters, eg the time of delivery, was open to review on an election petition; in this case the court held the election void by reason of the erroneous notice. *Monks v Jackson* supra is express authority for the view that a mayor should not declare to be duly nominated candidates who have failed to comply with the statutory provisions relating to nomination. In *Cutting v Windsor* supra, the mayor decided that he had no jurisdiction to entertain an objection based on the ground that a nomination paper was delivered too late; while the court did not express an opinion on this point, Avory J stated that the town clerk had no discretion to receive the nomination paper.

It would appear that the returning officer's decision on these questions to include or to refuse to include a candidate's name on the ground of the alleged validity or invalidity of his nomination is not final and may be questioned on an election petition: see PARA 271 post. See also *Brown v Benn* (1889) 53 JP 167, DC; *Boyce v White* (1905) 92 LT 240, DC. Where there is only one opponent and that opponent is not validly nominated, a candidate might apply to the High Court for judicial review to order the returning officer to declare that candidate elected: *R v Soothill, ex p Ashdown* supra. However, a court will hesitate to intervene in a contested election which is ongoing, except on limited grounds, preferring to leave the candidates to the remedies available once polling has finished: see eg para 730 post.

33 Eg if the candidate's nomination paper did not conform to the prescribed form, as this is not a ground on which the returning officer can declare a nomination paper invalid: see PARA 271 post. In *Marton v Gorill* (1889) 23 QBD 139, DC, the name of the electoral division had been omitted from a nomination paper at a county council election. The returning officer held the nomination paper invalid, but the High Court held that the defect was cured by a statutory provision that an election should not be invalidated by a mistake in the use of a form. This provision does not now apply to elections. The omission of the name of the constituency or electoral area would not be a misnomer or inaccurate description which could be cured by the Representation of the People Act 1983 s 50 (see PARA 263 ante; and see *Baldwin v Ellis* [1929] 1 KB 273, DC); nor would the Representation of the People Act 1983 ss 23(3), 48(1) (see PARA 670 post) apply to nominations (*Gothard v Clarke* (1880) 5 CPD 253; *Baldwin v Ellis* supra).

34 For these purposes, errors which may be corrected include errors as to a person's electoral number and obvious errors of spelling in relation to the details of a candidate: Representation of the People Act 1983 Sch 1 r 14A(2) (Sch 1 r 14A added by the Electoral Administration Act 2006 s 19(1), (8)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 10(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 10(2). For the meaning of 'electoral number' see PARA 160 ante.

Any amendment effected by the Electoral Administration Act 2006 s 19 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

35 Representation of the People Act 1983 Sch 1 r 14A(1) (as added: see note 34 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 10(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 10(1). A returning officer must have regard to any guidance issued by the Electoral Commission for these purposes: Representation of the People Act 1983 Sch 1 r 14A(4) (as so added); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 10(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 10(4). See note 34 supra. As to the Electoral Commission see PARA 31 et seq ante.

36 Representation of the People Act 1983 Sch 1 r 14A(3) (as added: see note 34 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 10(3); Local Elections (Parishes and

Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 10(3). See note 34 supra. As to election petitions see PARA 759 et seq post.

UPDATE

260-273 Nomination of Candidates

SI 2000/427 replaced: Greater London Authority Rules 2007, SI 2007/3541.

262-274 Form and supply of nomination papers ... Statutory definition of 'election expenses'

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

270 Validity of nomination

TEXT AND NOTES 2, 3--For 'consent to it' read 'consent to it and the home address form': Representation of the People Act 1983 Sch 1 r 12(1) (amended by the Political Parties and Elections Act 2009)

NOTES 6-10--SI 2002/185 reg 3(1), Sch 1 r 10 now the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 11.

TEXT AND NOTE 8--After the words 'decides that the nomination paper is invalid,' add the words 'the returning officer decides that the home address form does not comply with the Representation of the People Act 1983 Sch 1 r 6(4) (see PARA 263)': Sch 1 r 12(1) (aa) (added by the Political Parties and Elections Act 2009 s 24(4)(b)).

TEXT AND NOTES 34, 35--Representation of the People Act 1983 Sch 1 r 14A(1), (2) amended to include reference to home address forms as well as nomination papers: Political Parties and Elections Act 2009 Sch 6 para 8.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(ii) Nomination of Candidates/271. Decisions as to validity of nomination papers.

271. Decisions as to validity of nomination papers.

The returning officer at a parliamentary election¹, at a local government election² or at an election for the return of an elected local authority mayor³ is entitled to hold a nomination paper for an individual candidate⁴ invalid only on one of the following grounds⁵: (1) that the particulars of the candidate⁶ or of the persons subscribing (or witnessing) the paper⁷ are not as required by law⁸; (2) that the paper is not subscribed (or witnessed) as so required⁹; and (3) in the case of a parliamentary election, that the candidate is disqualified by the Representation of the People Act 1981¹⁰. At an election for the return of London members of the London Assembly, the Greater London returning officer is entitled to hold a party list¹¹ invalid only on one of the following grounds¹²: (a) that the number of candidates on the list is greater than 25¹³; (b) that the list does not contain the statement¹⁴ that it is issued by the nominating officer of the party or by a person authorised in writing by him¹⁵. At a local government election or at an election for the return of an elected local authority mayor, the returning officer is obliged to examine each nomination paper as soon as practicable after it has been delivered and then decide whether the candidate has been validly nominated¹⁶.

The returning officer at a parliamentary election must give his decision on any objection to a nomination paper as soon as practicable after delivery of the nomination paper and, in any event, before the end of the period of 24 hours starting with the close of the period for delivery of nomination papers¹⁷.

At a constituency election¹⁸ or a regional election¹⁹ for the return of members of the National Assembly for Wales²⁰, the appropriate returning officer²¹ is entitled to hold an individual nomination paper²² invalid only on one of the following grounds²³: (i) that the particulars of the candidate are not as required by law²⁴; (ii) that the paper is not subscribed as so required²⁵; (iii) that the candidate is disqualified by the Representation of the People Act 1981²⁶; and (iv) in the case of an individual candidate at a regional election, that he is excluded from being such a candidate by the Government of Wales Act 2006²⁷. At a regional election, the regional returning officer is entitled to hold a party nomination paper invalid only on one of the following grounds²⁸: (A) that it does not include the registered name of the party²⁹; (B) that the name so required is not duly authorised³⁰ or that the certificate authorising the name has not been combined with the delivered paper³¹; (C) that it is not subscribed as so required³²; (D) that the party list includes more than 12 persons³³; or (E) that each candidate included on the party list has ceased to stand nominated³⁴. The appropriate returning officer must give his decision on any objection to an individual nomination paper, a party nomination paper or to a party list candidate (as the case may be) as soon as practicable after it is made³⁵.

The returning officer at a European parliamentary election³⁶ is entitled to hold a nomination paper of an individual candidate³⁷ invalid only on the ground that the particulars of the candidate are not as required by law³⁸ or on the ground that the candidate is disqualified by the Representation of the People Act 1981³⁹. The returning officer is entitled to hold a nomination paper of a registered party⁴⁰, together with the list of candidates⁴¹ accompanying it, invalid only on the ground that the contents of the nomination paper are not as required by law⁴² or on the ground that the number of candidates in the list exceeds the number of members of the European Parliament ('MEPs') to be elected in the electoral region at the election⁴³. The returning officer must give his decision on any objection to a nomination paper (or accompanying list) as soon as practicable after it is made⁴⁴.

The returning officer's duties with regard to the validity of nomination papers do not go beyond seeing that each form is correct on its face⁴⁵; if the papers comply with the forms, it is no part of the returning officer's function to consider whether there are grounds for disqualifying the candidate (other than where the rules so provide)⁴⁶. The appropriate returning officer's decision on the validity of a nomination paper (or, as the case may be, party list or party list candidature⁴⁷) is final and must not be questioned in any proceeding whatsoever⁴⁸, except that nothing prevents the validity of a nomination being questioned on an election petition⁴⁹. Where the appropriate returning officer decides that a nomination paper (or, as the case may be, party list or party list candidature⁵⁰) is invalid, he must endorse and sign on the paper (or, as the case may be, the list) that fact and the reasons for his decision⁵¹. The returning officer at a local government election or at an election for the return of an elected local authority mayor also must send notice of his decision regarding the validity or invalidity of a nomination paper (or, as the case may be, party list or party list candidature) to each candidate at his home address as given in his nomination paper⁵².

1 For the meaning of 'parliamentary election' see PARA 9 ante. As to the returning officer for parliamentary elections and the performance of his duties see PARA 355 et seq post.

2 For the meaning of 'local government election' see PARA 10 ante. As to returning officers for local government elections see PARA 359 et seq post. In the case of an election for the return of constituency members of the London Assembly only, the appropriate returning officer is the constituency returning officer (for the meaning of which see PARA 218 note 8 ante); and in the case of an election for the return of London members of the London Assembly and for the return of an elected Mayor of London, it is the Greater London returning officer (for the meaning of which see PARA 218 note 7 ante).

3 As to elections for the return of a local authority mayor see PARA 205 ante; and as to returning officers for such elections see PARA 359 et seq post.

4 As to the nomination of candidates at an election see PARA 260 et seq ante. At an election for the return of London members of the London Assembly, the nomination paper referred to in the text is that of an individual candidate ('an individual nomination paper'). As to references to nomination papers in elections for the return of London members of the London Assembly see PARA 262 note 24 ante.

5 Representation of the People Act 1983 s 23(1), Sch 1 r 12(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)-(3), Sch 1 r 9(2), Sch 2 r 10(2), Sch 3 r 10(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 10(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 8(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 8(2). Where a person is twice nominated, once by a nomination paper with correct and once by a nomination paper with incorrect particulars, the incorrect nomination does not avoid the correct nomination: *Northcote v Pulsford* (1875) 1 LR 10 CP 476; and see PARA 272 post.

6 For the meaning of 'candidate' generally see PARA 237 ante. As to the particulars required in nomination papers see PARA 263 ante.

7 As to the subscription of nomination papers see PARA 264 ante. An individual candidate's nomination paper at an election for the return of London members of the London Assembly is witnessed rather than subscribed: see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 10(2)(a).

8 Representation of the People Act 1983 Sch 1 r 12(2)(a); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 9(2)(a), Sch 2 r 10(2)(a), Sch 3 r 10(2)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 10(2)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 8(2)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 8(2)(a). When considering whether to hold a nomination paper invalid on this ground, the returning officer's duty includes, if he so wishes, a check to see whether the electoral numbers of those who propose, second and assent to the nomination as given on the nomination paper are the same as those numbers as given in the register of electors: see *Greenway-Stanley v Paterson* [1977] 2 All ER 663 at 670, DC, per O'Connor J. However, the returning officer is not entitled to investigate the facts underlying a name given in the particulars which, on their face, are unobjectionable (*Greenway-Stanley v Paterson* supra at 670 per O'Connor J) or an address which is given (*R v Election Court, ex p Sheppard* [1975] 2 All ER 723, [1975] 1 WLR 1319, DC). A possible exception might arise where the nomination on its face puts the returning officer on enquiry: *Greenway-Stanley v Paterson* supra at 671 per Wien J, who nevertheless expressly disapproved the view of Paull J in *Re Melton Mowbray (Egerton Ward) UDC Election* [1969] 1 QB 192 at 198, [1968] 3 All ER 761 at 763 that the returning officer has the opportunity to make such enquiries as he may think right. A returning

officer at a parliamentary election may correct obvious spelling mistakes in the candidate's details or minor errors as to a person's electoral number: see the Representation of the People Act 1983 Sch 1 r 14A (as added); and PARA 270 ante.

The phrase 'as required by law' may be assumed to refer to the law relating to nomination at elections, although in *Sanders v Chichester* [1995] 03 LS Gaz R 37, (1994) Times, 2 December, a case considering a potentially misleading party description used at a European parliamentary election before such matters were regulated (see PARA 260 ante), the phrase was given a wider meaning to embrace descriptions that might contravene the general law or involve the returning officer in a breach of the law (where, for instance, the particulars given were obscene, racist or an incitement to crime). The scope for particulars of the candidate or of persons subscribing the paper to be 'not as required by law' in this wider sense seems limited, although false, deliberately misleading or mischievously-chosen particulars may constitute a fraudulent device or contrivance under the Representation of the People Act 1983 s 115(2)(b) (as amended) (see PARA 726 post).

9 Representation of the People Act 1983 Sch 1 r 12(2)(b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 9(2)(b), Sch 2 r 10(2)(b), Sch 3 r 10(2)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 10(2)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 8(2)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 8(2)(b). In the case of an individual candidate's nomination paper at an election for the return of London members of the London Assembly, the reference is to the paper being not witnessed as so required: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 10(2)(b); and see note 8 supra.

10 Representation of the People Act 1983 Sch 1 r 12(2)(c). Under the Representation of the People Act 1981, a person found guilty of one or more offences, whether before or after 2 July 1981 (ie the date on which the Act was passed) and whether in the United Kingdom or elsewhere, and sentenced or ordered to be imprisoned or detained indefinitely, or for more than one year, is disqualified for membership of the House of Commons while detained anywhere in the British Islands or the Republic of Ireland in pursuance of the sentence or order or while unlawfully at large at a time when he would otherwise be so detained: s 1. If such a person is nominated for election as a member of that House, his nomination is void: s 2(1). 'British Islands' means the United Kingdom, the Channel Islands and the Isle of Man: Interpretation Act 1978 s 5, Sch 1. There is no statutory definition of the 'Channel Islands'. For the meaning of 'United Kingdom' see PARA 13 note 1 ante. As to the effect of disqualification under the Representation of the People Act 1981 see PARLIAMENT vol 78 (2010) PARA 902.

In relation to a parliamentary election, if it appears to the returning officer that any of the persons nominated might be disqualified by the Representation of the People Act 1981, he must, as soon as practicable after the expiry of the time allowed for the delivery of nomination papers, prepare and publish a draft of the statement required under the Representation of the People Act 1983 Sch 1 r 14 (see PARA 272 post): Sch 1 r 15(1). The draft must be headed 'Draft statement of persons nominated' and it must omit the names of the persons subscribing the papers but must contain a notice stating that any person who wishes to object to the nomination of any candidate on the ground that he is disqualified for nomination under the Representation of the People Act 1981 may do so between the hours of ten in the morning and four in the afternoon on the day and at the place specified in the notice: Representation of the People Act 1983 Sch 1 r 15(2). The day so specified is to be the day next after the last day for the delivery of nomination papers: Sch 1 para 15(2).

11 As to references to party lists in elections for the return of London members of the London Assembly see PARA 262 note 24 ante.

12 As well as the grounds stated in heads (a) and (b) in the text, the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 10(4)(a) provides the ground that the name stated under Sch 2 r 7(2) breaches that rule. However, Sch 2 r 7(2), which provided that each party list must include the name by which the party wishes to be known for the purposes of the election and that name must not be such as would be likely to lead voters to associate that party with another registered party, has been revoked: see the Greater London Authority Elections (Amendment) Rules 2001, SI 2001/3789, r 3(c), Schedule Pt II para 4.

13 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 10(4)(b).

14 *Ie* under *ibid* Sch 2 r 7(5) (see PARA 263 ante).

15 *Ibid* Sch 2 r 10(4)(c). As to the registered nominating officer of a party see PARA 260 ante.

16 *Ibid* Sch 1 r 9(3), Sch 2 r 10(6), Sch 3 r 10(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 10(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 8(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 8(3). In the case of an election for the return of London members of the London Assembly, the candidate mentioned in the text may be an individual candidate or, as the case may be, each candidate included in a party's list: see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 10(6).

The examination of nomination papers at a local government election (except for a Greater London Authority election) is subject to the proviso that if, in the returning officer's opinion, a paper breaks the rule, in relation to local government elections for principal area councils, in the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 5(1) or Sch 2 r 5(3) or, in relation to local government elections for parishes and communities, in the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 5(1) or Sch 2 r 5(3) (candidate unduly associated with a registered political party: see PARA 263 ante), as the case may be, he must give a decision to that effect as soon as practicable after the delivery of the nomination paper and, in any event, before the end of the period of 24 hours starting with the close of the period for delivery of nomination papers (as to which see PARA 267 ante): Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 8(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 8(4).

The examination of nomination papers at a local authority mayoral election is subject to the proviso that if, in the returning officer's opinion, a paper breaks the rule in the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 6(5) (candidate unduly associated with a registered political party: see PARA 263 ante), as the case may be, he must give a decision to that effect as soon as practicable after the last time for the delivery of nomination papers (as to which see PARA 267 ante): Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 10(4).

17 Representation of the People Act 1983 Sch 1 r 12(3) (amended by the Registration of Political Parties Act 1998 s 13, Sch 2 para 3(2); and the Electoral Administration Act 2006 s 19(1), (6)). As to the period for delivery of nomination papers see PARA 267 ante. The Representation of the People Act 1983 Sch 1 r 12(3) (as amended) is subject to the proviso that if, in the returning officer's opinion, a nomination paper breaks the rule in Sch 1 r 6A(1) (as added and amended) or Sch 1 r 6A(1B) (as added) (candidate associated with a registered political party: see PARA 263 ante), he must give a decision to that effect as soon as practicable after delivery of the nomination paper and, in any event, before the end of the period of 24 hours starting with the close of the period for delivery of nomination papers set out in Sch 1 r 1 (as to which see PARA 267 ante): Sch 1 r 12(3A) (added by the Registration of Political Parties Act 1998 s 13, Sch 2 para 3(3); and amended by the Electoral Administration Act 2006 ss 19(1), (7), 74(1), Sch 1 paras 104, 130). Any amendment effected by the Electoral Administration Act 2006 s 19 or by Sch 1 paras 104, 130 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. Until that date, the returning officer at a parliamentary election must give his decision under the Representation of the People Act 1983 Sch 1 r 12(3) (as amended) or under Sch 1 r 12(3A) (as added) on any objection to a nomination paper only as soon as practicable after delivery of the nomination paper; and the reference in Sch 1 r 12(3A) (as added) to a nomination paper breaking Sch 1 r 6A(1B) (as added) is omitted.

For the purposes of a parliamentary general election or by-election, objections to nomination papers must be made during the hours allowed for delivery of nomination papers on the last day for their delivery and the hour following: Sch 1 r 1. However, no objection may be made in the afternoon of that last day except to a nomination paper delivered within 24 hours of the last time for its delivery and, in the case of a nomination paper so delivered, no objection may be so made to the sufficiency or nature of the particulars of a candidate unless made at or immediately after the time of the delivery of the nomination paper: Sch 1 r 1(a). The timetable set out in Sch 1 r 1 does not apply to objections made in pursuance of Sch 1 r 15(2), for which separate provision is made (see note 10 supra): Sch 1 r 1(b).

The extent of the returning officer's jurisdiction in relation to objections to a nomination paper which have not been specifically raised by persons attending the nomination is not clear. In *R v Taylor* (1895) 59 JP 393 (a municipal election case), Lord Russell CJ said that it was not the duty of the returning officer to look for objections and still less to point out possible objections to rival candidates for that would shake the confidence which the electors ought to have in his impartiality. At local government elections, there is no provision for candidates to attend the nomination and to object, and the obligation on the returning officer to examine the nomination papers and to satisfy himself that they are valid is more explicitly stated: see the text and note 17 infra.

18 For the meaning of 'constituency election' for the purposes of elections to the National Assembly for Wales see PARA 3 note 1 ante.

19 For the meaning of 'regional election' in this context see PARA 3 note 1 ante.

20 As to elections to the National Assembly for Wales generally see PARA 220 et seq ante. As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

21 For these purposes, 'appropriate returning officer' means a constituency returning officer in relation to a constituency election and a regional returning officer in relation to a regional election: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 2(1); and PARA 242 note 7 ante. For the meanings of 'constituency returning officer' and 'regional returning officer' see PARA 18 note 2 ante.

22 The paper referred to in the text ('an individual nomination paper') is the nomination paper of an individual candidate. For the meaning of 'individual candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante.

23 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 13(2).

24 Ibid Sch 5 para 13(2)(a). Head (i) in the text includes the ground, at a constituency election, that an individual nomination paper breaches Sch 5 para 5(1) (candidate unduly associated with a registered political party: see PARA 263 ante): Sch 5 para 13(2)(a).

25 Ibid Sch 5 para 13(2)(b).

26 Ibid Sch 5 para 13(2)(c). The text refers to a candidate being disqualified under the Representation of the People Act 1981 as it is applied by the Government of Wales Act 2006 s 16(3) (see PARA 234 ante). The provisions of the Government of Wales Act 2006 supersede those of the Government of Wales Act 1998 immediately after the ordinary election held in 2007 under s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes before that date see the Government of Wales Act 1998 s 12(3); and PARA 234 ante. As to disqualification by the Representation of the People Act 1981 see also note 10 supra.

In relation to an Assembly election, if it appears to the appropriate returning officer that any of the persons nominated might be disqualified by the Representation of the People Act 1981 (as so applied) he must, as soon as practicable after the expiry of the time allowed for the delivery of individual nomination papers (in the case of a constituency election) or individual or party nomination papers (in the case of a regional election), prepare and publish a draft of the statement required by the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 16 or Sch 5 para 17 (see PARA 272 post): Sch 5 para 18(1). The draft must be headed (in the case of a constituency election) 'Draft statement of persons nominated, datganiad drafft o'r personau a enwebwyd' or (in the case of a regional election) 'Draft statement of persons nominated and registered political parties which have submitted a party list, datganiad drafft o'r personau a enwebwyd a'r pleidiau gwleidyddol cofrestredig sydd wedi cyflwyno rhestr blaid', and it must contain a notice stating that any person who wishes to object to the nomination of any candidate on the ground that he is disqualified for nomination under the Representation of the People Act 1981 (as so applied) may do so between the hours of ten in the morning and four in the afternoon on the day and at the place specified in the notice: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 18(2). The day to be specified is the day next after the last day for the delivery of individual or party nomination papers: Sch 5 para 18(2). In relation to a Welsh Assembly election, a 'party nomination paper' is a nomination paper relating to a party list candidate. For the meanings of 'party list' and 'party list candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante.

27 Ibid Sch 5 para 13(2)(d). The text refers to exclusion arising from the fact that a person may not be an individual candidate to be an Assembly member for the Assembly electoral region if he falls within the Government of Wales Act 2006 s 7(6) (see PARA 234 ante). The provisions of the Government of Wales Act 2006 supersede those of the Government of Wales Act 1998 immediately after the ordinary election held in 2007 under s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes before that date see the Government of Wales Act 1998 s 5(6); and PARA 234 ante.

28 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 14(2).

29 Ibid Sch 5 para 14(2)(a). The text refers to a party nomination paper that breaches Sch 5 para 7(2) (see PARA 263 ante).

30 Ie so that the party nomination paper breaches ibid Sch 5 para 8(1) (see PARA 263 ante).

31 Ibid Sch 5 para 14(2)(b). The text refers to a party nomination paper that breaches Sch 5 para 8(3) (see PARA 263 ante).

32 Ibid Sch 5 para 14(2)(c).

33 Ibid Sch 5 para 14(2)(d).

34 Ibid Sch 5 para 14(2)(e). As to the ways in which a candidate included on such a party list may cease to stand nominated see PARA 270 ante.

35 Ibid Sch 5 paras 13(3), 14(5). An objection made to an individual nomination paper refers only to the case of a constituency election: see Sch 5 para 13(3). This is subject to the proviso that if, in the constituency returning officer's opinion, an individual nomination paper breaches Sch 5 para 5(1) (candidate unduly associated with a registered political party: see PARA 263 ante), he must give a decision to that effect as soon as

practicable after the close of the period for the delivery of nomination papers (as to which see PARA 267 ante): Sch 5 para 13(4). An objection made either to a party nomination paper or to a party list candidate refers to the case of a regional election only: see Sch 5 para 14(5). This is subject to the proviso that if, in the regional returning officer's opinion, a party nomination paper breaches Sch 5 para 7(2) (see note 29 supra), Sch 5 para 8(1) (see note 30 supra) or Sch 5 para 8(3) (see note 31 supra), he must give a decision to that effect as soon as practicable after the close of the period for the delivery of nomination papers (as to which see PARA 267 ante): Sch 5 para 14(6).

Objections to nomination papers at Assembly elections must be made during the hours allowed for delivery of nomination papers on the last day for their delivery and the hour following: Sch 5 para 1(1). However, no objection may be made in the afternoon of that last day except to a nomination paper delivered within 24 hours of the last time for its delivery and, in the case of a nomination paper so delivered, no objection may be so made to the sufficiency or nature of the particulars of a candidate unless made at or immediately after the time of the delivery of the nomination paper: Sch 5 para 1(1)(a). The timetable set out in Sch 5 para 1 does not apply to objections made under Sch 5 para 18(2), for which separate provision is made (see note 26 supra): Sch 5 para 1(1)(b).

36 As to European parliamentary elections see PARA 224 et seq ante; and as to returning officers at European parliamentary elections see PARA 365 et seq post.

37 For the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante.

38 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9, Sch 1 para 13(3)(a).

39 Ibid Sch 1 para 13(3)(b). The text refers to a candidate being disqualified under the Representation of the People Act 1981 as it applies in respect of the office of member of the European Parliament ('MEP') by virtue of the European Parliamentary Elections Act 2002 s 10(1)(a) (see PARA 235 ante). As to disqualification by the Representation of the People Act 1981 see also note 10 supra. For the purposes of the combined region (as to which see PARA 76 ante), the text refers also to any corresponding provision in respect of detained offenders in Gibraltar made under the European Parliamentary Elections Act 2002 s 10(4A) (as added) (Secretary of State may by order provide for persons of a description connected to Gibraltar to be disqualified from the office of MEP: see PARA 235 ante).

In relation to a European parliamentary election, if it appears to the returning officer that any of the persons nominated as an individual candidate might be disqualified by the Representation of the People Act 1981 (as so applied) he must, as soon as practicable after the expiry of the time allowed for the delivery of nomination papers, prepare and publish a draft of the statement required by the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 15 (see PARA 272 post) but limited to persons standing as individual candidates only: Sch 1 para 17(1). The draft must be headed 'Draft statement of individual candidates nominated' and it must contain a notice stating that any person who wishes to object to the nomination of any individual candidate on the ground that he is disqualified for nomination under the Representation of the People Act 1981 (as so applied) may do so between the hours of ten in the morning and four in the afternoon on the day and at the place specified in the notice: European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 17(2). The day to be specified is the day next after the last day for the delivery of nomination papers: Sch 1 para 17(2).

40 For the meaning of 'registered party' for these purposes see PARA 237 note 30 ante.

41 For the meaning of 'list' for these purposes see PARA 237 note 30 ante. As to the system of candidature whereby registered parties submit lists of candidates see PARA 345 post.

42 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 13(4)(a).

43 Ibid Sch 1 para 13(4)(b). The text refers to the number of candidates in the list breaching Sch 1 para 7(1) (see PARA 263 ante). As to the establishment of electoral regions for the purpose of elections to the European Parliament see PARA 76 ante.

44 Ibid Sch 1 para 13(6). For the purposes of European parliamentary elections, objections to nomination papers or to a list of candidates of a registered party must be made during the hours allowed for delivery of nomination papers on the last day for their delivery and the hour following: Sch 1 para 1. However, no objection may be made in the afternoon of that last day except to a nomination paper delivered within 24 hours of the last time for its delivery and, in the case of a nomination paper so delivered, no objection may be so made to the sufficiency or nature of the particulars of a registered party or candidate on the party's list or individual candidate unless made at or immediately after the time of the delivery of the nomination paper: Sch 1 para 1(a). The timetable set out in Sch 1 para 1 does not apply to objections made in pursuance of Sch 1 para 17(2), for which separate provision is made (see note 39 supra): Sch 1 para 1(b).

45 *R v Election Court, ex p Sheppard* [1975] 2 All ER 723 at 726, [1975] 1 WLR 1319 at 1324, DC, per Lord Widgery CJ. Nor do the rules alter the nominee's duty to present valid nomination papers in time by providing

for any overall urgency or by raising a legitimate expectation that the returning officer will inspect the papers and identify any errors in them within the time limits: see *R (on the application of De Beer) v Balabanoff* [2002] EWHC 670 (Admin), (2002) Times, 25 April (cited in PARA 263 note 12 ante); applied in *R (on the application of Begum) v Tower Hamlets London Borough Council* [2006] EWCA Civ 733, [2006] All ER (D) 19 (May). A returning officer at a parliamentary election may correct minor errors in nomination forms: see the Representation of the People Act 1983 Sch 1 r 14A (as added); and PARA 270 ante.

46 *Pritchard v Bangor Corpn* (1888) 13 App Cas 241, HL; *Watson v Ayton* [1946] KB 297. These cases predated the grounds for disqualifying a candidate under the Representation of the People Act 1981, for which certain rules mentioned in the text now provide: see notes 10, 26, 39 supra.

47 In the case of an election for the return of London members of the London Assembly, the decision referred to in the text relates either to an individual nomination paper or to a party list: see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 10(9). In the case of a regional election for the return of members of the National Assembly for Wales, the regional returning officer's decision relates either to whether a party nomination paper is valid (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 14(8)(a)) or to whether a party list candidate continues to stand nominated (see PARA 270 ante) (Sch 5 para 14(8)(b)). In the case of a European parliamentary election, the returning officer's decision relates to whether a nomination paper and, where applicable, its accompanying list, is valid: European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 13(9).

48 Representation of the People Act 1983 Sch 1 r 12(5); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 9(6), Sch 2 r 10(9), Sch 3 r 10(6); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 10(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 paras 13(6), 14(8); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 13(9); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 8(7); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 8(7).

In *R v Election Court, ex p Sheppard* [1975] 2 All ER 723, [1975] 1 WLR 1319, DC, it was held that the validity of a nomination could be questioned before the election court where a nomination paper did not correctly state the candidate's home address, even though the returning officer did not declare the nomination paper invalid and the defect in the paper was not apparent on inspection; but cf *Watson v Ayton* [1946] KB 297.

49 Representation of the People Act 1983 Sch 1 r 12(6); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 9(7), Sch 2 r 10(10), Sch 3 r 10(7); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 10(8); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 paras 13(7), 14(9); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 13(10); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 8(8); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 8(8). See *R v Election Court, ex p Sheppard* [1975] 2 All ER 723, [1975] 1 WLR 1319, DC; *R v Acting Returning Officer for Devon, ex p Sanders* [1994] LG Rev 581, (1994) Times, 30 May (returning officer's decision regarding validity of nomination stood while electoral process in train; challenge should be made afterwards through channels provided and not pre-empted by an application for judicial review). As to election petitions see *Budge v Andrews* (1878) 3 CPD 510, DC; and see PARA 759 et seq post.

50 In the case of an election for the return of London members of the London Assembly, the decision referred to in the text relates to whether an individual nomination paper is invalid (Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 10(7)(a)) or to whether a party list is invalid or to whether the name and address of a list candidate should be deleted from the list (see PARA 270 ante) (Sch 2 r 10(7)(b)). In the case of an election for the return of regional members of the National Assembly for Wales, the regional returning officer's decision relates either to whether a party nomination paper is valid (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 14(7)(a)) or to whether a party list candidate must cease to stand nominated (see PARA 270 ante) (Sch 5 para 14(7)(b)). In the case of a European parliamentary election, the returning officer's decision relates to whether a nomination paper is invalid (European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 13(7)) or to whether any name should be deleted from the list of candidates of a registered party (see PARA 270 ante) (Sch 1 para 13(8)).

51 Representation of the People Act 1983 Sch 1 r 12(4) (amended by the Registration of Political Parties Act 1998 Sch 2 para 3(4)); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 9(4), Sch 2 r 10(7)(a), (b), Sch 3 r 10(4); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 10(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 paras 13(5), 14(7); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 13(7), (8); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 8(5); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 8(5).

52 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 9(5), Sch 2 r 10(8)(a), Sch 3 r 10(5); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 10(6); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 8(6); Local Elections

(Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 8(6). For the purpose of a London Authority election, it is specified that the notice must be sent as mentioned in the text as soon as practicable after the decision has been made: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 9(5), Sch 2 r 10(8), Sch 3 r 10(5). In the case of a party list candidate at an election for the return of London members of the London Assembly, the notice referred to in the text must also be sent to the party's nominating officer: see Sch 2 r 10(8)(b). For the meaning of 'Authority election' in this context see PARA 10 ante.

UPDATE

260-273 Nomination of Candidates

SI 2000/427 replaced: Greater London Authority Rules 2007, SI 2007/3541.

262-274 Form and supply of nomination papers ... Statutory definition of 'election expenses'

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

271 Decisions as to validity of nomination papers

NOTES--SI 2002/185 reg 3(1), Sch 1 rr 6, 10 now the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 rr 6, 7, 11.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(ii) Nomination of Candidates/272. Publication of statement of persons nominated.

272. Publication of statement of persons nominated.

At any election¹, the appropriate returning officer² must prepare and publish a statement³ showing the persons who have been and stand nominated as candidates⁴; and it must also show any other persons who have been so nominated, with the reason why they no longer stand nominated⁵. For the purposes of an election where registered political parties may stand and nominate by submitting lists of candidates⁶, the statement must show each registered party which has been and stands nominated, together with that party's list of candidates⁷; and it must also show any other parties or persons (as the case may be) who have been nominated, together with the reason why they no longer stand nominated⁸.

Such a statement must be published: (1) in the case of a parliamentary election⁹, if no objections to nomination papers are made, at the close of the time for doing so or, if any such objections are made, not before they are disposed of but not later than 24 hours after the last time for delivery of nomination papers¹⁰; (2) in the case of a local government election or an election for the return of an elected local authority mayor, not later than noon on the seventeenth day before the day of election¹¹; (3) in the case of a Welsh Assembly election, not later than noon on the sixteenth day before the day of election¹²; or (4) in the case of a European parliamentary election, at the close of the time for making objections to nomination papers or list of candidates of registered parties or as soon afterwards as any objections are disposed of¹³.

The statement of persons nominated at an election must show the names, addresses and descriptions, if any, of the persons nominated as given in their nomination papers¹⁴ with the names arranged alphabetically in the order of their surnames, and, if there are two or more with the same surname, of their other names¹⁵. The statement of persons nominated at a parliamentary election must also include the names of the persons subscribing the nomination papers¹⁶. For the purposes of elections where registered political parties may stand and nominate by submitting lists of candidates, the statement must also show¹⁷, in respect of the registered political parties which stand nominated, the names of those parties¹⁸, arranged together in alphabetical order¹⁹, and (in respect of each such party) the names and home addresses of the candidates who appear on the list as given in that list²⁰ and arranged in the order in which their details appear on that list²¹.

In the case of a person nominated by more than one nomination paper²², the appropriate returning officer must take the required particulars from one of the papers selected by the candidate (or by the returning officer in default of the candidate) or, in relation to a Welsh Assembly regional election, by the party's registered nominating officer²³. At a contested parliamentary election, a candidate standing nominated may require the returning officer to include in the statement the names of the persons subscribing a second and third nomination paper²⁴.

At a parliamentary, Welsh Assembly or European parliamentary election, the appropriate returning officer must send to the Electoral Commission²⁵ a copy of the statement of persons nominated²⁶ and, in the case of each candidate standing nominated in respect of whom the returning officer has received a certificate properly authorising the candidate's description²⁷, a copy of that certificate as well²⁸. The returning officer at a European parliamentary election must also forward a copy of the statement, immediately following its publication, to the local returning officer²⁹ for each local counting area³⁰ wholly or partly contained in the electoral

region³¹; and, as soon as practicable after receipt of the copy, each local returning officer must publish it at a place within the area for which he acts³².

At a contested election, except a local government election, the returning officer must include in the statement of persons nominated a notice of the poll, stating the day on which and hours during which the poll will be taken³³. Where the statement shows that a nominated candidate is unopposed (or that there are at least as many offices to be filled as there are nominated candidates), the appropriate returning officer must declare the unopposed candidate (or candidates) to be elected³⁴.

1 In relation to a parliamentary election, a local government election, an election for the return of a local authority mayor, a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'local government election' see PARA 10 ante; and for the meanings of 'constituency election' and 'regional election' for the purposes of Welsh Assembly elections see PARA 3 note 1 ante. As to elections for the return of a local authority mayor see PARA 205 ante; as to elections to the National Assembly for Wales generally see PARA 220 et seq ante; and as to European parliamentary elections see PARA 224 et seq ante.

2 As to returning officers for parliamentary elections see PARA 355 et seq post; as to returning officers for local government elections (including elections for the return of a local authority mayor) see PARA 359 et seq post; and as to returning officers at European parliamentary elections see PARA 365 et seq post. In the case of an election for the return of constituency members of the London Assembly only, the appropriate returning officer is the constituency returning officer (for the meaning of which see PARA 218 note 8 ante); and in the case of an election for the return of London members of the London Assembly and for the return of an elected Mayor of London, it is the Greater London returning officer (for the meaning of which see PARA 218 note 7 ante). For the purposes of elections for the return of members of the National Assembly for Wales, 'appropriate returning officer' means, in relation to a constituency election, a constituency returning officer (for the meaning of which see PARA 18 note 2 ante) and, in relation to a regional election, a regional returning officer (for the meaning of which see PARA 18 note 2 ante): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 2(1); and PARA 242 note 7 ante.

3 As to the publication of notices by the appropriate officer at a parliamentary election see PARA 238 note 12 ante. The appropriate returning officer must prepare and publish a draft statement in certain circumstances: see PARA 271 ante.

In relation to a regional election for the return of members of the National Assembly for Wales, a regional returning officer must prepare the statement showing the details specified in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 17(1)(a) (see the text and notes 4-5 infra) and Sch 5 para 17(1)(b) (see the text and notes 6-8 infra) and deliver, or cause to be delivered, the statement to each constituency returning officer for an Assembly constituency in the Assembly electoral region and, on such receipt, a constituency returning officer must publish it: see Sch 5 para 17(1), (2). The statement of persons nominated and of registered political parties which have submitted a party list which is required by Sch 5 para 17 is referred to as a 'statement of persons nominated', except for the purposes of Sch 5 para 18 (draft statement of persons nominated: see PARA 271 note 26 ante): Sch 5 para 17(11). For the meanings of 'Assembly constituency' and 'Assembly electoral region' for these purposes see PARA 3 note 1 ante.

In relation to a European parliamentary election, the statement is known as the 'statement of parties and individual candidates nominated': European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9, Sch 1 para 15(1). See also note 7 infra.

4 For the meaning of 'candidate' generally see PARA 237 ante. The reference in the text is to persons nominated as 'individual candidates' for the purposes of: (1) elections for the return of London members of the London Assembly (see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 2 r 11(1)(b)); (2) a regional election for the return of members of the National Assembly for Wales (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 17(1)(a)); or (3) European parliamentary elections (European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 15(1)(b)). For the meaning of 'individual candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante; and for the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante.

5 Representation of the People Act 1983 s 23(1), Sch 1 r 14(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), (3), Sch 1 r 10(1), Sch 2 r 11(1)(c), Sch 3 r 11(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 11(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 paras 16(1), 17(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 15(1)(c); Local Elections (Principal Areas)

(England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 9(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 9(1).

6 le a European parliamentary election, a Welsh Assembly regional election, or an election for the return of London members of the London Assembly. For the meaning of 'registered political party' for the purposes of a Welsh Assembly election see PARA 222 note 8 ante; and for the meaning of 'party list' at a Welsh Assembly regional election see PARA 237 note 23 ante. For the meanings of 'list' and 'registered party' at a European parliamentary election see PARA 237 note 30 ante. As to references to party lists in elections for the return of London members of the London Assembly see PARA 262 note 24 ante. As to the system of candidature whereby registered parties submit lists of candidates see PARA 345 post.

7 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 11(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 17(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 15(1)(a). For the purposes of a Welsh Assembly regional election, parties nominate themselves by submitting a list of candidates so the text must be taken to refer to registered political parties which have submitted a party list: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 17(1)(b). For the purposes of a European parliamentary election, the reference in the text is to the list of persons who stand nominated as candidates of each registered party: European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 15(1)(a).

8 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 11(1)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 17(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 15(1)(c).

9 le either a parliamentary general election or a by-election. As to parliamentary general elections see PARA 196 et seq ante; and as to parliamentary by-elections see PARA 198 ante.

10 Representation of the People Act 1983 Sch 1 r 1 (amended by the Electoral Administration Act 2006 s 19(1), (2)). Any amendment effected by the Electoral Administration Act 2006 s 19 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. Until that date, the statement of persons nominated at a parliamentary election must be published at the close of the time for making objections to nomination papers or as soon afterwards as any objections are disposed of: Representation of the People Act 1983 Sch 1 r 1. As to the making of objections to nomination papers and the disposal of such objections generally see PARA 271 ante.

11 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 3(1), Sch 2 r 3(1), Sch 3 r 3(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 3; Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 1; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 1. As to the day of election at a local government election see PARA 213 et seq ante.

12 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 1(1). As to the day of election at a Welsh Assembly election see PARA 220 ante.

13 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 1.

14 Representation of the People Act 1983 Sch 1 r 14(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 10(2), Sch 3 r 11(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 11(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 paras 16(2), 17(3)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 15(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 9(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 9(2). As to the particulars required in nomination papers generally see PARA 263 ante.

At a parliamentary election or at a local government election for a principal area, parish or community council, if a person's nomination paper gives a commonly used surname or forename in addition to another name, the statement must show the person's commonly used surname or forename (as the case may be) instead of any other name: Representation of the People Act 1983 Sch 1 r 14(2A) (Sch 1 r 14(2A)-(2C) added by the Electoral Administration Act 2006 s 21(1), (3)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 9(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 9(3). However, this provision does not apply if the returning officer thinks either that the use of the person's commonly used name may be likely to mislead or confuse electors, or that the commonly used name is obscene or offensive: Representation of the People Act 1983 Sch 1 r 14(2B) (as so added); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 9(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 9(4). If the returning officer so thinks, he must give notice in writing to the candidate of his reasons for refusing to allow the use of a commonly used name: Representation of the People Act 1983 Sch 1 r 14(2C) (as so added); Local Elections (Principal Areas)

(England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 9(5); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 9(5).

In the cases of: (1) a constituency or regional election for the return of members of the National Assembly for Wales; or (2) a European parliamentary election, the nomination papers referred to in the text are 'individual nomination papers', ie the nomination papers of individual candidates (as to which see note 4 supra): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 paras 16(2), 17(3) (a); and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 15(3).

Any amendment effected by the Electoral Administration Act 2006 s 21 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

15 Representation of the People Act 1983 Sch 1 r 14(3); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 10(3), Sch 2 r 11(2)(c), Sch 3 r 11(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 11(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 paras 16(3), 17(4)(a), (6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 15(4); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 9(6); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 9(6).

16 Representation of the People Act 1983 Sch 1 r 14(2). As to the subscription of nomination papers see PARA 264 ante.

17 The statements must show the arrangement of individual candidates (see the text and notes 13-14 supra) followed by the arrangement of registered political parties (see the text and notes 17-20 infra): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 17(5); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 11(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 15(4).

18 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 17(3) (b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 11(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 15(2). In the case of an election for the return of London members of the London Assembly, the name of the party must be as given in the list: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 11(2)(a). In the case of a Welsh Assembly regional election, it is specified that the party name must appear together with, in respect each such party, the registered name of the party (ie the description referred to in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 7(2) (see PARA 263 ante)): Sch 5 para 17(3)(b)(i).

19 Ibid Sch 5 para 17(4)(b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 11(2) (a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 15(2).

For these purposes, in relation to a Welsh Assembly election, a registered political party must be shown in the statement by reference to the description referred to in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 7(2) (see PARA 263 ante) in respect of the party (Sch 5 para 17(7) (a)); and alphabetical order is to be determined by disregarding the definite or indefinite article and, where there are two or more words in the description (having disregarded the definite or indefinite article), by reference to the first of those words and, if there are two or more parties with the same first word in the description, of the other words in the description (Sch 5 para 17(7)(b)).

20 Ibid Sch 5 para 17(3)(b)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 15(2). In relation to a Welsh Assembly election, the text must be taken to refer to persons nominated as given in their party nomination papers, a 'party nomination paper' being a nomination paper relating to a party list candidate: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 17(3)(b)(ii). For the meaning of 'party list candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante.

21 Ibid Sch 5 para 17(4)(b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 11(2) (b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 15(2).

22 As to references to nomination papers in elections for the return of London members of the London Assembly see PARA 262 note 24 ante. In relation to a constituency election for the return of members of the National Assembly for Wales, the nomination paper referred to in the text is an individual nomination paper (as to which see note 13 supra): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 paras 16(4), 17(8). In relation to a regional election for the return of members of the National Assembly for Wales, the nomination paper referred to in the text may be either an individual nomination paper or a party nomination paper (ie in the case of a registered political party which has delivered more than one party nomination paper): Sch 5 para 17(9).

23 Representation of the People Act 1983 Sch 1 r 14(4); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 10(4), Sch 2 r 11(3), Sch 3 r 11(4); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 11(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 paras 16(4), 17(8), (9); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 9(7); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 9(7). In relation to a Welsh Assembly regional election, if any candidate is shown standing nominated by a party nomination paper which is not selected as mentioned in the text but is not shown in the selected paper, he no longer stands nominated: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 17(9). As to the registered nominating officer of a registered political party see PARA 260 ante.

24 Representation of the People Act 1983 Sch 1 r 14(4).

25 As to the Electoral Commission see PARA 31 et seq ante.

26 Representation of the People Act 1983 Sch 1 r 14(5)(a) (Sch 1 r 14(5) added by the Political Parties, Elections and Referendums Act 2000 s 158(1), Sch 21 para 6(9)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 paras 16(5)(a), 17(10); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 15(5). The statement referred to in the text is, in the case of a regional Welsh Assembly election, a statement of persons nominated and registered political parties which have submitted a party list; and, in the case of a European parliamentary election, it is known as the 'statement of parties and individual candidates nominated': see note 3 supra.

27 It is a certificate, authorising a description, which has been received by the returning officer, in the case of a parliamentary election, in accordance with either the Representation of the People Act 1983 Sch 1 r 6A(1) (as added and amended) (description associating the candidate with a registered political party: see PARA 263 ante) or Sch 1 r 6(1B) (as added) (description associating the candidate with two or more registered political parties: see PARA 263 ante) or, in the case of elections for the return of members of the National Assembly for Wales, in accordance with the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 5 (name of registered political party: see PARA 263 ante).

28 Representation of the People Act 1983 Sch 1 r 14(5)(b) (as added (see note 25 supra); and amended by the Electoral Administration Act 2006 s 74(1), Sch 1 paras 104, 131); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 16(5)(b).

Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 104, 131 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

29 As to local returning officers appointed for the purposes of elections to the European Parliament see PARA 365 post.

30 For the meaning of 'local counting area' for the purposes of a European parliamentary election see PARA 230 note 11 ante.

31 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 16(1). As to the establishment of electoral regions for the purpose of elections to the European Parliament see PARA 76 ante.

32 Ibid Sch 1 para 16(2).

33 As to the procedure at contested elections see PARA 389 post; and as to notice of the poll see PARA 393 post.

34 As to the procedure at uncontested elections see PARA 477 post.

UPDATE

260-273 Nomination of Candidates

SI 2000/427 replaced: Greater London Authority Rules 2007, SI 2007/3541.

262-274 Form and supply of nomination papers ... Statutory definition of 'election expenses'

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

272 Publication of statement of persons nominated

TEXT AND NOTES--Where (1) two or more of the names shown on the statement are the same or so similar as to be likely to cause confusion, (2) the Representation of the People Act 1983 Sch 1 r 14(3A) applies in relation to each of the persons in question, and (3) the information mentioned in Sch 1 r 6(5)(b) (see PARA 263) is the same for each of them, the returning officer may cause any of their particulars to be shown on the statement with such amendments or additions as the officer thinks appropriate in order to reduce the likelihood of confusion: Sch 1 r 14(4A) (Sch 1 r 14(4A)-(4E) added by the Political Parties and Elections Act 2009 s 24(6)). Where it is practicable to do so before the publication of the statement, the returning officer must consult any person whose particulars are to be amended or added to under Sch 1 r 14(4A): Sch 1 r 14(4B). The returning officer must give notice in writing to any person whose particulars are amended or added to under Sch 1 r 14(4A): Sch 1 r 14(4C). Anything done by a returning officer in pursuance of Sch 1 r 14(4A) must not be questioned in any proceedings other than proceedings on an election petition: Sch 1 r 14(4D). A returning officer must have regard to any guidance issued by the Electoral Commission for the purposes of Sch 1 r 14(4A): Sch 1 r 14(4E).

NOTES--SI 2002/185 reg 3(1), Sch 1 rr 3, 11 now the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 rr 3, 12.

TEXT AND NOTES 14, 15--In relation to a nominated person in whose case the home address form, or if the person is nominated by more than one nomination paper, any of the home address forms, contains (1) the statement mentioned in the Representation of the People Act 1983 Sch 1 r 6(5)(a) (see PARA 263), and (2) the information mentioned in Sch 1 r 6(5)(b) (see PARA 263), the reference in Sch 1 r 6(2) (see PARA 263) to the person's address is to be read as a reference to the information mentioned in r 6(5)(b): Sch 1 r 14(3A) (added by the Political Parties and Elections Act 2009 s 24(5)).

TEXT AND NOTE 14--For 'nomination papers' read 'nomination papers and home address forms': Representation of the People Act 1983 Sch 1 r 14(2) (amended by the Political Parties and Elections Act 2009 Sch 6 para 8).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(ii) Nomination of Candidates/273. Notice of disqualification.

273. Notice of disqualification.

If a candidate, who has been duly nominated¹ and who has not withdrawn², is disqualified to be a candidate³, and an opposing candidate desires that all votes given for the disqualified candidate should be treated as having been thrown away⁴, a notice of the disqualification should be published to the voters⁵. The notice should not be ambiguous⁶.

1 As to the requirements for a candidate to be validly nominated see PARA 262 et seq ante.

2 As to withdrawal see PARA 269 ante.

3 As to disqualification from being a candidate see generally para 231 et seq ante.

4 As to votes given for a disqualified candidate which may be regarded as not given at all or thrown away see PARA 843 post.

5 Although a notice is not essential in all cases to cause votes to be thrown away (see PARA 843 post), the publication of a notice is a wise precaution to take: see *R v Tewkesbury Corp* (1868) LR 3 QB 629, although the actual decision in this case was doubted in *Re Launceston Case, Drinkwater v Deakin* (1874) LR 9 CP 626 at 643 per Brett J, and in *R v Bester* (reported at (1861) 3 LT 667 but without reference to *R v Tewkesbury Corp* supra). Such a notice is not necessary when the candidate is manifestly disqualified: *Hobbs v Morey* [1904] 1 KB 74 at 78, DC. If the notice is defamatory, an action will lie in respect of it: *Bendish v Lindsey* (1708) 11 Mod Rep 193. As to whether such publication will be privileged see PARA 335 post. The notice may be published in the newspapers, or at the entrance to the polling stations or circularised to the voters: *Tipperary County Case* (1875) 3 O'M & H 19 at 20.

It is not essential that the notice should be given to each individual voter. See the following cases decided by the parliamentary committees: *Drogheda Second Case* (1835) Kn & Omb 211; *Cork Case* (1835) Kn & Omb 274 at 291; *Galway Case* (1838) Falc & Fitz 579; *Wakefield Case, Blakeley's Case* (1842) Bar & Aust 270 at 307, 318 (where form of notice will be found at 272-273).

The notice may be signed by any electors (*Newcastle-under-Lyme (No 2) Case* (1842) Bar & Aust 564) or by the election agent (*Galway County Case* (1872) 2 O'M & H 46 at 47).

6 *R v Blizard* (1866) LR 2 QB 55.

UPDATE

260-273 Nomination of Candidates

SI 2000/427 replaced: Greater London Authority Rules 2007, SI 2007/3541.

262-274 Form and supply of nomination papers ... Statutory definition of 'election expenses'

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(iii) Financial Controls on Candidates at Elections where Election Agent is required/A. MEANING OF 'ELECTION EXPENSES'/274. Statutory definition of 'election expenses'.

(iii) Financial Controls on Candidates at Elections where Election Agent is required

A. MEANING OF 'ELECTION EXPENSES'

274. Statutory definition of 'election expenses'.

The following provisions have effect in relation to a parliamentary election, Authority election or election under the local government Act¹.

For the purposes of the statutory provisions which govern the conduct of election campaigns², 'election expenses', in relation to a candidate³ at an election, means any expenses incurred at any time in respect of any of the following matters and used for the purposes of the candidate's election⁴ after the date when he becomes a candidate at the election⁵. Those matters are:

- 316 (1) advertising of any nature (whatever the medium used), including agency fees, design costs and other costs in connection with preparing, producing, distributing or otherwise disseminating such advertising or anything incorporating such advertising and intended to be distributed for the purpose of disseminating it⁶;
- 317 (2) unsolicited material addressed to electors (whether addressed to them by name or intended for delivery to households within any particular area), including design costs and other costs in connection with preparing, producing or distributing such material (including the cost of postage)⁷;
- 318 (3) the transport (by any means) of persons to any place, including the costs of hiring a means of transport for a particular period⁸;
- 319 (4) public meetings (of any kind), including costs incurred in connection with the attendance of persons at such meetings, the hire of premises for the purposes of such meetings or the provision of goods, services or facilities at them⁹;
- 320 (5) the services of an election agent or any other person whose services are engaged in connection with the candidate's election¹⁰;
- 321 (6) accommodation and administrative costs¹¹.

Where: (a) property or goods is or are transferred to the candidate or his election agent¹²; or (b) property, goods, services or facilities is or are provided for the use or benefit of the candidate¹³, either free of charge or at a discount of more than 10 per cent¹⁴, and the property, goods, services or facilities is or are made use of by or on behalf of the candidate in circumstances such that, if any expenses were to be (or are) actually incurred by or on behalf of the candidate in respect of that use, they would be (or are) election expenses incurred by or on behalf of the candidate¹⁵, an amount of election expenses (the 'appropriate amount') is treated, for the purposes of the statutory provisions which govern the conduct of election campaigns, as incurred by the candidate¹⁶, and the candidate's election agent must make a declaration of that amount¹⁷, unless that amount is not more than £50¹⁸. Where head (a) above applies, the appropriate amount is determined as being such proportion of either the market value of the property or goods (where the property or goods is or are transferred free of charge)¹⁹ or the difference between the market value of the property or goods and the amount of expenses

actually incurred by or on behalf of the candidate in respect of the property or goods (where the property or goods is or are transferred at a discount)²⁰, as is reasonably attributable to the use made of the property or goods²¹. Where head (b) above applies, the appropriate amount is determined as being such proportion of either the commercial rate for the use of the property or the provision of the goods, services or facilities (where the property, goods, services or facilities is or are provided free of charge)²² or the difference between that commercial rate and the amount of expenses actually incurred by or on behalf of the candidate in respect of the use of the property or the provision of the services or facilities (where the property, goods, services or facilities is or are provided at a discount)²³, as is reasonably attributable to the use made of the property, goods, services or facilities²⁴.

However, no election expenses are to be regarded as incurred²⁵ in respect of any of the following matters²⁶:

- 322 (i) the payment of any deposit required to be made by a candidate at an election²⁷;
- 323 (ii) the publication of any matter, other than an advertisement, relating to the election in a newspaper or periodical, a broadcast made by the British Broadcasting Corporation or by Sianel Pedwar Cymru, or a programme included in any service licensed under the Broadcasting Act 1990 or the Broadcasting Act 1996²⁸;
- 324 (iii) the provision of any facilities provided in pursuance of any right conferred on candidates at an election by the Representation of the People Act 1983 other than facilities in respect of which expenses fall to be defrayed by virtue of the provisions relating to the use of schools and rooms for election meetings²⁹;
- 325 (iv) the provision by an individual of his own services which he provides voluntarily in his own time and free of charge³⁰;
- 326 (v) accommodation which is the candidate's sole or main residence³¹ or the provision by any other individual of accommodation which is his sole or main residence if the provision is made free of charge³²;
- 327 (vi) transport by a means of transport which was acquired by the candidate principally for his own personal use³³ or transport provided free of charge by any other individual if the means of transport was acquired by him principally for his own personal use³⁴;
- 328 (vii) computing or printing equipment which was acquired by the candidate principally for his own personal use³⁵ or the provision by any other individual of computing or printing equipment which was acquired by the individual principally for his own personal use if the provision is made free of charge³⁶.

The Electoral Commission³⁷ may prepare, and from time to time revise, a code of practice giving guidance as to the matters which do, or do not, fall within the matters specified either in heads (1) to (6) above or in heads (i) to (vii) above³⁸. Once the Commission has prepared a draft of such a code, it must be submitted to the Secretary of State³⁹ for his approval⁴⁰; and he may approve a draft code either without modification or with such modifications as he may determine⁴¹. The Secretary of State may also by order made by statutory instrument make such amendments to the matters specified either in heads (1) to (6) above or in heads (i) to (vii) above as he considers appropriate⁴²; and he may make such an order either where the order gives effect to a recommendation of the Electoral Commission⁴³ or after consultation with the Electoral Commission⁴⁴.

The following provisions do not have effect in relation to a parliamentary or applicable local government election⁴⁵ but continue to have effect in relation to other elections⁴⁶.

For the purposes of the statutory provisions which govern the conduct of election campaigns⁴⁷, 'election expenses', in relation to a candidate⁴⁸ at an election, means any expenses incurred in respect of: (A) the acquisition or use of any property⁴⁹; or (B) the provision by any person of any

goods, services or facilities⁵⁰, which is or are used for the purposes of the candidate's election⁵¹ after the date when he becomes a candidate at the election⁵², regardless of whether the expenses are incurred before or after that date⁵³.

The election expenses are the actual expenses incurred in respect of the acquisition or use of the property, or (as the case may be) the provision of the goods, services or facilities mentioned in heads (A) and (B) above⁵⁴; but where the property, goods, services or facilities is or are not used exclusively for the purposes of the candidate's election, the election expenses so incurred are such proportion of the expenses incurred in respect of their acquisition, use or provision (as the case may be) as is reasonably attributable to the use of the property or (as the case may be) the goods, services or facilities for the purposes of the candidate's election⁵⁵. Where: (aa) property or goods is or are transferred to the candidate or his election agent⁵⁶; or (bb) property, goods, services or facilities is or are provided for the use or benefit of the candidate⁵⁷, either free of charge or at a discount of more than 10 per cent⁵⁸, and the property, goods, services or facilities is or are made use of by or on behalf of the candidate in circumstances such that, if any expenses were to be (or are) actually incurred by or on behalf of the candidate in respect of that use, they would be (or are) election expenses incurred by or on behalf of the candidate⁵⁹, an amount of election expenses (the 'appropriate amount') is treated, for the purposes of the statutory provisions which govern the conduct of election campaigns, as incurred by the candidate⁶⁰, and the candidate's election agent must make a declaration of that amount⁶¹, unless that amount is not more than £50⁶². Where head (aa) above applies, the appropriate amount is determined as being such proportion of either the market value of the property or goods (where the property or goods is or are transferred free of charge)⁶³ or the difference between the market value of the property or goods and the amount of expenses actually incurred by or on behalf of the candidate in respect of the property or goods (where the property or goods is or are transferred at a discount)⁶⁴, as is reasonably attributable to the use made of the property or goods⁶⁵. Where head (bb) above applies, the appropriate amount is determined as being such proportion of either the commercial rate for the use of the property or the provision of the goods, services or facilities (where the property, goods, services or facilities is or are provided free of charge)⁶⁶ or the difference between that commercial rate and the amount of expenses actually incurred by or on behalf of the candidate in respect of the use of the property or the provision of the services or facilities (where the property, goods, services or facilities is or are provided at a discount)⁶⁷, as is reasonably attributable to the use made of the property, goods, services or facilities⁶⁸.

However, no election expenses are to be regarded as incurred⁶⁹ in respect of the payment of any deposit required to be made by a candidate at an election⁷⁰, the publication of any matter, other than an advertisement, relating to the election in a newspaper or periodical, a broadcast made by the British Broadcasting Corporation or by Sianel Pedwar Cymru, or a programme included in any service licensed under the Broadcasting Act 1990 or the Broadcasting Act 1996⁷¹, the provision of any facilities provided in pursuance of any right conferred on candidates at an election by the relevant statutory provisions which govern the conduct of that election⁷², other than facilities in respect of which expenses fall to be defrayed by virtue of the provisions relating to the use of schools and rooms for election meetings⁷³, and the provision by any individual of his own services which he provides voluntarily in his own time and free of charge⁷⁴.

1 The Representation of the People Act 1983 s 90ZA, Sch 4A are added, and ss 90A, 90B (as added) are repealed, by the Electoral Administration Act 2006 s 27(1)-(5); and the Representation of the People Act 1983 ss 90C-90D (as added) and s 118 are amended by the Electoral Administration Act 2006 s 74(1), Sch 1 paras 104, 117-119, 133. Any amendment effected by the Electoral Administration Act 2006 s 27 or Sch 1 paras 104, 116-119 has no effect in relation to a parliamentary by-election, an election under the Local Government Act 1972 s 89 (as amended) (ie an election to fill a casual vacancy: see PARA 209 ante) or an election under the Greater London Authority Act 1999 s 10 (filling a vacancy in an Assembly constituency: see PARA 211 ante) or s 16 (filling a vacancy in the office of Mayor: see PARA 211 ante) where the day of the poll is on or before 3 May 2007 (or, in the case of an uncontested election, would have been had the election been contested): see the

Electoral Administration Act 2006 (Commencement No 1 and Transitional Provisions) Order 2006, SI 2006/1972, art 4, Sch 2 para 2.

The elections referred to in the text and notes 2-44 *infra* may be any of a parliamentary election, an Authority election or an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 *ante*). The Representation of the People Act 1983 does not apply in relation to a constituency or regional election for the return of members of the National Assembly for Wales or to a European parliamentary election and the provisions set out in relation to such elections (as to which see the text and notes 45-74 *infra*) will continue to apply to those elections until such time as the amendments contained in the Electoral Administration Act 2006 are applied for those purposes. For the meanings of 'constituency election' and 'regional election' for the purposes of Welsh Assembly elections see PARA 3 note 1 *ante*; for the meaning of 'parliamentary election' see PARA 9 *ante*; for the meaning of 'Authority election' see PARA 10 *ante*; and as to the meaning of 'election under the local government Act' see PARA 10 note 2 *ante*. As to elections in the City of London see PARA 30 *ante*; as to elections to the National Assembly for Wales generally see PARA 220 *et seq ante*; and as to European parliamentary elections see PARA 224 *et seq ante*.

2 For the purposes of the Representation of the People Act 1983 Pt II (ss 67-119) (as amended). In Pt II (as amended), unless the context otherwise requires, 'election expenses', in relation to an election, is to be construed in accordance with s 90ZA (as added) and ss 90C-90D (as added and amended): s 118 (definition substituted by the Political Parties, Elections and Referendums Act 2000 s 138, Sch 18 paras 1, 15(a); amended by the Electoral Administration Act 2006 Sch 1 paras 104, 119, 133)). As to the commencement of the amendments made by the Electoral Administration Act 2006 see note 1 *supra*.

3 For the meaning of 'candidate' generally see PARA 237 *ante*.

In relation to any candidates at an election of London members of the London Assembly at an ordinary election who are included in a list of candidates submitted by a registered political party in connection with the election, the Representation of the People Act 1983 s 90ZA (as added and amended) and s 90C (as added and amended) have effect but are subject to the following modifications in their application (s 90D(1), (2) (s 90D added by the Political Parties, Elections and Referendums Act 2000 s 134; and the Representation of the People Act 1983 s 90D(1) amended by the Electoral Administration Act 2006 Sch 1 paras 104, 118(1), (3))): (1) references to anything done by or on behalf of, or in relation to, a candidate at the election are to be construed as a reference to any such thing done by or on behalf of, or in relation to, all or any of the candidates on the list (Representation of the People Act 1983 s 90D(2)(a) (as so added)); (2) 'for the purposes of the candidate's election', instead of having the meaning given by s 90ZA(3) (as added) (see note 4 *infra*), is to be construed as meaning with a view to, or otherwise in connection with promoting or procuring electoral success for the party, that is to say, the return at the election of all or any of the candidates on the list (s 90D(2)(b) (as so added; and amended by the Electoral Administration Act 2006 Sch 1 paras 104, 118(1), (4))); and (3) any reference (in whatever form) to promoting or procuring a candidate's election at an election, or to promoting or procuring electoral success for a party (see note 4 *infra*), includes doing so by prejudicing the electoral prospects of other candidates or parties at the election (Representation of the People Act 1983 s 90ZA(6) (as added: see note 4 *infra*); modified by s 90D(3) (as so added; and amended by the Electoral Administration Act 2006 Sch 1 paras 104, 118(1), (5)). As to the commencement of the amendments made by the Electoral Administration Act 2006 see note 1 *supra*. For the meaning of 'London member', in relation to the London Assembly, see PARA 10 note 5 *ante*; and for the meaning of 'registered political party' for these purposes see PARA 238 note 7 *ante*. As to ordinary elections of London members of the London Assembly see PARA 206 *et seq ante*; and as to the system of candidature whereby registered parties submit lists of candidates see PARA 345 *post*.

4 For these purposes, 'for the purposes of the candidate's election' means with a view to, or otherwise in connection with, promoting or procuring the candidate's election at the election: (Representation of the People Act 1983 s 90ZA(3) (s 90ZA added by the Electoral Administration Act 2006 s 27(1), (2))); and any reference (in whatever terms) to promoting or procuring a candidate's election at an election includes doing so by prejudicing the electoral prospects of another candidate at the election (Representation of the People Act 1983 s 90ZA(6) (as so added)). In relation to candidates included in a list of candidates submitted by a registered political party in connection with an election of London members of the London Assembly at an ordinary election see also note 3 *supra*.

5 *Ibid* s 90ZA(1) (as added: see note 4 *supra*).

The Political Parties, Elections and Referendums Act 2000, by making the original amendments to the Representation of the People Act 1983, replaced the previous definition of 'election expenses' and accordingly superseded the extensive case law which had interpreted the previous statutory definition. As to the previous wording and for a summary of the relevant case law which has now been superseded see *R v Jones, R v Whicher* [1999] 2 Cr App Rep 253, CA.

6 Representation of the People Act 1983 s 90ZA(1), (7) (as added: see note 4 *supra*), Sch 4A para 1 (Sch 4A added by the Electoral Administration Act 2006 s 27(1), (5)). As to the control of advertising relating to a pending parliamentary, European Parliamentary, Welsh Assembly or local government election see PARA 338 *et seq post*.

7 Representation of the People Act 1983 Sch 4A para 2 (as added: see note 6 supra). As to a candidate's right to send election addresses to electors generally see PARA 335 et seq post.

8 Ibid Sch 4A para 3 (as added: see note 6 supra).

9 Ibid Sch 4A para 4 (as added: see note 6 supra). As to public meetings at elections generally see PARA 339 et seq post.

10 Ibid Sch 4A para 5 (as added: see note 6 supra). As to the appointment of election agents generally see PARA 238 et seq ante.

11 Ibid Sch 4A para 6 (as added: see note 6 supra).

12 Ibid s 90C(1)(a)(i) (s 90C added by the Political Parties, Elections and Referendums Act 2000 s 134). Any reference to property or goods being transferred to a candidate or his election agent includes a reference to their being transferred either directly or indirectly through any third person: Representation of the People Act 1983 s 71A(4), Sch 2A para 2(6)(a) (s 71A, Sch 2A added by the Political Parties, Elections and Referendums Act 2000 s 130(1)-(4)); applied by the Representation of the People Act 1983 s 90C(6) (as so added).

13 Ibid s 90C(1)(a)(ii) (as added: see note 12 supra).

14 Ibid s 90C(1)(a)(i), (ii) (as added: see note 12 supra). The discount referred to in the text is a discount of more than: (1) 10% of the market value of the property or goods, in the case of head (a) in the text; or (2) 10% of the commercial rate for the use of the property or for the provision of the goods, services or facilities, in the case of head (b) in the text. For these purposes, 'market value', in relation to any property or goods, means the price which might reasonably be expected to be paid for the property or goods on a sale in the open market: s 90C(6) (as so added). Where the services of an employee are made available by his employer for the use or benefit of a candidate, then for the purposes of determining election expenses, the commercial rate for the provision of those services is the amount of the remuneration and allowances payable to the employee by his employer in respect of the period for which his services are so made available (but do not include any amount in respect of any contributions or other payments for which the employer is liable in respect of the employee): s 90C(5) (as so added).

15 Ibid s 90C(1)(b) (as added: see note 12 supra).

For these purposes, election expenses are incurred by or on behalf of a candidate at an election if they are incurred: (1) by the candidate or his election agent (s 90ZA(4)(a) (as added: see note 4 supra)); or (2) by any person authorised by the candidate or his election agent to incur the expenses (s 90ZA(4)(b) (as so added)); and any reference to election expenses incurred by or on behalf of a candidate at an election includes expenses which are incurred as mentioned in s 90ZA(1) (as added) (see the text and notes 1-6 supra) before the date when he becomes a candidate at the election (s 90ZA(5)(a) (as so added)) but which, by virtue of s 90ZA(1) (as added), fall to be regarded as election expenses (s 90ZA(5)(b) (as so added)). In relation to candidates included in a list of candidates submitted by a registered political party in connection with an election of London members of the London Assembly at an ordinary election see also note 3 supra.

In relation to an election of parish councillors in England or of community councillors in Wales, s 90ZA(4) (as added) and s 90C (as added and amended) have effect as if for the references to an election agent there were substituted references to any agent of the candidate: s 90(1)(a) (amended by the Political Parties, Elections and Referendums Act 2000 s 138(1), Sch 18 paras 1, 11(a); and the Electoral Administration Act 2006 Sch 1 paras 104, 116). As to the commencement of the amendments made by the Electoral Administration Act 2006 see note 1 supra. See further PARA 298 et seq post. As to the election of parish or community councillors see PARA 207 et seq ante.

16 Representation of the People Act 1983 s 90C(2)(a) (as added: see note 12 supra).

17 Ibid s 90C(2)(b) (as added: see note 12 supra).

18 Ibid s 90C(2) (as added: see note 12 supra). This provision has effect subject to Sch 4A paras 7-13 (as added) (see the text and notes 27-36 infra): s 90C(2) (as so added; amended by the Electoral Administration Act 2006 Sch 1 paras 104, 117, 133). As to the commencement of the amendments made by the Electoral Administration Act 2006 see note 1 supra.

19 Representation of the People Act 1983 s 90C(3)(a) (as added: see note 12 supra).

20 Ibid s 90C(3)(b) (as added: see note 12 supra).

21 Ibid s 90C(3) (as added: see note 12 supra). The text refers to the use made of the property or goods as mentioned in s 90C(1)(b) (as added) (see the text and note 15 supra).

22 Ibid s 90C(4)(a) (as added: see note 12 supra).

23 Ibid s 90C(4)(b) (as added: see note 12 supra).

24 Ibid s 90C(4) (as added: see note 12 supra). The text refers to the use made of the property, goods, services or facilities as mentioned in s 90C(1)(b) (as added) (see the text and note 15 supra).

25 Ie by virtue of ibid s 90ZA(1) (as added) (see the text and notes 1-6 supra) or s 90C (as added and amended) (see the text and notes 12-24 supra).

26 Ibid s 90ZA(2) (as added: see note 4 supra).

27 Ibid s 90ZA(2), (7) (as added: see note 4 supra), Sch 4A para 7 (as added: see note 6 supra). The text refers to the payment that is required to be deposited by s 23(1), Sch 1 r 9 (as amended) (see PARA 266 ante).

28 Ibid Sch 4A para 8 (as added: see note 6 supra). The text refers to a service licensed under the Broadcasting Act 1990 Pt I (ss 3-71) (as amended) (independent television services: see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 328 et seq) or Pt III (ss 85-126) (as amended) (independent radio services: see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 439 et seq) or under the Broadcasting Act 1996 Pt I (ss 1-39) (as amended) (digital terrestrial television broadcasting: see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 415 et seq) or Pt II (ss 40-72) (as amended) (digital terrestrial sound broadcasting: see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 478 et seq). As to the BBC see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 306 et seq; and as to Sianel Pedwar Cymru see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 396.

29 Representation of the People Act 1983 Sch 4A para 9 (as added: see note 6 supra). The text refers to facilities in respect of which expenses fall to be defrayed by virtue of s 95(4) (as amended) (schools and rooms for parliamentary election meetings: see PARA 340 post) and s 96(4) (as substituted) (schools and rooms for local election meetings: see PARA 342 post).

30 Ibid Sch 4A para 10 (as added: see note 6 supra).

31 Ibid Sch 4A para 11(1) (as added: see note 6 supra).

32 Ibid Sch 4A para 11(2) (as added: see note 6 supra).

33 Ibid Sch 4A para 12(1) (as added: see note 6 supra).

34 Ibid Sch 4A para 12(2) (as added: see note 6 supra).

35 Ibid Sch 4A para 13(1) (as added: see note 6 supra).

36 Ibid Sch 4A para 13(2) (as added: see note 6 supra).

37 As to the Electoral Commission see PARA 31 et seq ante.

38 Representation of the People Act 1983 s 90ZA(7) (as added: see note 4 supra), Sch 4A para 14(1) (as added: see note 6 supra).

39 As to the Secretary of State see PARA 2 ante.

40 Representation of the People Act 1983 Sch 4A para 14(2) (as added: see note 6 supra).

41 Ibid Sch 4A para 14(3) (as added: see note 6 supra). For these purposes, references to a draft code include a revised draft code: Sch 4A para 14(10) (as so added). Once the Secretary of State has approved a draft code he must lay a copy of the draft, whether in its original form or in a form which incorporates any modifications determined under Sch 4A para 14(3) (as added), before each House of Parliament: Sch 4A para 14(4) (as so added). If the draft incorporates any such modifications, the Secretary of State must at the same time lay before each House a statement of his reasons for making them: Sch 4A para 14(5) (as so added). If, within the 40-day period, either House resolves not to approve the draft, the Secretary of State must take no further steps in relation to the draft code (Sch 4A para 14(6) (as so added)); but if no such resolution is made within the 40-day period, the Secretary of State must issue the code in the form of the draft laid before Parliament, and the code is to come into force on such date as the Secretary of State may by order appoint (Sch 4A para 14(7) (as so added)). The Commission must arrange for the code to be published in such manner as it thinks appropriate: Sch 4A para 14(7) (as so added). The prohibition from taking further action in relation to a draft code (see Sch 4A para 14(6) (as added)) does not prevent a new draft code from being laid before Parliament: Sch 4A para 14(8) (as so added). For these purposes, the '40-day period', in relation to a draft code,

means, if the draft is laid before one House on a day later than the day on which it is laid before the other House, the period of 40 days beginning with the later of the two days, and, in any other case, the period of 40 days beginning with the day on which the draft is laid before each House: Sch 4A para 14(9) (as so added). In calculating this period, no account is taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days: Sch 4A para 14(9) (as so added).

42 Ibid Sch 4A para 15(1) (as added: see note 6 supra). However, such an order must not be made unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament: Sch 4A para 15(2) (as so added).

43 Ibid Sch 4A para 15(3)(a) (as added: see note 6 supra).

44 Ibid Sch 4A para 15(3)(b) (as added: see note 6 supra).

45 See note 1 supra.

46 The Representation of the People Act 1983 does not apply in relation to a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. The provisions set out in the text and notes 47-74 *infra* continue to apply to those elections until such time as the amendments contained in the Electoral Administration Act 2006 are applied for the purposes of those elections.

47 *Ie* for the purposes of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Pt III (arts 35-84) and the European Parliamentary Elections Regulations 2004, SI 2004/293, Pt 2 (regs 31-81). In the European Parliamentary Elections Regulations 2004, SI 2004/293, Pt 2 (regs 31-81), unless the context otherwise requires, 'election expenses', in relation to a European parliamentary election, is to be construed in accordance with regs 60-62: reg 31(1).

48 For the meaning of 'candidate' generally see PARA 237 *ante*. The reference in the text is to an 'individual candidate' at a regional election for the return of members of the National Assembly for Wales or at a European parliamentary election. For the meaning of 'individual candidate' at a Welsh Assembly regional election see PARA 237 note 23 *ante*; and for the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 *ante*.

For the purpose of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Pt III, sums paid or expenses incurred by, or in respect of, an individual candidate at a constituency election in respect of whom the constituency returning officer has received a certificate issued by the registered nominating officer of a registered political party under art 16(1), Sch 5 para 5(1) (see PARA 263 *ante*) are not to be regarded as having been paid or incurred by that party: art 40.

49 Ibid art 61(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 60(1)(a).

50 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 61(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 60(1)(b).

51 For these purposes, 'for the purposes of the candidate's election' means with a view to, or otherwise in connection with, promoting or procuring the candidate's election at the election (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 61(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 60(4)); and any reference (in whatever terms) to promoting or procuring a candidate's election at an election includes doing so by prejudicing the electoral prospects of another candidate at the election (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 61(6); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 60(6)).

52 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 61(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 60(1).

53 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 61(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 60(2).

54 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 62(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 61(1).

55 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 62(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 61(2).

56 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 63(1)(a)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 62(1)(a)(i). Any reference to property or goods being transferred to a candidate or his election agent includes a reference to their being transferred either directly or indirectly through any third person: National Assembly for Wales (Representation of the

People) Order 2003, SI 2003/284, art 39(4), Sch 6 para 2(6)(a) (applied by art 63(6)); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 42(4), Sch 6 para 2(6)(a) (applied by reg 62(6)).

57 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 63(1)(a)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 62(1)(a)(ii).

58 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 63(1)(a)(i), (ii); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 62(1)(a)(i), (ii). The discount referred to in the text is a discount of more than: (1) 10% of the market value of the property or goods, in the case of head (a) in the text; or (2) 10% of the commercial rate for the use of the property or for the provision of the goods, services or facilities, in the case of head (b) in the text. For these purposes, 'market value', in relation to any property or goods, means the price which might reasonably be expected to be paid for the property or goods on a sale in the open market: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 63(6); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 62(6). Where the services of an employee are made available by his employer for the use or benefit of a candidate, then for the purposes of determining election expenses, the commercial rate for the provision of those services is the amount of the remuneration and allowances payable to the employee by his employer in respect of the period for which his services are so made available (but do not include any amount in respect of any contributions or other payments for which the employer is liable in respect of the employee): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 63(5); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 62(5).

59 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 63(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 62(1)(b). For these purposes, election expenses are incurred by or on behalf of a candidate at an election if they are incurred: (1) by the candidate or his election agent (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 61(5)(a)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 60(5)(a)(i)); or (2) by any person authorised by the candidate or his election agent to incur the expenses (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 61(5)(a)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 60(5)(a)(ii)); and any reference to election expenses incurred by or on behalf of a candidate at an election includes expenses which are incurred as mentioned in head (1) or head (2) *supra* before the date when he becomes a candidate at the election but which, by virtue of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 61(1) (see the text and notes 47-52 *supra*) and art 61(2) (see the text and note 53 *supra*) or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 60(1) (see the text and notes 47-52 *supra*) and art 60(2) (see the text and note 53 *supra*) (whichever is applicable), fall to be regarded as election expenses (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 61(5)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 60(5)(b)).

60 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 63(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 62(2)(a).

61 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 63(2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 62(2)(b).

62 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 63(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 62(2). This provision has effect, in relation to a Welsh Assembly election, subject to the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 61(3) and, in relation to a European parliamentary election, subject to the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 60(3) (whichever is appropriate) (see the text and notes 69-74 *infra*).

63 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 63(3)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 62(3)(a).

64 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 63(3)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 62(3)(b).

65 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 63(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 62(3). The text refers to the use made of the property or goods as mentioned, in relation to a Welsh Assembly election, in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 63(1)(b) or, in relation to a European parliamentary election, in the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 62(1)(b) (whichever is appropriate) (see the text and note 59 *supra*).

66 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 63(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 62(4)(a).

67 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 63(4)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 62(4)(b).

68 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 63(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 62(4). The text refers to the use made of the property, goods, services or facilities as mentioned in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 63(1)(b) or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 62(1)(b) (whichever is appropriate) (see the text and note 59 supra).

69 Ie by virtue of, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 61(1) (see the text and notes 47-52 supra), art 61(2) (see the text and note 53 supra), art 62 (see the text and notes 54-55 supra) or art 63 (see the text and notes 56-68 supra), or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 60(1) (see the text and notes 47-52 supra), reg 60(2) (see the text and note 53 supra), reg 61 (see the text and notes 54-55 supra) or reg 62 (see the text and notes 56-68 supra) (whichever is appropriate).

70 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 61(3)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 60(3)(a). The text refers to the payment that is required to be deposited at a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 10 or at a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9, Sch 1 para 10 (see PARA 266 ante) (whichever is appropriate).

71 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 61(3)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 60(3)(b). The text refers to a service licensed under the Broadcasting Act 1990 Pt I (as amended) (independent television services: see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 328 et seq) or Pt III (as amended) (independent radio services: see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 439 et seq) or under the Broadcasting Act 1996 Pt I (as amended) (digital terrestrial television broadcasting: see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 415 et seq) or Pt II (as amended) (digital terrestrial sound broadcasting: see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 478 et seq).

72 Ie the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, or the European Parliamentary Elections Regulations 2004, SI 2004/293.

73 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 61(3)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 60(3)(c). The text refers to facilities in respect of which expenses fall to be defrayed by virtue of, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 68(4) (schools and rooms for Welsh Assembly election meetings: see PARA 340 post) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 67(4) (schools and rooms for European parliamentary election meetings: see PARA 340 post) (whichever is appropriate).

74 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 61(3)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 60(3)(d).

UPDATE

262-274 Form and supply of nomination papers ... Statutory definition of 'election expenses'

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

274 Statutory definition of 'election expenses'

TEXT AND NOTES 37, 38--Representation of the People Act 1983 Sch 4A para 14(1) amended: Political Parties and Elections Act 2009 s 22.

TEXT AND NOTES 47-55--SI 2004/293 regs 60, 61 substituted, Sch 7A added: SI 2009/186.

NOTE 47--SI 2004/293 reg 31(1) amended: SI 2009/186.

NOTES 60-62--SI 2004/293 reg 62(2) amended: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(iii) Financial Controls on Candidates at Elections where Election Agent is required/B. PAYMENT OF ELECTION EXPENSES/275. Restriction on payment of election expenses.

B. PAYMENT OF ELECTION EXPENSES

275. Restriction on payment of election expenses.

Subject to the exceptions listed in heads (1) to (7) below¹, no payment², of whatever nature, may be made either by a candidate³ at an election⁴ or by any other person⁵ in respect of election expenses⁶ incurred by or on behalf of the candidate⁷ unless it is made by or through the candidate's election agent⁸. A person who makes any payment in contravention of this prohibition is guilty of an illegal practice⁹. The argument that the payments referred to above are limited to those made by the election agent and not those made by persons (other than the election agent) of election expenses incurred by themselves has been rejected¹⁰. The intention of this prohibition is that the election agent, and he alone, is to be responsible for the payment of election expenses¹¹. If, therefore, the election agent hands a large sum of money to a person to be dispensed by him at his discretion, that falls foul of the prohibition¹². If, however, the election agent has made all arrangements for the particular expense, but hands over the money to a third person to make the actual payment, that may be permissible¹³.

Every payment made by an election agent in respect of any election expenses, except where less than £20, must be vouched for by a bill stating the particulars, or by a receipt¹⁴.

For these purposes¹⁵, an election agent may act by a sub-agent, at elections where a sub-agent has been appointed¹⁶. In the case of a European parliamentary election, an election agent may act also by a person authorised in writing by the election agent or sub-agent¹⁷.

The statutory provisions providing for election expenses to be paid by or through an election agent do not apply to: (1) any personal expenses incurred by the candidate in relation to the election and paid by him, subject to the statutory cap on such payments¹⁸; (2) election expenses which are paid by him before an election agent is appointed¹⁹; (3) any sum paid by the candidate in pursuance of an order of leave to pay a claim for any election expenses²⁰; (4) any sum paid by the candidate in pursuance of a judgment or order of the court in an action for a disputed claim²¹; (5) any necessary petty expenses which are paid by a person authorised by the candidate's election agent²²; (6) any expenses included in a declaration made by the election agent regarding expenses incurred otherwise than for the purposes of the candidate's election but which fall to be regarded as election expenses by reason of the property, services or facilities in respect of which they were incurred being used for the purposes of the candidate's election²³; (7) any expenses which fall to be regarded as election expenses even though they are incurred by the candidate or his election agent or by an authorised person before the date of candidature²⁴.

1 le subject to exceptions set out, in relation to a parliamentary or local government election, in the Representation of the People Act 1983 s 73(5) (as substituted and amended), in relation to a Welsh Assembly election, in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 41(4) and, in relation to a European parliamentary election, in the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 43(5) (whichever is appropriate) (see the text and notes 18-24 *infra*).

2 In the Representation of the People Act 1983 Pt II (ss 67-119) (as amended), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Pt III (arts 35-84) and the European Parliamentary Elections Regulations 2004, SI 2004/293, Pt 2 (regs 31-81), unless the context otherwise

requires, 'payment' includes any pecuniary or other reward; and 'pecuniary reward' and 'money' are deemed to include any office, place or employment, and any valuable security or other equivalent of money, and any valuable consideration, and expressions referring to money are to be construed accordingly: Representation of the People Act 1983 s 118 (definition amended by the Political Parties, Elections and Referendums Act 2000 s 138(1), Sch 18 paras 1, 15(b)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 83; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 31(1). However, these expressions do not apply for the purposes of the Representation of the People Act 1983 s 71A (as added) (control of donations to candidates at a parliamentary or local government election: see PARA 291 et seq post), s 113 (as amended) (bribery: see PARA 712 post), s 114 (treating: see PARA 724 post), Sch 2A (as added and amended) (control of donations to candidates: see PARA 292 et seq post), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 78 (bribery: see PARA 712 post) and art 79 (treating: see PARA 724 post) or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 42 (control of donations to individual candidates: see PARA 291 et seq post), reg 77 (bribery: see PARA 712 post), reg 78 (treating: see PARA 724 post) and Sch 6 (control of donations to individual candidates: see PARA 292 et seq post).

See also *Barrow-in-Furness Case* (1886) 4 O'M & H 76 at 81 (refreshments held to constitute payment).

3 For the meaning of 'candidate' generally see PARA 237 ante. The reference in the text is to an 'individual candidate' for the purposes of: (1) a regional election for the return of members of the National Assembly for Wales (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 41(1)); or (2) European parliamentary elections (European Parliamentary Elections Regulations 2004, SI 2004/293, reg 43(1)). For the meaning of 'individual candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante; and for the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante.

4 Representation of the People Act 1983 s 73(1)(a) (s 73(1) substituted by the Political Parties, Elections and Referendums Act 2000 Sch 18 paras 1, 3(1), (2)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 41(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 43(1)(a). The election referred to in the text may be any of a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'Authority election' see PARA 10 ante; and as to the meaning of 'election under the local government Act' see PARA 10 note 2 ante. However, the Representation of the People Act 1983 s 73 (as amended) does not apply at an election under the local government Act which is not a local government election (see the Representation of the People Act 1983 s 90(2) (as amended); and PARA 302 post); and, in relation to an election of parish councillors in England or of community councillors in Wales, the provisions of s 90(1), Sch 4 (both as amended) apply instead: see s 90(1)(b) (as amended); and PARAS 298-301 post. For the meaning of 'local government election' see PARA 10 ante. As to elections in the City of London see PARA 30 ante. For the meanings of 'constituency election' and 'regional election' for the purposes of Welsh Assembly elections see PARA 3 note 1 ante. As to elections to the National Assembly for Wales generally see PARA 220 et seq ante. As to European parliamentary elections see PARA 224 et seq ante.

5 Representation of the People Act 1983 s 73(1)(b) (as substituted: see note 4 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 41(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 43(1)(b).

6 For the meaning of 'election expenses' see PARA 274 ante.

7 For the meaning of 'election expenses incurred by or on behalf of a candidate' see PARA 274 note 15 ante.

8 Representation of the People Act 1983 s 73(1) (as substituted: see note 4 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 41(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 43(1). In the case of a European parliamentary election, it is further specified that all money provided by any person other than the individual candidate for any election expenses, whether as gift, loan, advance or deposit, must be paid to the candidate or his election agent or sub-agent and not otherwise: reg 43(4). As to the appointment of election agents generally see PARA 238 et seq ante; and as to the appointment of sub-agents generally see PARA 240 et seq ante. See also the text and notes 15-17 infra.

9 See the Representation of the People Act 1983 s 73(6) (as amended); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 41(5); the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 43(6); and PARA 677 post. The making of such a payment as is mentioned in the text remains an illegal practice even if the money is repaid (*York County, East Riding, Buckrose Division, Case* (1886) 4 O'M & H 110 at 116), but where a payment was made through a person other than the election agent by mistake and the money was returned and the transaction was genuine and honest, it was held that no offence had been committed (*Monmouth Boroughs Case* (1901) 5 O'M & H 166 at 170).

10 *Ipswich Case*, *Packard v Collings and West* (1886) 4 O'M & H 70 at 73; *Hartlepool Case* (1910) 6 O'M & H 1 at 10; *Louth, Northern Division, Case* (1911) 6 O'M & H 103 at 164; *Oxford Borough Case* (1924) 7 O'M & H 49 at 80.

11 *West Bromwich Case* (1911) 6 O'M & H 256 at 285. The effect of the prohibition set out in the text and notes 1-8 *supra*, when read together with the provisions relating to returns as to election expenses (see PARA 285 *post*), is that any election expense paid by the election agent will, if not shown on the return, constitute an illegal practice and that any election expenses not paid by the election agent will, subject to the statutory exceptions mentioned in PARA 276 *et seq post*, constitute an illegal practice; and in either case the candidate's election is liable to be avoided.

12 *West Bromwich Case* (1911) 6 O'M & H 256 at 285. The sum mentioned in this case was £10, a large sum at that time.

13 *Cheltenham Case, Smythies and Claridge v Mathias, Davies' Case* (1911) 6 O'M & H 194 at 221.

14 Representation of the People Act 1983 s 73(2) (amended by the Representation of the People Act 1985 s 14(1); and the Political Parties, Elections and Referendums Act 2000 Sch 18 paras 1, 3(1), (3)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 41(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 43(2). As to references to an election agent see the text and notes 15-17 *infra*.

The Secretary of State may by order made by statutory instrument vary the sum for the time being specified in the Representation of the People Act 1983 s 73(2) (as amended) or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 41(2) (whichever is appropriate) where he considers that the variation is expedient in consequence of changes in the value of money or in order to give effect to a recommendation of the Electoral Commission: Representation of the People Act 1983 s 76A(1), (2)(a) (s 76A added by the Representation of the People Act 1985 s 14; and substituted by the Political Parties, Elections and Referendums Act 2000 s 133(1)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 46(1), (2). Such an order which gives effect to a recommendation of the Electoral Commission is subject to annulment in pursuance of a resolution of either House of Parliament (Representation of the People Act 1983 s 76A(3) (as so added and substituted); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 46(3)); and an order may be made in relation to a Welsh Assembly election only after such consultation with the National Assembly for Wales as appears to the Secretary of State to be appropriate (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 46(1)). As to the Secretary of State see PARA 2 *ante*; as to the Electoral Commission see PARA 31 *et seq ante*; and as to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

15 In for the purposes of, in relation to a parliamentary or local government election, the Representation of the People Act 1983 s 73(1), (2) (as substituted and amended), in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 41(1), (2) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 43(1), (2) (whichever is appropriate) (see the text and notes 1-8, 14 *supra*).

16 Representation of the People Act 1983 s 73(3) (amended by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 17); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 41(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 43(3). In relation to parliamentary or local government elections, the elections referred to in the text are those where sub-agents are allowed (see the Representation of the People Act 1983 s 73(3) (as so amended)). See also *Northumberland, Berwick-upon-Tweed Division, Case* (1923) 7 O'M & H 1.

17 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 43(3).

18 Representation of the People Act 1983 s 73(5)(a) (s 73(5) substituted by the Political Parties, Elections and Referendums Act 2000 s 138, Sch 18 paras 1, 3(1), (5)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 41(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 43(5)(a). The text refers to personal expenses paid by the candidate in accordance with, in relation to a parliamentary or local government election, the Representation of the People Act 1983 s 74(1) (as amended), in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 42(1) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 44(1) (whichever is appropriate) (see PARA 276 *post*).

19 Representation of the People Act 1983 s 73(5)(a) (as substituted: see note 18 *supra*); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 41(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 43(5)(a). The text refers to election expenses paid by the candidate in accordance with the Representation of the People Act 1983 s 74(1B) (as added), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 42(3) or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 44(2) (whichever is appropriate) (see PARA 276 *post*).

20 Representation of the People Act 1983 s 73(5)(a) (as substituted: see note 18 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 41(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 43(5)(a). The text refers to any sum paid by the candidate or his election agent in accordance with the Representation of the People Act 1983 s 78(5), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 47(6) or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 48(6) (whichever is appropriate) (see PARA 281 post).

21 Representation of the People Act 1983 s 73(5)(a) (as substituted: see note 18 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 41(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 43(5)(a). The text refers to any sum paid by the candidate or his agent in accordance with the Representation of the People Act 1983 s 79(2), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 48(2) or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 49(2) (whichever is appropriate) (see PARA 280 post).

22 Representation of the People Act 1983 s 73(5)(b) (as substituted: see note 18 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 41(4)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 43(5)(b). The text refers to necessary petty expenses which are paid in accordance with the Representation of the People Act 1983 s 74(3), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 42(5) or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 44(4) (whichever is appropriate) (see PARA 276 post).

23 Representation of the People Act 1983 s 73(5)(c) (as substituted: see note 18 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 41(4)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 43(5)(c). The text refers to any expenses included in a declaration made by the election agent under the Representation of the People Act 1983 s 74A (as added and amended), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 43 or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 45 (whichever is appropriate) (see PARA 283 post).

24 Representation of the People Act 1983 s 73(5)(d) (as substituted (see note 18 supra); and amended by the Electoral Administration Act 2006 s 74(1), Sch 1 paras 104, 111, 133); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 41(4)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 43(5)(d). The text refers to any expenses which are to be regarded as incurred by or on behalf of the candidate by virtue of the Representation of the People Act 1983 s 90ZA(5) (as added), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 61(5)(b) or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 60(5)(b) (whichever is appropriate) (see PARA 274 ante).

Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 104, 111 has no effect in relation to a parliamentary by-election, an election under the Local Government Act 1972 s 89 (as amended) (ie an election to fill a casual vacancy: see PARA 209 ante) or an election under the Greater London Authority Act 1999 s 10 (filling a vacancy in an Assembly constituency: see PARA 211 ante) or s 16 (filling a vacancy in the office of London Mayor: see PARA 211 ante) where the day of the poll is on or before 3 May 2007 (or, in the case of an uncontested election, would have been had the election been contested): see the Electoral Administration Act 2006 (Commencement No 1 and Transitional Provisions) Order 2006, SI 2006/1972, art 4, Sch 2 para 2.

UPDATE

275 Restriction on payment of election expenses

NOTE 24--SI 2004/293 reg 43(5)(d) amended: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(iii) Financial Controls on Candidates at Elections where Election Agent is required/B. PAYMENT OF ELECTION EXPENSES/276. Election expenses which may be paid otherwise than by or through election agent.

276. Election expenses which may be paid otherwise than by or through election agent.

The candidate¹ at an election² may pay any personal expenses³ incurred by him on account of or in connection with or incidental to the election⁴; but the amount which he may pay must not exceed: (1) in the case of a candidate at a parliamentary election, £600⁵; (2) in the case of a candidate at an election of the Mayor of London, £5,000⁶; (3) in the case of a candidate at an election of a constituency member of the London Assembly, £600⁷; (4) in the case of a candidate to be a London member of the London Assembly at an ordinary election, £900⁸; (5) in the case of a candidate at a Welsh Assembly constituency election, £600⁹; (6) in the case of a candidate at a Welsh Assembly regional election, £900¹⁰; or (7) in the case of an individual candidate at a European parliamentary election, £900¹¹. Where any of heads (1) to (7) above applies, any further personal expenses so incurred by the candidate must be paid by his election agent¹². The candidate at an election may also pay any other election expenses¹³ which were incurred by him or on his behalf¹⁴ and in respect of which payment¹⁵ falls to be made before the date on which he appoints (or is deemed to have appointed) an election agent¹⁶. The candidate must send to his election agent within the time limited for sending in claims¹⁷ a written statement of the amount of personal or other expenses so paid by the candidate¹⁸. If so authorised in writing by the candidate's election agent¹⁹, any person may pay any necessary expenses for stationery, postage, telegrams or telephonic communication (or any similar means of communication) and other petty expenses, to a total amount not exceeding that named in the authority, but any excess above the total amount so named must be paid by the election agent²⁰. A statement of the particulars of payments made by any person so authorised must be sent to the election agent within the time limited for sending in claims²¹, and must be vouched for by a bill containing that person's receipt²².

The statutory provisions which provide for election expenses to be paid by or through an election agent²³ do not apply to certain election expenses which are paid otherwise in this way, namely personal expenses which are paid by the candidate²⁴ or election expenses which are paid by him before an election agent is appointed²⁵, or necessary petty expenses which are paid by a person authorised by the candidate's election agent²⁶. Similarly, the statutory provisions which provide for the paying of claims against a candidate or election agent in respect of election expenses²⁷ and for disputed claims²⁸ do not apply to any of the expenses which are in this way²⁹ paid otherwise than by the candidate's election agent³⁰.

1 For the meaning of 'candidate' generally see PARA 237 ante. The reference in the text is to an 'individual candidate' for the purposes of: (1) a regional election for the return of members of the National Assembly for Wales (see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 42(1)); or (2) European parliamentary elections (see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 44(1)). For the meaning of 'individual candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante; and for the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante. The reference in the text to a candidate in the case of a regional election for the return of members of the National Assembly for Wales may also include a party list candidate: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 42(1). For the meaning of 'party list candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante.

2 The election referred to in the text may be any of a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales

or a European parliamentary election. For the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'Authority election' see PARA 10 ante; and as to the meaning of 'election under the local government Act' see PARA 10 note 2 ante. However, the Representation of the People Act 1983 s 74 (as amended) does not apply at an election under the local government Act which is not a local government election (see the Representation of the People Act 1983 s 90(2) (as amended); and PARA 302 post); and, in relation to an election of parish councillors in England or of community councillors in Wales, the provisions of s 90(1), Sch 4 (both as amended) apply instead: see s 90(1)(b) (as amended); and PARAS 298-301 post. For the meaning of 'local government election' see PARA 10 ante. As to elections in the City of London see PARA 30 ante. For the meanings of 'constituency election' and 'regional election' for the purposes of Welsh Assembly elections see PARA 3 note 1 ante. As to elections to the National Assembly for Wales generally see PARA 220 et seq ante. As to European parliamentary elections see PARA 224 et seq ante.

3 For these purposes, 'personal expenses' as used with respect to the expenditure of any candidate in relation to any election includes the reasonable travelling expenses of the candidate, and the reasonable expenses of his living at hotels or elsewhere for the purposes of and in relation to the election: Representation of the People Act 1983 s 118; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 83; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 31(1).

4 Representation of the People Act 1983 s 74(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 42(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 44(1).

5 Representation of the People Act 1983 s 74(1)(a) (amended by the Representation of the People Act 1985 s 14(2); and renumbered by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 18(1), (2)).

The Secretary of State may by order made by statutory instrument vary the sum for the time being specified in the Representation of the People Act 1983 s 74(1)(a)-(d) (as substituted and amended) or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 42(1), (2) (whichever is appropriate) where he considers that the variation is expedient in consequence of changes in the value of money or in order to give effect to a recommendation of the Electoral Commission: Representation of the People Act 1983 s 76A(1), (2)(b) (s 76A added by the Representation of the People Act 1985 s 14; and substituted by the Political Parties, Elections and Referendums Act 2000 s 133(1)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 46(1), (2). Such an order which gives effect to a recommendation of the Electoral Commission is subject to annulment in pursuance of a resolution of either House of Parliament (Representation of the People Act 1983 s 76A(3) (as so added and substituted); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 46(3)); and an order may be made in relation to a Welsh Assembly election only after such consultation with the National Assembly for Wales as appears to the Secretary of State to be appropriate (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 46(1)). As to the Secretary of State see PARA 2 ante; as to the Electoral Commission see PARA 31 et seq ante; and as to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

6 Representation of the People Act 1983 s 74(1)(b) (s 74(1)(b)-(d) substituted by the Greater London Authority Act 1999 Sch 3 paras 1, 18(1), (2)). As to varying the sum mentioned in the text see note 5 supra. In the application of the Representation of the People Act 1983 s 74(1) (as amended) in relation to a person who is a candidate in two or more Authority elections, those elections are treated, if one of them is an election of the Mayor of London, as if they together constituted a single election falling within s 74(1)(b) (as substituted): s 74(1A)(a) (s 74(1A) added by the Greater London Authority Act 1999 Sch 3 paras 1, 18(1), (3)). As to elections for the return of an elected Mayor of London see PARA 206 et seq ante.

7 Representation of the People Act 1983 s 74(1)(c) (as substituted: see note 6 supra). As to varying the sum mentioned in the text see note 5 supra. In the application of s 74(1) (as amended) in relation to a person who is a candidate in two or more Authority elections, those elections are treated as if they together constituted a single election falling within s 74(1)(d) (as substituted): s 74(1A)(b) (as added: see note 6 supra). For the meaning of 'constituency member', in relation to the London Assembly, see PARA 10 note 6 ante. As to ordinary elections of constituency members of the London Assembly see PARA 206 et seq ante.

8 Ibid s 74(1)(d) (as substituted: see note 6 supra). As to varying the sum mentioned in the text see note 5 supra. See also note 7 supra. For the meaning of 'London member', in relation to the London Assembly, see PARA 10 note 5 ante. As to ordinary elections of London members of the London Assembly see PARA 206 et seq ante.

9 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 42(1)(a). Where, at an ordinary Welsh Assembly election, a person is a candidate at a constituency election and an individual or a party list candidate at a regional election, the amount of any such personal expenses paid by him in respect of both elections must not exceed £900, but the amount of any such personal expenses paid by him in respect of the constituency election must not exceed £600: art 42(2).

10 Ibid art 42(1)(b). See note 9 supra.

11 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 44(1).

12 Representation of the People Act 1983 s 74(1) (amended by the Greater London Authority Act 1999 Sch 3 paras 1, 18(1), (2)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 42(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 44(1). As to the appointment of election agents generally see PARA 238 et seq ante.

13 Ie other than expenses falling within the Representation of the People Act 1983 s 74(1) (as amended), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 42(1) or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 44(1) (whichever applies) (see the text and notes 1-12 supra). For the meaning of 'election expenses' see PARA 274 ante.

14 For the meaning of 'election expenses incurred by or on behalf of a candidate' see PARA 274 note 15 ante.

15 As to the meaning of 'payment' for these purposes see PARA 275 note 2 ante.

16 Representation of the People Act 1983 s 74(1B) (added by the Political Parties, Elections and Referendums Act 2000 Sch 18 paras 1, 4(1), (3)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 42(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 44(2).

17 As to the prescribed time for sending in claims against a candidate or his election agent in respect of election expenses see PARA 280 post.

18 Representation of the People Act 1983 s 74(2) (amended by the Political Parties, Elections and Referendums Act 2000 Sch 18 paras 1, 4(1), (4)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 42(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 44(3).

19 In the case of a European parliamentary election, it is specified that the authorisation in writing may be given by an election agent or a sub-agent: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 44(4). As to the nomination of sub-agents at a European parliamentary election see PARA 248 et seq ante.

20 Representation of the People Act 1983 s 74(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 42(5); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 44(4). In the case of a European parliamentary election, this provision refers any election expenses to a total amount not exceeding that named in the authority, rather than specifying 'necessary expenses' and 'other petty expenses': see reg 44(4).

21 As to the prescribed time for sending in claims against a candidate or his election agent in respect of election expenses see PARA 280 post.

22 Representation of the People Act 1983 s 74(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 42(6); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 44(5). In the case of a European parliamentary election, it is specified that, where the agent who authorised the payments mentioned in the text is the sub-agent, he must forward the statement, together with his authority, to the election agent: reg 44(5).

23 Ie the Representation of the People Act 1983 s 73 (as amended), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 41 or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 43 (whichever is appropriate) (see PARA 275 ante).

24 Ie personal expenses paid by the candidate in accordance with the Representation of the People Act 1983 s 74(1) (as amended), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 42(1) or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 44(1) (whichever is appropriate) (see the text and notes 1-12 supra).

25 Ie election expenses paid by the candidate in accordance with the Representation of the People Act 1983 s 74(1B) (as added), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 42(3) or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 44(2) (whichever is appropriate) (see the text and notes 13-16 supra).

26 Ie necessary petty expenses which are paid in accordance with the Representation of the People Act 1983 s 74(3), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 42(5) or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 44(4) (whichever is appropriate) (see the text and notes 19-20 supra).

27 Ie the Representation of the People Act 1983 s 78 (as amended), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 47 or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 48 (whichever is appropriate) (see PARA 280 post).

28 le the Representation of the People Act 1983 s 79 (as amended), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 48 or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 49 (whichever is appropriate) (see PARA 280 post).

29 le in accordance with any provision of the Representation of the People Act 1983 s 74 (as amended), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 42 or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 44 (whichever is appropriate) (see the text and notes 1-22 supra).

30 Representation of the People Act 1983 s 74(5) (added by the Political Parties, Elections and Referendums Act 2000 Sch 18 paras 1, 4(1), (5)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 42(7); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 44(6).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(iii) Financial Controls on Candidates at Elections where Election Agent is required/B. PAYMENT OF ELECTION EXPENSES/277. Expenses incurred by outsiders in publicising a candidate or in promoting political debate at an election.

277. Expenses incurred by outsiders in publicising a candidate or in promoting political debate at an election.

Expenses with a view to¹ promoting or procuring² the election of a candidate³ at an election⁴ must not be incurred after he becomes a candidate at that election by any person other than the candidate, his election agent⁵ and persons authorised in writing by the election agent⁶ on account of:

- 329 (1) holding public meetings or organising any public display⁷; or
- 330 (2) issuing advertisements, circulars or publications⁸; or
- 331 (3) otherwise presenting to the electors the candidate or his views or the extent or nature of his backing or disparaging another candidate⁹; or
- 332 (4) otherwise presenting to the electors: (a) the candidate's registered political party (if any) or the views of that party or the extent or nature of that party's backing or disparaging any other registered political party, in the case of an election of the London members of the London Assembly at an ordinary election¹⁰; or (b) the candidate or his views or the extent or nature of his backing or disparaging another individual candidate or any or all of a group of party list candidates¹¹, in the case of a Welsh Assembly regional election¹²; or (c) that candidate or his views or the extent or nature of his backing or disparaging a registered party¹³ or its candidates or an independent candidate, in the case of a European parliamentary election¹⁴.

If any person not engaged for payment or promise of payment by the candidate or his election agent incurs any expenses required to be authorised by the election agent, he must make a return of the expenses and a declaration verifying the return¹⁵.

In relation to a constituency or regional Welsh Assembly election and a European parliamentary election¹⁶, neither head (3) nor head (4) above: (i) restricts the publication of any matter relating to the election in a newspaper or other periodical or in a broadcast made by the British Broadcasting Corporation or by Sianel Pedwar Cymru or in a programme included in any service licensed under the Broadcasting Act 1990 or the Broadcasting Act 1996¹⁷; or (ii) applies to any expenses, incurred by any person, which do not exceed in the aggregate the permitted sum¹⁸ (and are not incurred by that person as part of a concerted plan of action¹⁹), or to expenses incurred by any person in travelling or in living away from home or similar personal expenses²⁰. The provisions in heads (1) to (4) above do not apply to any expenses incurred in relation to a parliamentary or applicable local government election²¹ by any person which do not exceed in the aggregate the permitted sum²² (and are not incurred by that person as part of a concerted plan of action)²³, or to expenses incurred by any person in travelling or in living away from home or similar personal expenses²⁴; and the provisions in head (3) or head (4) above do not restrict the publication of any matter relating to the election in a newspaper or other periodical²⁵ or in a broadcast made by the British Broadcasting Corporation or by Sianel Pedwar Cymru²⁶ or in a programme included in any service licensed under the Broadcasting Act 1990 or the Broadcasting Act 1996²⁷. The insertion of an advertisement in a national newspaper which contained criticisms of one party's financial policy, and which might have been held to

advance the prospects of the opposing party's cause at a pending general election, has been held not to constitute an offence under the foregoing provisions²⁸, but the distribution of pamphlets in three constituencies urging voters not to vote for the candidates of a certain political party in those constituencies has been held to constitute such an offence, as an intention to prevent the election of one candidate will involve also an intention to improve the collective chances of the remaining candidates²⁹. The expenses incurred in connection with a party political broadcast in the course of an election campaign have been held not to come within the statutory provisions³⁰.

If any person incurs, or aids, abets, counsels or procures any other person to incur, any expenses in contravention of these provisions, he is guilty of a corrupt practice³¹. Apart from the statutory restriction on expenses incurred by persons other than the candidate, his election agent and persons authorised by the election agent, there is nothing which prohibits election expenses being incurred before the election agent has been appointed³², although this is undesirable as it is the intention of the legislation that the election agent should be effectively responsible for all the acts done in procuring the election of the candidate³³. If, however, expenses have been so incurred they should be paid by the election agent³⁴. If election expenses have been incurred and paid before the election agent has been appointed, the election agent ought to ask the persons so paid to repay the money to the person who paid them in order that he may himself pay them³⁵. If any expense required to be authorised by the election agent is incurred by a person to promote or procure the election of a candidate at an election, but the expense is not authorised by the election agent, it will need to be returned by the election agent as an election expense if it was authorised by the candidate, although not otherwise³⁶. If it was authorised by the election agent, it will need to be returned by the election agent as an election expense³⁷.

1 The meaning of the words 'with a view to' was considered in *DPP v Luft* [1977] AC 962, [1976] 2 All ER 569, HL, in the context of the Representation of the People Act 1949 s 63(1) (repealed), which is re-enacted as the Representation of the People Act 1983 s 75(1) (as amended). In the view of the House of Lords, there was no difference in meaning between the phrase '*with a view to* promoting or procuring the election of a candidate' and '*for the purpose of* promoting or procuring the election of any candidate' which was used in the Representation of the People Act 1918 s 34(1) (repealed), in respect of an offence similar to that in the Representation of the People Act 1949 s 63(1) (repealed): see *DPP v Luft* supra at 982 and 573 per Lord Diplock. The decision in *R v Hailwood and Ackroyd Ltd* [1928] 2 KB 277, CCA, which concerned the offence in the Representation of the People Act 1918 s 34(1) (repealed) and in which it was held that if a person disparages one candidate and tries to induce the electors not to vote for that candidate, he is, in effect promoting the election of one of the other candidates, was applied. 'In my view the offence under section 63(1) to (5) is committed by the accused if his desire to promote or procure the election of a candidate was one of the reasons which played a part in inducing him to incur the expense': *DPP v Luft* supra at 983 and 574 per Lord Diplock.

2 'On a prosecution [for this offence] it is not necessary to prove that the expense was incurred with the intention of promoting or procuring the election of one particular candidate but it is sufficient to establish an intention on the part of the person incurring the expense to prevent the election of a particular candidate or particular candidates': *DPP v Luft* [1977] AC 962 at 984, [1976] 2 All ER 569 at 574, HL, per Lord Diplock. See also *R v Hailwood and Ackroyd Ltd* [1928] 2 KB 277, CCA.

3 For the meaning of 'candidate' generally see PARA 237 ante; and as to references to promoting or procuring a candidate's election at an election or to promoting or procuring electoral success for a party see PARA 274 note 4 ante.

In the application of the Representation of the People Act 1983 s 75(1) (as amended) in relation to an election of the London members of the London Assembly at an ordinary election, any reference to the candidate includes a reference to all or any of the candidates of a registered political party; and, in the application of s 75(1ZA) (as added and amended) (see note 22 infra) in relation to such an election, the reference to the same candidate includes a reference to all or any of the candidates of the same registered political party: s 75(1A) (added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 19(1), (3); and amended by the Political Parties, Elections and Referendums Act 2000 s 131(1), (4)). For these purposes, in the case of an election of the London members of the London Assembly at an ordinary election, a candidate's registered political party is the registered political party (if any) which submitted for the purposes of that election a list of candidates on which the candidate in question is included: Representation of the People Act 1983 s 75(7) (added by the Greater London Authority Act 1999 Sch 3 paras 1, 19(1), (5)). For the meaning of 'London member', in relation to the

London Assembly, see PARA 10 note 5 ante; and for the meaning of 'registered political party' for these purposes see PARA 238 note 7 ante. As to ordinary elections of London members of the London Assembly see PARA 206 et seq ante; and as to the system of candidature whereby registered parties submit lists of candidates see PARA 345 post.

In relation to a Welsh Assembly election, the reference in the text is to a constituency candidate (at a constituency election) or to an individual candidate (at a regional election): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(1). For the meanings of 'Assembly election', 'constituency election' and 'regional election' for the purposes of Welsh Assembly elections see PARA 3 note 1 ante; and for the meaning of 'individual candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante.

At a European parliamentary election, the reference is to an 'individual candidate': see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(1). For the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante.

4 The election referred to in the text may be any of a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'Authority election' see PARA 10 ante; and as to the meaning of 'election under the local government Act' see PARA 10 note 2 ante. However, the Representation of the People Act 1983 s 75 (as amended; prospectively amended) and s 76A (as added and substituted) do not apply at an election under the local government Act which is not a local government election (see the Representation of the People Act 1983 s 90(2) (as amended); and PARA 302 post); and, in relation to an election of parish councillors in England or of community councillors in Wales, the provisions of s 90(1), Sch 4 (both as amended) apply instead and s 76A (as added and substituted) is applied with modifications: see s 90(1)(b) (as amended); and PARAS 298-301 post. For the meaning of 'local government election' see PARA 10 ante. As to elections in the City of London see PARA 30 ante. For the meaning of 'constituency election' for the purposes of Welsh Assembly elections see PARA 3 note 1 ante. As to elections to the National Assembly for Wales generally see PARA 220 et seq ante. As to European parliamentary elections see PARA 224 et seq ante.

Section 75 (as amended; prospectively amended) and s 76A (as added and substituted) have been applied with modifications for the purposes of an election for the return of an elected local authority mayor: see the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(2), Sch 2 Table 1. As to elections for the return of a local authority mayor see PARA 205 ante.

5 As to the appointment of election agents generally see PARA 238 et seq ante. In relation to a European parliamentary election, references to an election agent include a sub-agent: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(7). As to the appointment of a sub-agent at a European parliamentary election see PARA 248 et seq ante.

6 Representation of the People Act 1983 s 75(1) (amended by the Greater London Authority Act 1999 Sch 3 paras 1, 19(1), (2)(a); and the Electoral Administration Act 2006 ss 25(1), (2)(a), (b), 74(2), Sch 2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(1). For the purposes of the Representation of the People Act 1983 s 75(1) (as amended), expenditure incurred before the date when a person becomes a candidate at the election is to be treated as having been incurred after that date if it is incurred in connection with any thing which is used or takes place after that date: s 75(8) (added by the Electoral Administration Act 2006 s 25(1), (5)). The amendments made by the Electoral Administration Act 2006 s 25(1), (2)(b), (3), (4) must be taken to have had effect from 16 February 2001 (ie the date of coming into force of the Political Parties, Elections and Referendums Act 2000 s 131, which also made amendments to the Representation of the People Act 1983 s 75): see the Electoral Administration Act 2006 s 25(6).

7 Representation of the People Act 1983 s 75(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(1)(a).

8 Representation of the People Act 1983 s 75(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(1)(b).

9 Representation of the People Act 1983 s 75(1)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(1)(c). 'Disparaging' is to be understood in its ordinary and natural meaning; a person may be disparaged by attacks on the political views he holds as well as by attacks on his personal conduct: *DPP v Luft* [1977] AC 962 at 984, [1976] 2 All ER 569 at 575, HL, per Lord Diplock.

In the context of a Welsh Assembly election, head (3) in the text applies in the case of a constituency election only: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(1)(c). As to a regional election see head (4)(b) in the text.

10 Representation of the People Act 1983 s 75(1)(d) (added by the Greater London Authority Act 1999 Sch 3 paras 1, 19(1), (2)(b)).

11 For the meanings of 'party list candidate' and as to references to groups of party list candidates at a Welsh Assembly regional election see PARA 237 note 23 ante.

12 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(1)(d).

13 For the meaning of 'registered party' for these purposes see PARA 237 note 30 ante.

14 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(1)(c).

15 See the Representation of the People Act 1983 s 75(2) (as amended); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(3); the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(3); and PARA 284 post. As to the meaning of 'payment' for these purposes see PARA 275 note 2 ante. The failure to send a declaration or return is an illegal practice (see PARA 680 post); and the making of a false declaration is a corrupt practice (see PARA 710 post). As to related offences, the liability of officers of associations or bodies which are guilty of an offence, the court's power to mitigate or remit any incapacity and the limitation of the liability of a candidate for an offence by an agent see PARA 690 et seq post.

16 The provisions set out in the text will continue to apply to a constituency or regional election for the return of members of the National Assembly for Wales and to a European parliamentary election until such time as the amendments contained in the Electoral Administration Act 2006 are applied for the purposes of those elections.

17 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(1)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(1)(i). See note 16 supra. The text refers to a service licensed under the Broadcasting Act 1990 Pt I (ss 3-71) (as amended) (independent television services: see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 328 et seq) or Pt III (ss 85-126) (as amended) (independent radio services: see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 439 et seq) or under the Broadcasting Act 1996 Pt I (ss 1-39) (as amended) (digital terrestrial television broadcasting: see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 415 et seq) or Pt II (ss 40-72) (as amended) (digital terrestrial sound broadcasting: see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 478 et seq). As to the BBC see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 306 et seq; and as to Sianel Pedwar Cymru see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 396.

18 In the case of a Welsh Assembly constituency election, the sum of £500 is specified for these purposes and, in the case of a Welsh Assembly regional election, a sum of £1,000 is so specified: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(1)(ii). For the purposes of a European parliamentary election, the 'permitted sum' means £5,000: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(2). See note 16 supra.

The National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, provides that the Secretary of State may by order made by statutory instrument vary the sum for the time being specified in art 44(2) where he considers that the variation is expedient in consequence of changes in the value of money or in order to give effect to a recommendation of the Electoral Commission: art 46(1), (2). However, no sum is specified in art 44(2) and it is submitted that the reference should be to the sum specified in art 44(1)(ii). Such an order which gives effect to a recommendation of the Electoral Commission is subject to annulment in pursuance of a resolution of either House of Parliament (art 46(3)); and an order may be made in relation to a Welsh Assembly election only after such consultation with the National Assembly for Wales as appears to the Secretary of State to be appropriate (art 46(1)). As to the Secretary of State see PARA 2 ante; as to the Electoral Commission see PARA 31 et seq ante; and as to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS. In Application 24839/94 *Bowman v United Kingdom* (1998) 26 EHRR 1, (1998) 4 BHRC 25, ECtHR (cited in PARA 7 ante), the low statutory limit on third party expenditure in individual election campaigns, set by the Representation of the People Act 1983 s 75 (as it stood then), was found to be disproportionate to the aim pursued of ensuring that political debate in any individual constituency was not dominated by third party issues.

19 For these purposes, expenses are regarded as incurred by a person 'as part of a concerted plan of action' if they are incurred by that person in pursuance of any plan or other arrangement whereby that person and one or more other persons are to incur, with a view to promoting or procuring the election of the same candidate, expenses which, disregarding head (ii) in the text, fall within heads (1) to (4) in the text: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(2). See note 16 supra.

20 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(1)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(1)(ii). See note 16 supra. For the meaning of 'personal expenses' see PARA 276 note 3 ante.

21 As to other types of election see note 16 supra.

22 For these purposes, the 'permitted sum' means, in respect of a candidate at a parliamentary election, £500, and, in respect of a candidate at a local government election, £50 together with an additional 0.5p for every entry in the register of local government electors for the electoral area in question as it has effect on the last day for publication of notice of the election: Representation of the People Act 1983 s 75(1ZA) (added by the Political Parties, Elections and Referendums Act 2000 s 131(1), (3); and amended by the Electoral Administration Act 2006 s 25(1), (4)). As to the effect of amendments made by the Electoral Administration Act 2006 s 25(1), (4) see note 6 supra.

The Secretary of State may by order made by statutory instrument vary the sum for the time being specified in the Representation of the People Act 1983 s 75(1ZA) (as added and amended) where he considers that the variation is expedient in consequence of changes in the value of money or in order to give effect to a recommendation of the Electoral Commission: s 76A(1), (2)(c) (s 76A added by the Representation of the People Act 1985 s 14; and substituted by the Political Parties, Elections and Referendums Act 2000 s 133(1)). Such an order which gives effect to a recommendation of the Electoral Commission is subject to annulment in pursuance of a resolution of either House of Parliament: Representation of the People Act 1983 s 76A(3) (as so added and substituted).

23 For these purposes, expenses are regarded as incurred by a person as part of a concerted plan of action if they are incurred by that person in pursuance of any plan or other arrangement whereby that person and one or more other persons are to incur, with a view to promoting or procuring the election of the same candidate, expenses which, disregarding head (ii) in the text, fall within heads (1)-(4) in the text: *ibid* s 75(1ZA) (as added and amended: see note 22 supra).

24 *Ibid* s 75(1ZZB) (s 75(1ZZA), (1ZZB) added by the Electoral Administration Act 2006 s 25(1), (3)). As to the effect of amendments made by the Electoral Administration Act 2006 s 25(1), (3) see note 6 supra. For the meaning of 'personal expenses' see PARA 276 note 3 ante. See also *R v Holding* [2005] EWCA Crim 3185, [2006] 1 WLR 1040, in which the legislative history of the Representation of the People Act 1983 s 75(1) (as amended) was considered (before it was further amended by the Electoral Administration Act 2006) and wherein it was held that there was an absolute bar on incurring unauthorised expenses in relation to the matters mentioned in the Representation of the People Act 1983 s 75(1)(a) and s 75(1)(b) as well as in s 75(1)(c) and s 75(1)(d) (as added).

25 *Ibid* s 75(1ZZA)(a) (as added: see note 24 supra).

26 *Ibid* s 75(1ZZA)(b) (as added: see note 24 supra).

27 *Ibid* s 75(1ZZA)(c) (as added: see note 24 supra).

The text refers to a service licensed under the Broadcasting Act 1990 Pt I (as amended) (independent television services: see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 328 et seq) or Pt III (as amended) (independent radio services: see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 439 et seq) or under the Broadcasting Act 1996 Pt I (as amended) (digital terrestrial television broadcasting: see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 415 et seq) or Pt II (as amended) (digital terrestrial sound broadcasting: see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 478 et seq).

28 *R v Tronoh Mines Ltd* [1952] 1 All ER 697, where the judge held that there was no case to go to the jury because the provision now re-enacted as the Representation of the People Act 1983 s 75(1)(b) (see head (2) in the text) was not intended to prohibit expenditure incurred on advertisements designed to support the interest of a particular party generally in all constituencies, at any rate at the time of a general election, and not supporting a particular candidate in a particular constituency. He accepted as a reasonable and possible construction of the Representation of the People Act 1949 s 63 (repealed) (see now the Representation of the People Act 1983 s 75 (as amended)) that 'candidate' was intended to mean one candidate only, but this interpretation, though not the decision itself, was disapproved in *DPP v Luft* [1976] AC 962 at 985, [1976] 2 All ER 569 at 575, HL, per Lord Diplock. *R v Tronoh Mines Ltd* supra has been applied to local government elections in Scotland: see *Walker v UNISON* 1995 SLT 1226, OH (local government elections held throughout Scotland characterised as 'national elections').

29 *DPP v Luft* [1976] AC 962, [1976] 2 All ER 569, HL. See also *Meek v Lothian Regional Council* 1983 SLT 494, Ct of Session, where the distribution of a pamphlet by a local authority prior to a local government election was considered to be in prima facie breach of what is now enacted as the Representation of the People Act 1983 s 75(1) (as amended), because it was not restricted to factual description of the authority's decisions but also gave the reasons for them; having regard to the time of publication and the persons controlling it, the court

thought that it was impossible to avoid the conclusion that it was calculated to promote the election of candidates supported by the majority party in the local authority notwithstanding that they were not named.

30 *Grieve v Douglas-Home* 1965 SLT 186, Ct of Session. As to restrictions on election broadcasts see PARA 336 et seq post.

31 See the Representation of the People Act 1983 s 75(5) (as amended); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(6); the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(5); and PARA 710 post. As to related offences, the liability of officers of associations or bodies which are guilty of an offence, the court's power to mitigate or remit any incapacity and the limitation of the liability of a candidate for an offence by an agent see PARA 690 et seq post.

32 *Rochester Borough Case* (1892) 4 O'M & H 156 at 159.

33 *Barrow-in-Furness Case* (1886) 4 O'M & H 76 at 82. The legislation referred to in the text is that now re-enacted as the Representation of the People Act 1983 (and reflected also in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, and the European Parliamentary Elections Regulations 2004, SI 2004/293).

34 As to the payment of election expenses see PARA 275 ante.

35 *Cornwall, Bodmin Division, Case* (1906) 5 O'M & H 225 at 226; *Dorsetshire, Eastern Division, Case* (1910) 6 O'M & H 22 at 40; *Monmouth Boroughs Case* (1901) 5 O'M & H 166 at 170. This does not prevent the initial payment being an illegal practice: *York County, East Riding, Buckrose Division, Case* (1886) 4 O'M & H 110 at 116; but cf *Monmouth Boroughs Case* supra, where an innocent payment was held to be no offence.

36 *Oxford Borough Case* (1924) 7 O'M & H 49 at 95; *Plymouth, Drake Division, Case* (1929) 7 O'M & H 101 at 110, 122; *Elgin and Nairn Case* (1895) 5 O'M & H 1 at 11. Whether authorised or not by the candidate the expenditure would be unlawful because it was not authorised by the election agent. As to the rights of any creditor who, when the expense was incurred, was ignorant of its being a contravention see PARA 282 post.

37 See *R v Tronoh Mines Ltd* [1952] 1 All ER 697 at 700 per McNair J (there is no way in which expenditure incurred in relation to all elections can be apportioned for the purpose of any particular return for a particular election); *R v Hailwood and Ackroyd Ltd* [1928] 2 KB 277 at 282, CCA.

The Representation of the People Act 1918 s 34(3) (repealed) provided that expenses mentioned in s 34 and authorised by the election agent must be duly returned as part of the candidate's election expenses. That provision has not been specifically reproduced in the Representation of the People Act 1983 s 75 (as amended). It is, however, provided that the return of election expenses made by the election agent must deal under a separate heading or sub-heading with any expenses included in it as respects which a return is required to be made under s 81(2)(a) (as substituted): see PARA 285 post.

UPDATE

277 Expenses incurred by outsiders in publicising a candidate or in promoting political debate at an election

TEXT AND NOTES 1-20--SI 2004/293 reg 46(1), (1A), (1B), (2), (2A) substituted for reg 46(1), (2): SI 2009/186.

NOTE 4--SI 2002/185 replaced: Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024. Modifications to the 1983 Act ss 75, 76A not replicated.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(iii) Financial Controls on Candidates at Elections where Election Agent is required/B. PAYMENT OF ELECTION EXPENSES/278. Limitation of election expenses for individual or party candidates.

278. Limitation of election expenses for individual or party candidates.

The election expenses¹ incurred by or on behalf of a candidate² at any of the elections mentioned below must not in the aggregate exceed the maximum amount specified³:

- 333 (1) for a candidate at a parliamentary general election⁴: (a) £7,150, together with an additional 7p for every entry in the register of electors⁵, at an election in a county constituency⁶; and (b) £7,150, together with an additional 5p for every entry in the register of electors, at an election in a borough constituency⁷;
- 334 (2) for a candidate at a parliamentary by-election⁸, £100,000⁹;
- 335 (3) for a candidate at a local government election¹⁰ other than an Authority election¹¹, £600 together with an additional 5p for every entry in the register of electors¹²;
- 336 (4) for candidates in an Authority election, namely: (a) a candidate in an election of the Mayor of London¹³; (b) a candidate in an election of constituency members of the London Assembly¹⁴; (c) an individual candidate in an election of London members of the London Assembly at an ordinary election¹⁵; or (d) any of the candidates on a list of candidates submitted by a registered political party to be London members of the London Assembly at an ordinary election¹⁶, the maximum amount is such as the Secretary of State may prescribe in an order made by statutory instrument¹⁷;
- 337 (5) for a candidate at a Welsh Assembly constituency election¹⁸: (a) at an ordinary election¹⁹, £5,761 together with an additional 6.5p for every entry in the register of electors for an Assembly constituency which is coterminous with a parliamentary constituency which is a county constituency²⁰, and £5,761 together with an additional 4.8p for every entry in the register of electors for an Assembly constituency which is coterminous with a parliamentary constituency which is a borough constituency²¹; (b) at an election to fill a casual vacancy²², £100,000 for an Assembly constituency which is coterminous with a parliamentary constituency which is either a county constituency²³ or a borough constituency²³;
- 338 (6) for an individual candidate at a Welsh Assembly regional election²⁵, the aggregate of the maximum amounts specified under head (5)(a) above that apply, or would apply, at that time at a constituency election in respect of each Assembly constituency in the Assembly electoral region for which the election is held²⁶;
- 339 (7) for an individual candidate at a European parliamentary election, £45,000 multiplied by the number of members of the European Parliament ('MEPs') to be returned for the electoral region at that election²⁷.

Where, at an election mentioned in heads (1) to (5) above, a poll is countermanded or abandoned by reason of a candidate's death²⁸, the maximum amount of election expenses for any of the other candidates who then remain validly nominated is twice or, if there has been a previous such increase, three times what it would have been but for any such increase²⁹. However, the maximum amount mentioned for a candidate is not affected by the change in the timing of the election or of any step in the proceedings at the election³⁰. Where the date of the poll at a parliamentary election has been postponed under the provisions as to the effect of the

demise of the Crown³¹, the provisions limiting election expenses³² have effect in relation to any candidate at the election as if the maximum amount specified in head (1) above were increased by one-half³³.

The maximum amount of election expenses allowed to a candidate³⁴ is not required to cover the candidate's personal expenses³⁵.

Where any election expenses are incurred in excess of the maximum amount, any candidate or election agent who incurred, or authorised the incurring of, the election expenses and knew or ought reasonably to have known that the expenses would be incurred in excess of that maximum amount is guilty of an illegal practice³⁶.

1 For the meaning of 'election expenses' see PARA 274 ante.

In the case of a European parliamentary election, the reference is to sums paid out and expenses incurred on behalf of an individual candidate at an election (European Parliamentary Elections Regulations 2004, SI 2004/293, reg 47(1)); and such references include sums being paid and expenses being incurred by the election agent or by a person acting on the written authority of an election agent or sub-agent (see PARA 275 et seq ante) (reg 47(2)). For the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante. As to European parliamentary elections see PARA 224 et seq ante. As to the appointment of election agents generally see PARA 238 et seq ante; and as to the appointment of a sub-agent at a European parliamentary election see PARA 248 et seq ante.

2 For the meaning of 'candidate' generally see PARA 237 ante; and for the meaning of 'election expenses incurred by or on behalf of a candidate' see PARA 274 note 15 ante.

Where a registered political party submits a list of candidates to be London members of the London Assembly at an ordinary election, the limitation on election expenses specified in head (4) in the text applies to any of those candidates: Representation of the People Act 1983 s 76(1A) (added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 20(1), (2); and amended by the Political Parties, Elections and Referendums Act 2000 s 132(1), (3), (6)). For the meaning of 'London member', in relation to the London Assembly, see PARA 10 note 5 ante; and for the meaning of 'registered political party' in that context see PARA 233 note 16 ante. As to ordinary elections of London members of the London Assembly see PARA 206 et seq ante; and as to the system of candidature whereby registered parties submit lists of candidates see PARA 345 post.

3 Representation of the People Act 1983 s 76(1) (substituted by the Political Parties, Elections and Referendums Act 2000 s 132(1), (2), (6)); Representation of the People Act 1983 s 76(1A) (as added and amended: see note 2 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 45(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 47(1).

The Secretary of State may by order made by statutory instrument vary the sum for the time being specified in the Representation of the People Act 1983 s 76(2) (as amended) (see heads (1)-(3) in the text) where he considers that the variation is expedient in consequence of changes in the value of money or in order to give effect to a recommendation of the Electoral Commission: s 76A(1), (2)(d) (s 76A added by the Representation of the People Act 1985 s 14; and substituted by the Political Parties, Elections and Referendums Act 2000 s 133(1)). Such an order which gives effect to a recommendation of the Electoral Commission is subject to annulment in pursuance of a resolution of either House of Parliament: Representation of the People Act 1983 s 76A(3) (as so added and substituted). As to the Secretary of State see PARA 2 ante; and as to the Electoral Commission see PARA 31 et seq ante.

4 Ibid s 76(2)(a) (amended by the Representation of the People Act 1989 s 6(1)). For the meaning of 'parliamentary election' see PARA 9 ante. As to parliamentary general elections see PARA 196 et seq ante.

5 For these purposes, the 'register of electors' means the register of parliamentary electors, or (as the case may be) local government electors, for the constituency, electoral area, Assembly constituency or Assembly electoral region in question as it has effect on the last day for publication of notice of the election: Representation of the People Act 1983 s 76(4) (substituted by the Representation of the People Act 2000 s 8, Sch 1 paras 1, 18(1), (3)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 45(3). For the meaning of 'constituency' for the purposes of parliamentary elections see PARA 9 ante; for the meaning of 'electoral area' for the purpose of local government elections see PARA 10 ante; and for the meanings of 'Assembly constituency' and 'Assembly electoral region' for the purposes of Welsh Assembly elections see PARA 3 note 1 ante. As to the registers of electors see PARA 160 et seq ante.

6 Representation of the People Act 1983 s 76(2)(a)(i) (amended by the Representation of the People Act 2000 s 15(2), Sch 1 paras 1, 18(1), (2), Sch 7 Pt I; and by the Representation of the People (Variation of Limits of Candidates' Election Expenses) Order 2005, SI 2005/269, art 3(1)). As to variation of the sum mentioned in

the text see note 3 supra. As to the distinction between county constituencies and borough constituencies at parliamentary elections see PARA 72 ante.

7 Representation of the People Act 1983 s 76(2)(a)(ii) (amended by the Representation of the People Act 2000 Sch 1 paras 1, 18(1), (2), Sch 7 Pt I; and by the Representation of the People (Variation of Limits of Candidates' Election Expenses) Order 2005, SI 2005/269, art 3(2)). As to variation of the sum mentioned in the text see note 3 supra.

8 As to parliamentary by-elections see PARA 198 ante.

9 Representation of the People Act 1983 s 76(2)(aa) (added by the Representation of the People Act 1989 s 6(1); amended by the Representation of the People Act 2000 Sch 1 paras 1, 18(1), (2), Sch 7 Pt I; and substituted by the Political Parties, Elections and Referendums Act 2000 s 132(1), (5), (6)). As to variation of the sum mentioned in the text see note 3 supra.

10 Representation of the People Act 1983 s 76(2)(b). For the meaning of 'local government election' see PARA 10 ante. As to the limitation of election expenses for joint candidates at certain local government elections see PARA 279 post. The provisions of s 76 (as amended) and s 76A (as added and substituted) do not apply at an election under the local government Act which is not a local government election (see the Representation of the People Act 1983 s 90(2) (as amended); and PARA 302 post), although, in relation to an election of parish councillors in England or of community councillors in Wales, s 76 (as amended) is applied, subject to a minor modification affecting s 76(1B) (as added and amended) (see PARA 676 post), and s 76A(2)(d) (as added and substituted) (see note 3 supra) continues to apply to s 76(2) (as amended): see s 90(1)(a), (b) (as amended); and PARAS 298-301 post. As to the meaning of 'election under the local government Act' see PARA 10 note 2 ante. As to elections in the City of London see PARA 30 ante.

11 Representation of the People Act 1983 s 76(2)(b) (amended by the Greater London Authority Act 1999 Sch 3 paras 1, 20(1), (3)). For the meaning of 'Authority election' see PARA 10 ante.

12 Representation of the People Act 1983 s 76(2)(b)(ii) (amended by the Representation of the People Act 2000 Sch 1 paras 1, 18(1), (2), Sch 7 Pt I; and the Representation of the People (Variation of Limits of Candidates' Election Expenses) Order 2005, SI 2005/269, art 4). As to variation of the sum mentioned in the text see note 3 supra.

13 Representation of the People Act 1983 s 76(2A)(a) (s 76(2A), (2B) added by the Greater London Authority Act 1999 Sch 3 paras 1, 20(1), (4)). As to elections for the return of an elected Mayor of London see PARA 206 et seq ante.

14 Representation of the People Act 1983 s 76(2A)(b) (as added: see note 13 supra). For the meaning of 'constituency member', in relation to the London Assembly, see PARA 10 note 6 ante. As to ordinary elections of constituency members of the London Assembly see PARA 206 et seq ante.

15 Ibid s 76(2A)(c) (as added: see note 13 supra). As to individual candidates to be London members see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 99.

16 Ibid s 76(1A) (as added: see note 2 supra), s 76(2A)(d) (as added: see note 13 supra). As to the candidates mentioned in head (4) in the text see note 2 supra.

17 Ibid s 76(2A) (as added: see note 13 supra). Such an order may not be made unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament: s 76(2B) (as added: see note 13 supra). As to the order so made see the Greater London Authority Elections (Expenses) Order 2000, SI 2000/789. As respects Authority elections, the maximum amounts of the sums which may be paid and the expenses which may be incurred by a candidate or his election agent are as follows: (1) £420,000 for a candidate in an election of the Mayor of London (art 3(a)); (2) £35,000 for a candidate in an election of a constituency member of the London Assembly (art 3(b)); (3) £330,000 for an individual candidate in an election of the London members of the London Assembly at an ordinary election (art 3(c)); (4) £330,000 for candidates to be London members of the London Assembly on a list submitted by a registered political party (art 3(d)). For the meanings of 'constituency member', 'London member' and 'election of a constituency member of the London Assembly' see PARA 10 ante. As to ordinary elections of members of the London Assembly see PARA 206 et seq ante.

18 For the meaning of 'constituency election' for the purposes of Welsh Assembly elections see PARA 3 note 1 ante.

19 As to ordinary general elections to the National Assembly for Wales see PARA 220 et seq ante.

20 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 45(3)(a)(i).

- 21 Ibid art 45(3)(a)(ii).
- 22 As to elections to the National Assembly for Wales to fill a casual vacancy see PARA 221 et seq ante.
- 23 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 45(3)(b)(i).
- 24 Ibid art 45(3)(b)(ii).
- 25 For the meaning of 'regional election' for the purposes of Welsh Assembly elections see PARA 3 note 1 ante; and for the meaning of 'individual candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante.
- 26 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 45(3)(c).
- 27 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 47(4). As to the number of MEPs to be returned at European parliamentary elections in the United Kingdom see PARA 13 et seq ante; and as to the establishment of electoral regions for the purpose of elections to the European Parliament see PARA 76 ante.
- 28 See PARAS 509-510 post.
- 29 Representation of the People Act 1983 s 76(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 45(6).
- 30 Representation of the People Act 1983 s 76(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 45(7).
- 31 As to the effect of demise of the Crown occurring after a proclamation summoning a new Parliament see PARA 197 ante.
- 32 Ie the Representation of the People Act 1983 s 76 (as amended).
- 33 Representation of the People Act 1985 s 20(5).
- 34 Ie the maximum amount for a candidate at a parliamentary election or an Authority election, including the maximum amount for the purposes of the Representation of the People Act 1983 s 76(1A) (as added and amended) (see the text and notes 1-3 supra) (s 76(5) (amended by the Greater London Authority Act 1999 Sch 3 paras 1, 20(1), (5))) or for an individual candidate at a Welsh Assembly election (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 45(5)) or for an individual candidate at a European parliamentary election (European Parliamentary Elections Regulations 2004, SI 2004/293, reg 47(5)).
- 35 Representation of the People Act 1983 s 76(5) (as amended: see note 34 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 45(5); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 47(5). For the meaning of 'personal expenses' see PARA 276 note 3 ante. There is, however, a limit on the amount in respect of personal expenses which a candidate may pay himself: see PARA 276 ante.
- 36 See the Representation of the People Act 1983 s 76(1B) (as added and amended); and PARA 676 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(iii) Financial Controls on Candidates at Elections where Election Agent is required/B. PAYMENT OF ELECTION EXPENSES/279. Limitation of election expenses for joint candidates at certain local government elections.

279. Limitation of election expenses for joint candidates at certain local government elections.

Where there are two or more joint candidates¹ at a local government election other than a London Authority election², the maximum amount of expenses³ must, for each of such joint candidates, be reduced by one-quarter or, if there are more than two joint candidates, by one-third⁴.

Candidates are deemed to be joint candidates for these purposes where two or more candidates appoint the same election agent⁵ or where, by themselves or by any agent or agents⁶: (1) they employ or use the services of the same clerks or messengers at the election⁷; or (2) they hire or use the same committee rooms⁸ for the election⁹; or (3) they publish a joint address or joint circular or notice at the election¹⁰. However, the employment and use of the same clerk, messenger or committee room, if accidental or casual or of a trivial and unimportant character, is not to be deemed of itself to constitute persons joint candidates¹¹.

Where: (a) any excess of expenses above the maximum allowed for one of two or more joint candidates has arisen owing to his having ceased to be a joint candidate¹², or to his having become a joint candidate after having begun to conduct his election as a separate candidate¹³; and (b) the change was made in good faith¹⁴; and (c) the excess is not more than under the circumstances is reasonable¹⁵; and (d) the total election expenses of the candidate do not exceed the maximum amount allowed for a separate candidate¹⁶, the excess is to be deemed to have arisen from a reasonable cause for the purpose of the statutory provisions which allow the court to give relief¹⁷, excepting certain innocent acts from being illegal practices¹⁸.

Nothing in the provisions concerning joint candidates prevents the candidates ceasing to be joint candidates¹⁹.

1 For the meaning of 'candidate' generally see PARA 237 ante.

2 For the meanings of 'Authority election' and 'local government election' see PARA 10 ante. The Representation of the People Act 1983 s 77 (as amended) does not apply at an election under the local government Act which is not a local government election (see the Representation of the People Act 1983 s 90(2) (as amended); and PARA 302 post), although s 77 (as amended) does apply in relation to an election of parish councillors in England or of community councillors in Wales: see s 90(1)(b) (as amended); and PARAS 298-301 post. As to the meaning of 'election under the local government Act' see PARA 10 note 2 ante. As to elections in the City of London see PARA 30 ante.

3 Ie mentioned in the Representation of the People Act 1983 s 76 (as amended) (see PARA 278 ante).

4 Ibid s 77(1) (amended by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 22).

5 As to the appointment of election agents generally see PARA 238 et seq ante.

6 Representation of the People Act 1983 s 77(2).

7 Ibid s 77(2)(a).

8 For these purposes, 'committee room' does not include any house or room occupied by a candidate as a dwelling, by reason only of the candidate there transacting business with his agents in relation to the election, and no room or building is deemed to be a committee room by reason only of the candidate or any agent of his

addressing in that room electors, committee men or others: *ibid* s 118. As to the meaning of 'dwelling' see PARA 132 note 19 ante.

9 *Ibid* s 77(2)(b).

10 *Ibid* s 77(2)(c).

11 *Ibid* s 77(2)(i).

12 See the text and note 19 *infra*.

13 Representation of the People Act 1983 s 77(3)(a).

14 *Ibid* s 77(3)(b).

15 *Ibid* s 77(3)(c).

16 *Ibid* s 77(3)(d).

17 The relevant provisions are those of *ibid* s 167 (as amended) (see PARA 693 *post*).

18 *Ibid* s 77(3).

19 *Ibid* s 77(2)(ii).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(iii) Financial Controls on Candidates at Elections where Election Agent is required/B. PAYMENT OF ELECTION EXPENSES/280. Claims against a candidate or his election agent in respect of election expenses.

280. Claims against a candidate or his election agent in respect of election expenses.

Every claim against a candidate¹ or his election agent² in respect of election expenses³ which is not sent in⁴ to the election agent⁵ not later than 21 days after the day on which the result of the election⁶ is declared⁷ is barred and must not be paid⁸. All election expenses must be paid not later than 28 days after the day on which the result of the election is declared⁹. An election agent who pays a claim which is statute-barred or makes a payment after the expiry of the 28 days is guilty of an illegal practice¹⁰.

If the election agent disputes any claim sent in to him within 21 days after the day on which the result of the election is declared or refuses or fails to pay the claim within 28 days after that day, the claim is deemed to be a 'disputed claim'¹¹. If he thinks fit, the claimant may bring an action for a disputed claim in any competent court, and any sum paid by the candidate or his agent¹² in pursuance of the court's judgment or order is not deemed to be in contravention of the provisions forbidding payment of election expenses otherwise than through the election agent¹³ or of the provision forbidding payment of election expenses after 28 days after the day on which the result of the election is declared¹⁴. In the case of a European parliamentary election, if the defendant in the action admits his liability but disputes the amount of the claim, then, unless the court on the application of the plaintiff otherwise directs, that amount must be forthwith referred for assessment to a nominated circuit judge¹⁵ or the master, registrar or other proper officer of the court and the amount found due on the assessment is the amount to be recovered in the action in respect of the claim¹⁶.

So far as circumstances admit, the relevant statutory provisions¹⁷ apply to an election agent's claim for his remuneration and to its payment in like manner as if he were any other creditor, and if any difference arises respecting the amount of the claim, the claim is a disputed claim¹⁸ and is to be dealt with accordingly¹⁹.

1 For the meaning of 'candidate' generally see PARA 237 ante; but see also note 2 infra.

2 As to the appointment of election agents generally see PARA 238 et seq ante.

In the case of a Welsh Assembly election, the reference is to a candidate or his election agent at a constituency election, or an individual candidate or his election agent at a regional election: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 47(1). For the meanings of 'constituency election' and 'regional election' for the purposes of Welsh Assembly elections see PARA 3 note 1 ante; and for the meaning of 'individual candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante. As to elections to the National Assembly for Wales generally see PARA 220 et seq ante.

In the case of a European parliamentary election, the reference is to an individual candidate: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 48(1). For the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante. As to European parliamentary elections see PARA 224 et seq ante.

3 For the meaning of 'election expenses' see PARA 274 ante.

4 It is not clear whether the claim must be in the possession of the person or merely have been dispatched within the time. However, to the extent that 'send' is synonymous with 'transmit', the latter construction is the correct one: see *MacKinnon v Clark* [1898] 2 QB 251 at 257, CA, per A L Smith LJ.

5 In the case of a European parliamentary election, the reference is to the 'agent who incurred the expense' rather than to the election agent (European Parliamentary Elections Regulations 2004, SI 2004/293, reg 48(1)); and references to the agent who incurred the expense are references to the election agent or sub-agent or an agent who did so on the written authority of such an agent (as to which see PARA 275 et seq ante) (reg 48(7)). Where the agent who incurred the expense is not the election agent, he must send to that agent, forthwith on payment of the expense, the bill and a record of the fact that he has paid it and, on receiving a receipt for that payment, must send that receipt to that agent: reg 48(3). As to the meaning of 'payment' for these purposes see PARA 275 note 2 ante. As to the appointment of a sub-agent at a European parliamentary election see PARA 248 et seq ante.

6 The election referred to in the text may be any of a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'Authority election' see PARA 10 ante; and as to the meaning of 'election under the local government Act' see PARA 10 note 2 ante. However, the Representation of the People Act 1983 ss 78-80 (as amended) do not apply at an election under the local government Act which is not a local government election (see the Representation of the People Act 1983 s 90(2) (as amended); and PARA 302 post); and, in relation to an election of parish councillors in England or of community councillors in Wales, the provisions of s 90(1), Sch 4 (both as amended) apply instead: see s 90(1)(b) (as amended); and PARAS 298-301 post. For the meaning of 'local government election' see PARA 10 ante. As to elections in the City of London see PARA 30 ante.

7 As to the declaration of the result of elections see PARA 478 et seq post.

8 Representation of the People Act 1983 s 78(1) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 26; and the Political Parties, Elections and Referendums Act 2000 s 138, Sch 18 paras 1, 6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 47(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 48(1).

9 Representation of the People Act 1983 s 78(2) (amended by the Political Parties, Elections and Referendums Act 2000 Sch 18 paras 1, 6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 47(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 48(2).

10 See the Representation of the People Act 1983 s 78(3); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 47(3); the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 48(4); and PARA 678 post. Except in the case of a European parliamentary election, if the election court reports that it has been proved to the court by the candidate that any payment was made by an election agent without the candidate's sanction or connivance, the candidate's election is not void, nor is he subject to any incapacity by reason only of that payment having been made in contravention of the prohibition on the payment of a claim that is statute-barred or out of time: see the Representation of the People Act 1983 s 78(3); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 47(4); and PARA 678 post. As to the incapacities which may be suffered see PARA 899 et seq post.

11 Representation of the People Act 1983 s 79(1) (amended by the Representation of the People Act 1985 Sch 4 para 26); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 48(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 49(1). As to the power to apply to the court for leave to pay a disputed claim see PARA 281 post.

12 It is not clear whether this refers only to the election agent or whether it includes, for instance, the candidate's solicitor.

13 Ie in contravention of the Representation of the People Act 1983 s 73(1) (as substituted) or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 41(1) or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 43(1) (whichever is applicable) (see PARA 275 ante).

14 Representation of the People Act 1983 s 79(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 48(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 49(2). The provisions mentioned in the text are those contained in the Representation of the People Act 1983 s 78(2) (as amended) or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 47(2) or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 48(2) (whichever is applicable) (see the text and note 9 supra).

15 The circuit judge is nominated under the Supreme Court Act 1981 s 68(1)(a) (as amended): European Parliamentary Elections Regulations 2004, SI 2004/293, reg 49(3)(a). As from a day to be appointed under the Constitutional Reform Act 2005 s 148(1), this provision is amended so as to refer to nomination under the Senior Courts Act 1981 s 68(1)(a): European Parliamentary Elections Regulations 2004, SI 2004/293, reg 49(3)(a) (prospectively amended by the Constitutional Reform Act 2005 s 59(5), Sch 11 Pt 1 para 1(2)). At the date at which this volume states the law, no such day had been appointed.

In an action in a Gibraltar court, the registrar is nominated: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 49(3)(c).

16 Ibid reg 49(3).

17 I.e. the Representation of the People Act 1983, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, or the European Parliamentary Elections Regulations 2004, SI 2004/293 (whichever is applicable).

18 I.e. within the meaning of the Representation of the People Act 1983, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, or the European Parliamentary Elections Regulations 2004, SI 2004/293 (whichever is applicable) (see the text and note 11 *supra*).

19 Representation of the People Act 1983 s 80; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 49; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 50.

UPDATE

280 Claims against a candidate or his election agent in respect of election expenses

NOTE 15--Appointed day is 1 October 2009: SI 2009/1604.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(iii) Financial Controls on Candidates at Elections where Election Agent is required/B. PAYMENT OF ELECTION EXPENSES/281. Application for leave to pay claims in respect of election expenses.

281. Application for leave to pay claims in respect of election expenses.

The person making a claim against a candidate¹ or his election agent² for any election expenses³, or the candidate or his election agent themselves, may apply to the High Court or to the county court for leave to pay such a claim (even if it is sent in after the statutory period allowed of 21 days⁴ or if it is sent in to the candidate and not to the election agent⁵) or they may apply to the High Court or to the county court for leave to pay a disputed claim⁶. The court on cause shown to its satisfaction may by order grant the leave⁷. Any sum specified in such an order may be paid by the candidate or his election agent and when paid in pursuance of the leave is not deemed to be a contravention of the statutory provision⁸ by which election expenses must be paid within 28 days of the declaration of the result⁹. In relation to a claim made pursuant to a Welsh Assembly election, the jurisdiction vested in a county court to consider and to grant an application for leave may be exercised otherwise than in open court¹⁰; and an appeal lies to the High Court from any order of a county court granting the leave in relation to such a claim¹¹.

The following examples of applications for leave to pay a claim have been granted: an application to pay a claim after the prescribed time has been granted where the candidate was misled by a textbook on elections¹²; an application to pay a claim inadvertently omitted from the return of election expenses in consequence of the illness of an agent who had been unable to check the accounts has been granted¹³, as has a similar application by a candidate where the omission was due to the election agent¹⁴; an application by a candidate to pay the charges of sub-agents which he at first thought unreasonable and refused to pay, although later he changed his mind, was granted¹⁵; and an application for leave has also been given where an agent was instructed to prepare canvassing books for a general election but was not employed as election agent¹⁶.

However, the court has refused an application for leave made where the candidate was not liable to pay the claim¹⁷.

1 For the meaning of 'candidate' generally see PARA 237 ante; but see also note 2 infra.

2 As to the appointment of election agents generally see PARA 238 et seq ante.

In the case of a Welsh Assembly election, the reference is to a candidate or his election agent at a constituency election, or an individual candidate or his election agent at a regional election: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 47(5)(b), (c). For the meanings of 'constituency election' and 'regional election' for the purposes of Welsh Assembly elections see PARA 3 note 1 ante; and for the meaning of 'individual candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante. As to elections to the National Assembly for Wales generally see PARA 220 et seq ante.

In the case of a European parliamentary election, the reference is to an individual candidate who incurred the expense: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 48(5). For the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante. As to European parliamentary elections see PARA 224 et seq ante.

3 For the meaning of 'election expenses' see PARA 274 ante. As to claims against a candidate or his election agent in respect of election expenses see PARA 280 ante.

4 As to this period see PARA 280 ante.

5 As to this restriction see PARA 280 ante.

6 Representation of the People Act 1983 ss 78(4), 79(4) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 26); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, arts 47(5), 48(3); European Parliamentary Elections Regulations 2004, SI 2004/293, regs 48(5), 49(4). For the purposes of a European parliamentary election held in Gibraltar, the reference in the text to the High Court or a county court is a reference to the Gibraltar court: see reg 45(8). 'Disputed claim' has the meaning given by the Representation of the People Act 1983 s 79(1) (as amended), as extended by s 80, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 48(1), as extended by art 49, or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 49(1), as extended by reg 50 (whichever is appropriate) (see PARA 280 ante); Representation of the People Act 1983 s 118; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 83; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 31(1). As to disputed claims, including claims by election agents as disputed claims see PARA 280 ante; and as to returns required in respect of sums paid in pursuance of the leave see PARA 285 post.

The Representation of the People Act 1983 ss 78-79 (as amended) do not apply at an election under the local government Act which is not a local government election (see the Representation of the People Act 1983 s 90(2) (as amended); and PARA 302 post); and, in relation to an election of parish councillors in England or of community councillors in Wales, the provisions of s 90(1), Sch 4 (both as amended) apply instead: see s 90(1) (b) (as amended); and PARAS 298-301 post. For the meaning of 'local government election' see PARA 10 ante; and as to the meaning of 'election under the local government Act' see PARA 10 note 2 ante. As to elections in the City of London see PARA 30 ante.

7 Representation of the People Act 1983 ss 78(4), 79(4) (as amended: see note 6 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, arts 47(5), 48(3); European Parliamentary Elections Regulations 2004, SI 2004/293, regs 48(5), 49(4).

8 In the Representation of the People Act 1983 ss 78(2), 79(1) (as amended) or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, arts 47(2), 48(1) or the European Parliamentary Elections Regulations 2004, SI 2004/293, regs 48(2), 49(1) (whichever is applicable) (see PARA 280 ante).

9 Representation of the People Act 1983 ss 78(5), 79(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, arts 47(6), 48(3); European Parliamentary Elections Regulations 2004, SI 2004/293, regs 48(6), 49(4). In the case of a European parliamentary election, reg 48(3) (see PARA 280 note 5 ante) applies to any such payment: reg 48(6). As to the meaning of 'payment' for these purposes see PARA 275 note 2 ante. As to the declaration of the result of elections see PARA 478 et seq post.

10 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, arts 47(7), 48(3).

11 Ibid arts 47(8), 48(3). As to appeals to the High Court generally see CIVIL PROCEDURE vol 12 (2009) PARA 1657.

12 *Re Preston, Fishwick Ward Councillor, Re Hubberstey* (1899) 43 Sol Jo 826, DC.

13 *Ex p Morris* (1897) 42 Sol Jo 163, DC.

14 *Ex p Polson* (1923) 39 TLR 231.

15 *Re South Shropshire Case* (1886) 2 TLR 347, DC.

16 *Re Parliamentary Election* (1887) 4 TLR 38, DC. The agent's claim was referred to arbitration and the court gave leave to pay the sum awarded by the arbitrator.

17 *Re Chelsea Case* (1886) 2 TLR 374, DC.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(iii) Financial Controls on Candidates at Elections where Election Agent is required/B. PAYMENT OF ELECTION EXPENSES/282. Creditors' rights.

282. Creditors' rights.

The statutory provisions which place restrictions on the payment of election expenses¹, and which prohibit the payment or incurring of election expenses in excess of the maximum limit² and the incurring of expenses not authorised by the election agent³, do not affect the right of any creditor who, when the expense was incurred, was ignorant of that expense being in contravention of those provisions⁴.

1 Representation of the People Act 1983 s 116(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 81(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 80(a). As to the provisions referred to in the text see PARA 275 et seq ante. As to the meaning of 'payment' for these purposes see PARA 275 note 2 ante. As to illegal payments made for the exhibition of election notices see also PARA 687 post.

2 Representation of the People Act 1983 s 116(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 81(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 80(b). As to the provisions referred to in the text see PARAS 278-279 ante.

3 Representation of the People Act 1983 s 116(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 81(c); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 80(c). As to the provisions referred to in the text see PARA 276 ante.

4 Representation of the People Act 1983 s 116; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 81; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 80.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(iii) Financial Controls on Candidates at Elections where Election Agent is required/B. PAYMENT OF ELECTION EXPENSES/283. Declaration of value of expenses incurred otherwise than for election purposes.

283. Declaration of value of expenses incurred otherwise than for election purposes.

The provisions which provide for election expenses¹ to be paid by or through an election agent², for the paying of claims against a candidate³ or election agent in respect of election expenses⁴ and for disputed claims⁵, do not apply to election expenses which⁶: (1) are incurred by or on behalf of a candidate⁷ otherwise than for the purposes of the candidate's election⁸; but (2) fall to be regarded⁹ as election expenses by reason of the property, services or facilities in respect of which they were incurred being used for the purposes of the candidate's election¹⁰.

The election agent of a candidate must make a declaration of the amount¹¹ of any election expenses which fall within heads (1) and (2) above¹².

1 For the meaning of 'election expenses' see PARA 274 ante.

The election referred to in the text may be any of a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'Authority election' see PARA 10 ante; and as to the meaning of 'election under the local government Act' see PARA 10 note 2 ante. However, the Representation of the People Act 1983 s 74A (as added and amended) does not apply at an election under the local government Act which is not a local government election (see the Representation of the People Act 1983 s 90(2) (as amended); and PARA 302 post); and, in relation to an election of parish councillors in England or of community councillors in Wales, the provisions of s 90(1), Sch 4 (both as amended) apply instead: see s 90(1)(b) (as amended); and PARAS 298-301 post. For the meaning of 'local government election' see PARA 10 ante. As to elections in the City of London see PARA 30 ante. For the meanings of 'constituency election' and 'regional election' for the purposes of Welsh Assembly elections see PARA 3 note 1 ante. As to elections to the National Assembly for Wales generally see PARA 220 et seq ante; and as to European parliamentary elections see PARA 224 et seq ante.

2 *Ie* *ibid* s 73 (as amended), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 41 and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 43 (whichever is appropriate) (see PARA 275 ante). As to the appointment of election agents generally see PARA 238 et seq ante.

3 For the meaning of 'candidate' generally see PARA 237 ante.

In the case of a Welsh Assembly election, the reference is to a candidate at a constituency election or an individual candidate at a regional election: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, arts 47(1), 48(2). For the meaning of 'individual candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante.

In the case of a European parliamentary election, the reference is to an individual candidate: European Parliamentary Elections Regulations 2004, SI 2004/293, regs 48(1), 49(2). For the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante.

4 *Ie* the Representation of the People Act 1983 s 78 (as amended), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 47 or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 48 (whichever is appropriate) (see PARAS 280-281 ante).

5 *Ie* the Representation of the People Act 1983 s 79 (as amended), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 48 or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 49 (whichever is appropriate) (see PARAS 280-281 ante).

6 Representation of the People Act 1983 s 74A(1) (s 74A added by the Political Parties, Elections and Referendums Act 2000 s 138, Sch 18 paras 1, 5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 43(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 45(1).

7 For the meaning of 'election expenses incurred by or on behalf of a candidate' see PARA 274 note 15 ante.

8 Representation of the People Act 1983 s 74A(1)(a) (as added: see note 6 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 43(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 45(1)(a). For the meaning of 'for the purposes of the candidate's election' see the Representation of the People Act 1983 s 90ZA (as added) and s 90C (as added and amended) (definition applied by s 74A(3) (as added (see note 6 supra); and amended by the Electoral Administration Act 2006 s 74(1), Sch 1 paras 104, 112(1), (4), 133)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, arts 61-63 (definition applied by art 43(3)); European Parliamentary Elections Regulations 2004, SI 2004/293, regs 60-62 (definition applied by reg 45(3)); and PARA 274 note 4 ante.

Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 104, 112 has no effect in relation to a parliamentary by-election, an election under the Local Government Act 1972 s 89 (as amended) (ie an election to fill a casual vacancy: see PARA 209 ante) or an election under the Greater London Authority Act 1999 s 10 (filling a vacancy in an Assembly constituency: see PARA 211 ante) or s 16 (filling a vacancy in the office of London Mayor: see PARA 211 ante) where the day of the poll is on or before 3 May 2007 (or, in the case of an uncontested election, would have been had the election been contested): see the Electoral Administration Act 2006 (Commencement No 1 and Transitional Provisions) Order 2006, SI 2006/1972, art 4, Sch 2 para 2.

9 le by virtue of the Representation of the People Act 1983 s 90ZA(1) (as added), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 61(1) or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 60(1) (whichever is appropriate) (see PARA 274 ante): Representation of the People Act 1983 s 74A(1)(b) (as added (see note 6 supra); and amended by the Electoral Administration Act 2006 Sch 1 paras 104, 112(1), (2), 133); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 43(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 45(1)(b).

10 Representation of the People Act 1983 s 74A(1)(b) (as added: see note 6 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 43(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 45(1)(b).

11 le determined, in relation to a Welsh Assembly election, in accordance with the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 62 or, in relation to a European parliamentary election, in accordance with the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 61 (whichever is appropriate) (see PARA 274 ante): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 43(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 45(2).

12 Representation of the People Act 1983 s 74A(2) (as added (see note 6 supra); and amended by the Electoral Administration Act 2006 s 74(2), Sch 1 paras 104, 112(1), (3), 133, Sch 2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 43(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 45(2). See note 8 supra.

UPDATE

283 Declaration of value of expenses incurred otherwise than for election purposes

NOTE 8--SI 2004/293 reg 45(3) amended: SI 2009/186.

NOTES 11, 12--SI 2004/293 reg 45(2) amended: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(iii) Financial Controls on Candidates at Elections where Election Agent is required/B. PAYMENT OF ELECTION EXPENSES/284. Return and declarations of expenses authorised by election agent.

284. Return and declarations of expenses authorised by election agent.

Where a person (other than any person engaged or employed for payment or promise of payment¹ by a candidate or his election agent²) incurs any expenses which are required, by the statutory provisions restricting unauthorised expenses³, to be authorised by the election agent⁴:

- 340 (1) that person must, within 21 days after the day on which the result of the election is declared⁵, deliver⁶: (a) to the appropriate officer⁷, a return of the amount of those expenses, stating the election⁸ at which and the candidate in whose support they were incurred⁹; or (b) in the case of a European parliamentary election, to the agent who authorised the expenses, a return of the amount of them¹⁰; and
- 341 (2) the return must be accompanied by a declaration made by that person (or in the case of an association or body of persons, by a director, general manager, secretary or other similar officer) verifying the return and giving particulars of the matters for which the expenses were incurred¹¹.

In relation to a parliamentary, local government or Welsh Assembly election, the return and declaration must be in the prescribed forms¹² and the authority received from the election agent must be annexed to, and is deemed to form part of, the return¹³. In relation to a European parliamentary election, no form is prescribed but the authority of the agent who authorised the incurring of the expenses must be annexed to and deemed to form part of the return¹⁴.

In relation to a parliamentary election, a copy of every such return and declaration must be sent also to the returning officer within 21 days after the day on which the result of the election is declared by the person making the return or declaration¹⁵. These copies must be retained and may be inspected as though they were documents forwarded to the relevant registration officer¹⁶ by a returning officer¹⁷. In relation to a Welsh Assembly election, a copy of every such return and declaration must be sent to the National Assembly for Wales within 21 days after the day on which the result of the election is declared by the person making the return or declaration¹⁸. These copies must be retained and may be inspected as though they were documents forwarded to the Assembly by a constituency returning officer¹⁹.

If any person incurs, or aids, abets, counsels or procures any other person to incur, any expenses in contravention of the provisions restricting unauthorised expenses²⁰, or knowingly makes the declaration falsely, he is guilty of a corrupt practice, and if a person fails to deliver or send any declaration or return a copy of it as required, he is guilty of an illegal practice²¹.

1 As to the meaning of 'payment' for these purposes see PARA 275 note 2 ante.

2 For the meaning of 'candidate' generally see PARA 237 ante. In the case of a Welsh Assembly election, the reference is to a candidate at a constituency election or an individual candidate at a regional election: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(3). For the meanings of 'constituency election' and 'regional election' for the purposes of Welsh Assembly elections see PARA 3 note 1 ante; and for the meaning of 'individual candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante. As to elections to the National Assembly for Wales generally see PARA 220 et seq ante. In the

case of a European parliamentary election, the reference is to an individual candidate: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(3). For the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante. As to European parliamentary elections see PARA 224 et seq ante.

As to the appointment of election agents generally see PARA 238 et seq ante. In relation to a European parliamentary election, references to an election agent include a sub-agent: reg 46(7). As to the appointment of a sub-agent at a European parliamentary election see PARA 248 et seq ante.

3 As to the provisions referred to in the text see PARA 276 ante.

4 Representation of the People Act 1983 s 75(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(3).

5 As to the declaration of the result of elections see PARA 478 et seq post.

6 Representation of the People Act 1983 s 75(2)(a) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 24(a)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(3)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(3)(a).

7 For the meaning of 'appropriate officer' in relation to a parliamentary or local government election see PARA 238 note 5 ante; and for the meaning of the 'appropriate officer' in relation to a European parliamentary election see PARA 246 note 16 ante. In the case of a Welsh Assembly election, the 'appropriate returning officer' is specified: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(3)(a). For the meaning of 'appropriate returning officer' at a Welsh Assembly election see PARA 242 note 7 ante.

8 The election referred to in the text may be any of a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante) or a constituency or regional election for the return of members of the National Assembly for Wales. For the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'Authority election' see PARA 10 ante; and as to the meaning of 'election under the local government Act' see PARA 10 note 2 ante. However, the Representation of the People Act 1983 s 75 (as amended) does not apply at an election under the local government Act which is not a local government election (see the Representation of the People Act 1983 s 90(2) (as amended); and PARA 302 post); and, in relation to an election of parish councillors in England or of community councillors in Wales, the provisions of s 90(1), Sch 4 (both as amended) apply instead: see s 90(1) (b) (as amended); and PARAS 298-301 post. For the meaning of 'local government election' see PARA 10 ante. As to elections in the City of London see PARA 30 ante.

9 Representation of the People Act 1983 s 75(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(3)(a).

10 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(3)(a).

11 Representation of the People Act 1983 s 75(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(3)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(3)(b).

12 As to the forms prescribed for use at parliamentary or local government elections see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 4, 10(1), Sch 3 Form C (return of expenses required by section 75 of the 1983 Act), Form D (declaration as to expenses required by section 75 of the 1983 Act). The forms set out in Sch 3 or forms substantially to the like effect may be used with such variations as the circumstances may require: reg 4(2). At a parliamentary election in Wales, the forms set out in the Parliamentary Elections (Welsh Forms) Order 2005, SI 2005/1105, arts 6(g), (h), 7, Sch 2 Form 7, Form 9 are prescribed as the version partly in Welsh and partly in English to be used at a parliamentary election in Wales in place of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Sch 3 Form C, Form D (although forms substantially to the like effect may be used with such variations as the circumstances may require).

As to the forms prescribed for use at elections to the National Assembly for Wales see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(4), Sch 7 Form of return referred to in article 44(4), Form of declaration referred to in article 44(4).

13 Representation of the People Act 1983 s 75(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(4).

14 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(4).

15 Representation of the People Act 1983 s 75(4), (4A) (s 75(4) substituted, and s 75(4A)-(4C) added, by the Electoral Administration Act 2006 s 74(1), Sch 1 paras 104, 113). The returning officer must forward to the relevant registration officer (within the meaning of the Representation of the People Act 1983 s 23(1), Sch 1 r 55 (as amended): see PARA 494 note 3 post) every document sent to him in pursuance of s 75(4) (as substituted): s 75(4B) (as so added).

The amendments effected by the Electoral Administration Act 2006 Sch 1 paras 104, 113 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

16 See note 15 supra.

17 Representation of the People Act 1983 s 75(4C) (as added: see note 15 supra), applying Sch 1 r 57 (as amended) (see PARA 503 post). As to the commencement of this provision see note 15 supra.

18 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(5). As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

19 Ibid art 44(5), applying art 16(1), Sch 5 para 64 (see PARA 506 post). For the meaning of 'constituency returning officer' for the purposes of elections to the National Assembly for Wales see PARA 18 note 2 ante.

20 See note 3 supra.

21 See the Representation of the People Act 1983 s 75(5) (as amended); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(6); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(5); and PARAS 690, 710 post. Any incapacity imposed by virtue of such a conviction as is mentioned in the text may be mitigated or entirely remitted if the court before which a person is convicted thinks it just in the special circumstances of the case: see the Representation of the People Act 1983 s 75(5)(i); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(6)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(5); and PARAS 690, 710 post. A candidate at a parliamentary, local government or Welsh Assembly election is not liable, nor is his election avoided, for such a corrupt or illegal practice committed by an agent without his consent or connivance: see the Representation of the People Act 1983 s 75(5)(ii); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(6)(ii); and PARAS 690, 710 post. As to liability where any act or omission of an association or body of persons, corporate or unincorporate, is an offence declared to be a corrupt or illegal practice as is mentioned in the text see the Representation of the People Act 1983 s 75(6); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(7); the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(6); and PARAS 690, 710 post.

As to the punishment of corrupt and illegal practices see PARA 885 set seq post; as to the avoidance of elections see PARA 892 et seq post; and as to the other consequences of corrupt and illegal practices see PARA 899 et seq post.

UPDATE

284 Return and declarations of expenses authorised by election agent

NOTE 12--SI 2005/1105 replaced: Parliamentary Elections (Welsh Forms) Order 2007, SI 2007/1014.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(iii) Financial Controls on Candidates at Elections where Election Agent is required/B. PAYMENT OF ELECTION EXPENSES/285. Returns as to candidates' election expenses.

285. Returns as to candidates' election expenses.

Within 35 days¹ after the day on which the result of a parliamentary election², an Authority election³ or an election under the local government Act⁴ is declared⁵ (and within 70 days after the day on which the result is declared in relation to the election of the Mayor of London⁶ or an ordinary election of the London members of the London Assembly⁷), the election agent⁸ of every candidate⁹ at that election must deliver to the appropriate officer¹⁰ a true return¹¹ containing as respects that candidate¹²:

- 342 (1) a statement of all election expenses incurred by or on behalf of the candidate¹³;
- 343 (2) a statement of all payments¹⁴ made by the election agent, together with all bills or receipts relating to the payments¹⁵;
- 344 (3) a statement relating to such other expenses in connection with which provision is made¹⁶ as the Electoral Commission provides in regulations¹⁷;
- 345 (4) a statement relating to such claims (whether paid, unpaid or disputed) in connection with such election expenses or such other expenses mentioned in head (3) above as the Electoral Commission so provides¹⁸; and
- 346 (5) a statement relating to such other matters as is prescribed¹⁹.

Within 35 days²⁰ after the day on which the result or results of a Welsh Assembly election are declared²¹ and within 50 days²² after the day on which the result of a European parliamentary election is declared²³, the election agent of every candidate²⁴ at the election must deliver or cause to be delivered to the appropriate officer²⁵ a true return containing as respects that candidate²⁶:

- 347 (a) a statement of all election expenses incurred by or on behalf of the candidate²⁷;
- 348 (b) a statement of all payments made by the election agent, together with all bills or receipts relating to the payments²⁸;
- 349 (c) a statement of the amount of personal expenses paid by the candidate²⁹;
- 350 (d) a statement of the amount of necessary and other petty expenses paid by persons authorised in writing or by the candidate's election agent³⁰;
- 351 (e) a statement of all disputed claims of which the election agent is aware³¹;
- 352 (f) a statement of all the unpaid claims, if any, of which the election agent is aware, in respect of which application has been or is about to be made to the High Court or county court³²;
- 353 (g) any declarations of value falling to be made by the candidate's election agent of expenses incurred by or on behalf of a candidate otherwise than for the purposes of the candidate's election but which fall to be regarded³³ as election expenses, or of property, goods, services or facilities provided free of charge or at a discount of more than 10 per cent which are treated³⁴ as election expenses incurred by the candidate³⁵;

- 354 (h) a declaration of the amount of election expenses incurred by or on behalf of a candidate before the date when he becomes a candidate at the election but which fall to be regarded³⁶ as election expenses³⁷;
- 355 (i) a statement of donations recording the required particulars in relation to relevant donations³⁸ which were made by permissible donors³⁹ and impermissible donors⁴⁰ and accepted by the candidate or his election agent⁴¹;
- 356 (j) a statement of the amount, if any, of money provided by the candidate from his own resources for the purpose of meeting election expenses incurred by him or on his behalf⁴².

In all cases, such a return must specify the poll by virtue of which the return is required⁴³, specify the name of the candidate to whom the return relates and of the candidate's election agent⁴⁴, and deal under a separate heading with any expenses included in it regarding which a return is required to be made, by the person incurring them, under the provisions relating to expenses required to be authorised by the election agent⁴⁵.

If, subsequent to the delivery of the return, permission is given by the court for the payment of a statute-barred or disputed claim⁴⁶, the agent who incurred the expense (in the case of a European parliamentary election⁴⁷), or either the candidate or his election agent (otherwise), must within seven days after the payment deliver to the appropriate officer a return of the sums paid in pursuance of the permission, accompanied by a copy of the court's order giving the permission; in default he is deemed to have failed to comply with the statutory requirements as to returns without authorised excuse⁴⁸. Failure to comply with the requirements of the provisions governing returns as to election expenses constitutes an illegal practice⁴⁹.

It would appear that expenses ought to be returned as election expenses notwithstanding that they were incurred illegally⁵⁰.

1 As to the computation of time for these purposes see PARA 237 note 11 ante.

2 For the meaning of 'parliamentary election' see PARA 9 ante.

3 For the meaning of 'Authority election' see PARA 10 ante; but see also the text and notes 6-7 infra.

4 As to the meaning of 'election under the local government Act' see PARA 10 note 2 ante. The Representation of the People Act 1983 s 81 (as amended) does not apply at an election under the local government Act which is not a local government election (see the Representation of the People Act 1983 s 90(2) (as amended); and PARA 302 post); and, in relation to an election of parish councillors in England or of community councillors in Wales, the provisions of s 90(1), Sch 4 (both as amended) apply instead: see s 90(1) (b) (as amended); and PARAS 298-301 post. For the meaning of 'local government election' see PARA 10 ante. As to elections in the City of London see PARA 30 ante.

5 Representation of the People Act 1983 s 81(1). As to the declaration of the result of a parliamentary election, an Authority election or an election under the local government Act see PARA 478 et seq post.

6 Ibid s 81(1); applied and modified by s 81(1A)(a) (s 81(1A) added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 23(1), (2)). As to elections for the return of an elected Mayor of London see PARA 206 et seq ante.

7 Representation of the People Act 1983 s 81(1); applied and modified by s 81(1A)(b) (as added: see note 6 supra). In relation to the election of the London members of the London Assembly at an ordinary election, the time limit of 70 days takes effect after the day on which the last of the successful candidates at the election is declared to be returned: see s 81(1A)(b) (as so added). For the meaning of 'London member', in relation to the London Assembly, see PARA 10 note 5 ante. As to ordinary elections of London members of the London Assembly see PARA 206 et seq ante.

8 As to the appointment of election agents generally see PARA 238 et seq ante.

9 For the meaning of 'candidate' generally see PARA 237 ante.

10 For the meaning of 'appropriate officer' in relation to a parliamentary or local government election see PARA 238 note 5 ante.

11 If there are no expenses to be entered under any particular head, they should be returned as 'nil'; even if no election expenses were incurred at all, the delivery of a return and declaration is still required: see *Ex p Pennington* (1898) 46 WR 415, DC; *Ex p Robson* (1886) 18 QBD 336. In *East Clare Case* (1892) Day 161 at 166, it was unsuccessfully urged that the return was bad because it showed the receipt of £100 which had not been received at the time of making the return. The election agent is not responsible for the untruth of a statement made by the candidate as to his personal expenses: *Cork, Eastern Division, Case* (1911) 6 O'M & H 318 at 350.

12 Representation of the People Act 1983 s 81(1) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 27; and the Political Parties, Elections and Referendums Act 2000 s 138, Sch 18 paras 1, 7(1), (2)). Where a registered political party submits a list of two or more candidates to be London members of the London Assembly at an ordinary election, the return which the election agent is required to deliver must be in respect of all those candidates (Representation of the People Act 1983 s 81(6), (7)(a) (s 81(6)-(11) added by the Greater London Authority Act 1999 Sch 3 paras 1, 23(1), (3)); and the Representation of the People Act 1983 s 81(1)-(5) (as amended) (see the text and notes 1-11 supra, 13-19, 43-48 infra) has effect in relation to those candidates and their election agent with the following modifications (s 81(6) (as so added)): if any payments made by the election agent were in respect of two or more candidates, the return must deal under a separate heading or subsection with all such payments, and the expenses to which they relate, in respect of those candidates (s 81(8) (as so added)); the statements which the return is required to contain by virtue of heads (3)-(5) in the text in respect of the matters there mentioned must be a separate statement as respects each of the candidates in question (s 81(9) (as so added; and amended by the Electoral Administration Act 2006 s 74(1), (2), Sch 1 paras 104, 114, 133, Sch 2)); and if and to the extent that any such matter is referable to two or more candidates together, the return must contain a separate statement of that matter as respects those candidates (Representation of the People Act 1983 s 81(10) (as so added)). Any amendment effected by the Electoral Administration Act 2006 s 26 or Sch 1 paras 104, 114, Sch 2 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. For the meaning of 'registered political party' in relation to elections for the return of London members of the London Assembly see PARA 233 note 16 ante; and as to references to party lists in that context see PARA 262 note 24 ante. As to the system of candidature whereby registered parties submit lists of candidates see PARA 345 post.

In relation to parliamentary and applicable local government elections, the Electoral Commission may, by regulations, prescribe a form of return which may be used for the purposes of making any (or any description of) return required by the Representation of the People Act 1983 s 81 (as amended): s 81(10A) (added by the Political Parties, Elections and Referendums Act 2000 Sch 18 paras 1, 7(1), (7)). The form of the return as to election expenses was formerly contained in the Representation of the People Act 1983 s 81, Sch 3 (Form of return) (repealed), which provided examples of items regarded as constituting election expenses. Regulations made by the Electoral Commission are not statutory instruments and are not recorded in this work: see further PARA 42 ante. As to the Electoral Commission see PARA 31 et seq ante.

13 Representation of the People Act 1983 s 81(1)(a) (s 81(1)(a), (b) added by the Political Parties, Elections and Referendums Act 2000 Sch 18 paras 1, 7(1), (2)). For the meaning of 'election expenses' see PARA 274 ante; and for the meaning of 'election expenses incurred by or on behalf of a candidate' see PARA 274 note 15 ante.

14 As to the meaning of 'payment' for these purposes see PARA 275 note 2 ante.

15 Representation of the People Act 1983 s 81(1)(b) (as added: see note 13 supra).

16 *Ie* by *ibid* Pt II (ss 67-119) (as amended).

17 *Ibid* s 81(3A)(a) (s 81(3A) added by the Electoral Administration Act 2006 s 26). As to the commencement of this provision see note 12 supra. As to the making of regulations under the Representation of the People Act 1983 see PARA 24 note 16 ante.

18 *Ibid* s 81(3A)(b) (as added: see note 17 supra). As to the commencement of this provision see note 12 supra.

19 *Ibid* s 81(3A)(c) (as added: see note 17 supra). As to the commencement of this provision see note 12 supra.

20 As to the computation of time for these purposes see PARA 237 note 20 ante.

21 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 50(1). As to elections to the National Assembly for Wales see PARA 220 et seq ante; and as to the declaration of the result or results of a Welsh Assembly election see PARAS 487-488 post.

22 As to the computation of time for these purposes see PARA 237 note 31 ante.

23 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 51(1). As to European parliamentary elections see PARA 224 et seq ante; and as to the declaration of the result of a European parliamentary election see PARA 491 post.

24 In the case of a Welsh Assembly election, the reference is to a candidate at a constituency election (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 50(1)(a)) or to an individual candidate at a regional election (art 50(1)(b)). For the meanings of 'constituency election' and 'regional election' for the purposes of Welsh Assembly elections see PARA 3 note 1 ante; and for the meaning of 'individual candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante.

In the case of a European parliamentary election, the reference is to an individual candidate at the election: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 51(1). For the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante.

25 For the meaning of 'appropriate officer' in relation to a European parliamentary election see PARA 246 note 16 ante. In the case of a Welsh Assembly election, the 'appropriate returning officer' is specified: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 50(1). For the meaning of 'appropriate returning officer' at a Welsh Assembly election see PARA 242 note 7 ante.

26 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 50(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 51(1). As to the content of returns and the election agent's liability for any untruths contained therein see note 11 supra. In the case of a Welsh Assembly election, the return must be in the form set out in English and Welsh in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 7 (Form of return referred to in article 50(1)), or to the like effect: art 50(1).

27 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 50(1)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 51(1)(a).

28 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 50(1)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 51(1)(b).

29 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 50(3)(a)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 51(3)(a)(i). The text refers to the personal expenses paid by the candidate at a Welsh Assembly election in accordance with the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 42(1) or art 42(3) or by an individual candidate at a European parliamentary election in accordance with the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 44(1) or reg 44(2) (see PARA 276 ante); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 50(3)(a)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 51(3)(a)(i).

In the case of the candidate at a Welsh Assembly election, the statement must be accompanied by all bills or receipts relating to any such payments made in accordance with the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 42(3) or art 42(5) (see PARA 276 ante): art 50(3)(a). In the case of an individual candidate at a European parliamentary election, the statement must be accompanied by all bills or receipts relating to any such payments made in accordance with the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 44(2) or reg 44(4) (see PARA 276 ante): reg 51(3)(a). Within 50 days after the day on which the result of a European parliamentary election is declared, every candidate on the list of a registered party must also deliver or cause to be delivered to the appropriate officer a true return containing as respects that candidate a statement of all personal expenses incurred by him on account of or incidental to the election: reg 53(1). It is a corrupt practice for a candidate knowingly to make such a return falsely: see reg 53(2); and PARA 711 note 7 post. For the meanings of 'list' and 'registered party' for these purposes see PARA 237 note 30 ante. As to the system of candidature whereby registered parties submit lists of candidates see PARA 345 post.

30 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 50(3)(a)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 51(3)(a)(ii). The text refers to expenses paid in relation to a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 42(5) or in relation to a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 44(4) (see PARA 276 ante); and the statement referred to in the text must be accompanied by all bills or receipts relating to any payments so made: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 50(3)(a)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 51(3)(a)(ii).

31 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 50(3)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 51(3)(b).

32 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 50(3)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 51(3)(c). In the case of a European parliamentary election, an application may have been or is about to be made to the Gibraltar court: reg 51(3)(c).

33 Ie declarations of value falling to be made by the candidate's election agent, in relation to a Welsh Assembly election, by virtue of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 43(2) or, in relation to a European parliamentary election, by virtue of the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 45(2) (see PARA 283 ante).

34 Ie, in relation to a Welsh Assembly election, by virtue of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 63(2) or, in relation to a European parliamentary election, by virtue of the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 62(2) (see PARA 274 ante).

35 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 50(3)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 51(3)(d).

36 Ie, in relation to a Welsh Assembly election, by virtue of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 61(5)(b) or, in relation to a European parliamentary election, by virtue of the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 60(5)(b) (see PARA 274 note 59 ante).

37 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 50(3)(e); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 51(3)(e).

38 For the meaning of 'relevant donation' for these purposes see PARA 292 note 10 post.

39 Ie a statement of donations made to the candidate or his election agent which complies with the requirements of, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(4), Sch 6 para 11 or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 42(4), Sch 6 para 11 (see PARA 297 post). For the meaning of 'permissible donor' for these purposes see PARA 293 post.

40 Ie a statement of donations made to the candidate or his election agent which complies with the requirements of, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(4), Sch 6 para 12 or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 12 (see PARA 297 post). For the meaning of 'impermissible donor' for these purposes see PARA 297 post.

41 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 50(3)(f); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 51(3)(f).

42 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 50(3)(g); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 51(3)(g).

43 Representation of the People Act 1983 s 81(2)(a) (s 81(2) substituted by the Political Parties, Elections and Referendums Act 2000 Sch 18 paras 1, 7(1), (3)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 50(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 51(2)(a).

44 Representation of the People Act 1983 s 81(2)(b) (as substituted: see note 43 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 50(2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 51(2)(b).

45 Representation of the People Act 1983 s 81(2)(c) (as substituted: see note 43 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 50(2)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 51(2)(c). The text refers to any expenses in respect of which a return is required, in relation to a parliamentary or applicable local government election, by virtue of the Representation of the People Act 1983 s 75(2) (as amended) or, in relation to a Welsh Assembly election, by virtue of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(3) or, in relation to a European parliamentary election, by virtue of the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(2) (see PARA 284 ante).

46 Ie, in relation to a parliamentary or applicable local government election, under the Representation of the People Act 1983 s 78(4) (as amended) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 47(5) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 48(5) (see PARA 281 ante).

47 See the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 51(4). In such a case, references to the agent who incurred the expense are references to the election agent or sub-agent or to an agent who did so on the written authority of such an agent (see PARA 275 et seq ante): reg 48(7); applied by reg 51(5). As to the appointment of a sub-agent at a European parliamentary election see PARA 248 et seq ante.

48 Representation of the People Act 1983 s 81(5) (amended by the Representation of the People Act 1985 Sch 4 para 27); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 50(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 51(4). As to relief in respect of a failure with regard to returns as to election expenses see PARA 691 post.

49 See, in relation to a parliamentary or local government election, the Representation of the People Act 1983 s 84, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 54 and, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 54; and see PARA 679 post.

50 *Hartlepool Case* (1910) 6 O'M & H 1 at 13; *Cork, Eastern Division, Case* (1911) 6 O'M & H 318 at 346-347; *Louth, Northern Division, Case* (1911) 6 O'M & H 103 at 152; *Ipswich Case, Packard v Collings and West* (1886) 4 O'M & H 70.

UPDATE

285 Returns as to candidates' election expenses

NOTES 36, 37--SI 2004/293 reg 51(3)(e) amended: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(iii) Financial Controls on Candidates at Elections where Election Agent is required/B. PAYMENT OF ELECTION EXPENSES/286. Declarations as to election expenses.

286. Declarations as to election expenses.

The return as to election expenses¹ as delivered must be accompanied by a declaration made by the election agent² in the appropriate form³. At the same time as the election agent delivers the return, or within seven days⁴ afterwards, the candidate⁵ must deliver to the appropriate officer⁶ a declaration made by him in the appropriate form⁷. Where the candidate is out of the United Kingdom⁸ at the time when the return is so delivered⁹, his declaration may be made within 14 days after his return to the United Kingdom¹⁰, and in that case must be forthwith delivered to the appropriate officer¹¹, but such delay in making his declaration will not exonerate the election agent from complying with the statutory provisions relating to the return and declaration as to election expenses¹².

In the case of a regional election to the National Assembly for Wales, at the same time as the treasurer of a registered political party¹³ delivers a return as to the party's campaign expenditure¹⁴ (or within seven days thereafter) each candidate on a regional list submitted by that registered party¹⁵ must deliver to the Assembly a declaration made by that candidate in the appropriate form¹⁶. Where any such candidate is out of the United Kingdom when the return is so delivered¹⁷, the declaration may be made by him within 14 days after his return to the United Kingdom¹⁸ and in that case the declaration must forthwith be delivered to the Assembly¹⁹, but the delay so authorised in making the declaration does not exonerate the treasurer of the registered party from complying with the statutory provisions relating to the return of party expenditure²⁰.

Failure to comply with the requirements of the provisions governing declarations as to election expenses constitutes an illegal practice²¹. If a candidate or election agent knowingly makes the required declaration falsely, he is guilty of a corrupt practice²².

1 'Return as to election expenses' means a return (including the bills and receipts to be delivered with it) to be made under the Representation of the People Act 1983 s 81(1) (as amended) (or, as the case may be, s 90(1)(b), Sch 4 para 3 (both as amended) (expenses at elections where election agent not required: see PARA 300 post)) or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 50(1) or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 51(1) (whichever is appropriate) (see PARA 285 ante): Representation of the People Act 1983 s 118 (definition amended by the Representation of the People Act 1985 s 24, Sch 4 para 43); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 83; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 31(1). For the meaning of 'election expenses' see PARA 274 ante.

The election referred to may be any of a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales (see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 51(2)) or a European parliamentary election (see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 52(1)). For the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'Authority election' see PARA 10 ante; and as to the meaning of 'election under the local government Act' see PARA 10 note 2 ante. However, the Representation of the People Act 1983 s 82 (as amended) does not apply at an election under the local government Act which is not a local government election (see the Representation of the People Act 1983 s 90(2) (as amended); and PARA 302 post); and, in relation to an election of parish councillors in England or of community councillors in Wales, the provisions of s 90(1), Sch 4 (both as amended) apply instead: see s 90(1) (b) (as amended); and PARAS 298-301 post. For the meaning of 'local government election' see PARA 10 ante. As to elections in the City of London see PARA 30 ante. For the meanings of 'constituency election' and 'regional election' for the purposes of Welsh Assembly elections see PARA 3 note 1 ante. As to elections to the National

Assembly for Wales generally see PARA 220 et seq ante; and as to European parliamentary elections see PARA 224 et seq ante.

2 As to the appointment of election agents generally see PARA 238 et seq ante.

3 Representation of the People Act 1983 s 82(1) (amended by the Representation of the People Act 1985 Sch 4 para 28; and the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 24(1), (2)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 51(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 52(1). If the declarant is aware of any payment of election expenses having been made which ought to have been, but was not, made by the election agent and which therefore constitutes an illegal practice (as to which see PARA 275 ante), the payment should be disclosed in the declaration: see *Cork, Eastern Division, Case* (1911) 6 O'M & H 318 at 351.

For these purposes, in relation to a parliamentary or appropriate local government election, the 'appropriate form' is: (1) in the case of the election agent for the candidates on a list submitted under the Greater London Authority Act 1999 s 4(6), Sch 2 para 5 (election of London members: see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 98) by a registered political party, the form set out for the purpose in rules under the Representation of the People Act 1983 s 36(2A) (as added) (as to which see PARA 388 post) (s 82(2A)(a) (s 82(2A) added by the Greater London Authority Act 1999 Sch 3 paras 1, 24(1), (4))); and (2) in any other case, the form in the Representation of the People Act 1983 s 82, Sch 3 (s 82(2A)(c) (as so added)). For the meaning of 'registered political party' in relation to elections for the return of London members of the London Assembly see PARA 233 note 16 ante; and as to references to party lists in that context see PARA 262 note 24 ante. In relation to head (1) supra, the form of the declaration required by s 82(1) (as amended) (declaration by agent) in the circumstances mentioned in s 82(2A)(a) (as added) is that set out in the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 4, Sch 5 Form 17 Pt I (form of declaration as to election expenses by election agent who was not also list candidate) (added by SI 2000/1040; and substituted by SI 2001/3789): Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 2 r 60(1). Where one of the candidates included in a list mentioned in head (1) supra is the election agent for those candidates, the declaration required by the Representation of the People Act 1983 s 82(1) (as amended) is instead modified as specified in the form set out in the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 5 Form 17 Pt II (modifications to form of declaration set out in part I where a candidate included in a list is the election agent for candidates on that list) (as so added and substituted): Representation of the People Act 1983 s 82(5A) (added by the Greater London Authority Act 1999 Sch 3 paras 1, 24(1), (6)); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 60(2). In relation to head (2) supra, see the Representation of the People Act 1983 Sch 3 (Form of declarations) (amended by the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 68(19); the Representation of the People Act 1985 Sch 4 para 88; and the Political Parties, Elections and Referendums Act 2000 ss 138, 158(2), (3)(a), Sch 18 paras 1, 16(b), Sch 22). Where the candidate at a parliamentary or local government election is his own election agent (see PARAS 238-239 ante), the declaration by an election agent as to election expenses need not be made and the declaration by the candidate as to election expenses (see the text and notes 4-7 infra) is to be modified as specified in the form in the Representation of the People Act 1983 Sch 3 (as amended): s 82(5).

In the case of a Welsh Assembly election, the declaration must be in the form set out in English and Welsh in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 7 (Form of declaration referred to in article 51(1) and (2)): art 51(1). Where a candidate at a constituency election or an individual candidate at a regional election is his own election agent, the declaration by the election agent as to the election expenses need not be made: art 51(4). See also notes 5, 7 infra. For the meaning of 'individual candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante.

In the case of a European parliamentary election, the 'appropriate form' is the form in the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 52(3), Sch 7 (Form of declaration): reg 52(3). Where the candidate is his own election agent, the declaration by an election agent as to election expenses need not be made: reg 52(5). See also note 7 infra.

4 As to the computation of time for these purposes see PARA 237 ante.

5 For the meaning of 'candidate' generally see PARA 237 ante. In the case of a Welsh Assembly election, the reference is to a candidate at a constituency election (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 51(2)(a)) or an individual candidate at a regional election (art 51(2)(b)). As to party list candidates see the text and notes 13-20 infra. In the case of a European parliamentary election, the reference is to an individual candidate: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 51(1). For the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante.

6 For the meaning of 'appropriate officer' in relation to a parliamentary or local government election see PARA 238 note 5 ante; and for the meaning of the 'appropriate officer' in relation to a European parliamentary election see PARA 246 note 16 ante. In the case of a Welsh Assembly election, the 'appropriate returning officer' is specified: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 51(2). For the meaning of 'appropriate returning officer' at a Welsh Assembly election see PARA 242 note 7 ante.

7 Representation of the People Act 1983 s 82(2) (amended by the Representation of the People Act 1985 Sch 4 para 28; and the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 24(1), (3)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 51(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 52(2). See also note 3 supra.

For these purposes, in relation to a parliamentary or appropriate local government election, the 'appropriate form': (1) in the case of any of the candidates included in a list submitted under the Greater London Authority Act 1999 Sch 2 para 5 (election of London members: see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 98) by a registered political party, the form set out for the purpose in rules under the Representation of the People Act 1983 s 36(2A) (as added) (as to which see PARA 388 post) (s 82(2A)(b) (as added: see note 3 supra)); and (2) in any other case, is the form in Sch 3 (s 82(2A)(c) (as so added)). In relation to head (1) supra, the form of the declaration required by s 82(2) (as amended) in the circumstances mentioned in s 82(2A)(b) (as added) is that set out in the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 5 Form 18 Pt I (form of declaration as to election expenses by list candidate who was not also election agent) (added by SI 2000/1040; and substituted by SI 2001/3789): Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 60(3). Where one of the candidates included in a list mentioned in head (1) supra is the election agent for those candidates, the declaration required by the Representation of the People Act 1983 s 82(2) (as amended) is instead modified as specified in the form set out in the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 5 Form 18 Pt II (modifications to form of declaration set out in part I where a candidate included in a list is the election agent for candidates on that list) (as so added and substituted): Representation of the People Act 1983 s 82(5A) (as added: see note 3 supra); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 60(4). In relation to head (2) supra, see the Representation of the People Act 1983 Sch 3 (Form of declarations) (as amended: see note 3 supra).

In the case of a Welsh Assembly election, the declaration must be in the form set out in English and Welsh in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 7 (Form of declaration referred to in article 51(1) and (2)): art 51(2). Where a candidate at a constituency election or an individual candidate at a regional election is his own election agent, the declaration by the candidate as to election expenses must be modified as specified in the form set out in English and Welsh in Sch 7: art 51(4). See also note 3 supra.

In the case of a European parliamentary election, the 'appropriate form' is the form in the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 52(3), Sch 7 (Form of declaration): reg 52(3). Where the candidate is his own election agent, the declaration by the candidate as to election expenses must be modified as specified in the form in Sch 7: reg 52(5). As to the version partly in Welsh and partly in English which must be used at a European parliamentary election in Wales see the European Parliamentary Elections (Welsh Forms) Order 2004, SI 2004/1373, art 6(j), Sch 2 (Form 13: declaration as to election expenses). See also note 3 supra.

8 For the meaning of 'United Kingdom' see PARA 13 note 1 ante. In the case of an individual candidate at a European parliamentary election who is resident in Gibraltar standing for election in the combined region, Gibraltar is specified: see reg 52(4). For the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante. As to the combined region see PARA 76 ante.

9 Representation of the People Act 1983 s 82(3) (amended by the Representation of the People Act 1985 Sch 4 para 28); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 51(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 52(4).

10 Representation of the People Act 1983 s 82(3)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 51(3)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 52(4)(a).

11 Representation of the People Act 1983 s 82(3)(b) (amended by the Representation of the People Act 1985 Sch 4 para 28); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 51(3)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 52(4)(b).

12 Representation of the People Act 1983 s 82(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 51(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 52(4).

13 For the meaning of 'registered political party' at a Welsh Assembly election see PARA 237 note 23 ante. As to the treasurer of a registered party see PARA 260 ante.

14 Under the Political Parties, Elections and Referendums Act 2000 s 80 (see PARA 312 post). For the meaning of 'campaign expenditure' see PARA 304 post.

15 For the meaning of 'party list candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante.

16 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 52(1). The declaration referred to in the text must be in the form set out in English and Welsh in art 16(1), Sch 7 (Form of declaration referred to in article 52, Y datganiad y cyfeirir ato yn erthygl 52).

17 Ibid art 52(2).

18 Ibid art 52(2)(a).

19 Ibid art 52(2)(b).

20 Ibid art 52(2). The text refers to the provisions of the Political Parties, Elections and Referendums Act 2000 Pt V (ss 72-84) (as amended) (see PARA 304 et seq post).

21 See, in relation to a parliamentary or local government election, the Representation of the People Act 1983 s 84 or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 54 or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 54; and PARA 679 post.

22 See, in relation to a parliamentary or local government election, the Representation of the People Act 1983 s 82(6) or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, arts 51(5), 52(3) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 52(6); and PARA 711 post.

UPDATE

286 Declarations as to election expenses

NOTES 3, 7--SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

NOTE 7--SI 2004/1373 replaced: see the European Parliamentary Elections (Welsh Forms) Order 2009, SI 2009/781, art 6(1)(s), Sch 2 (Form 19: declaration as to election expenses).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(iii) Financial Controls on Candidates at Elections where Election Agent is required/B. PAYMENT OF ELECTION EXPENSES/287. Circumstances where returns or declarations as to election expenses not required.

287. Circumstances where returns or declarations as to election expenses not required.

No return¹ or declaration as to election expenses² is required in the case of a person who is a candidate³ at a parliamentary election⁴ or at a Welsh Assembly election⁵, but is so only because he has been declared by others to be a candidate⁶, and who has not consented to the declaration or taken any part as a candidate in the election⁷.

1 For the meaning of 'return as to election expenses' see PARA 286 note 1 ante.

2 'Declaration as to election expenses' means a declaration made under the Representation of the People Act 1983 s 82 (as amended) (or, as the case may be, s 90(1)(b), Sch 4 para 3 (both as amended): see PARA 298 post) or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 51 or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 52 (whichever is appropriate) (see PARA 286 ante): Representation of the People Act 1983 s 118 (definition amended by the Representation of the People Act 1985 s 24, Sch 4 para 43); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 83; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 31(1).

3 For the meaning of 'candidate' generally see PARA 237 ante.

4 For the meaning of 'parliamentary election' see PARA 9 ante.

The Representation of the People Act 1983 s 83 does not apply at an election under the local government Act which is not a local government election (see the Representation of the People Act 1983 s 90(2) (as amended); and PARA 302 post); and, in relation to an election of parish councillors in England or of community councillors in Wales, the provisions of s 90(1), Sch 4 (both as amended) apply instead: see s 90(1)(b) (as amended); and PARAS 298-301 post. For the meaning of 'local government election' see PARA 10 ante; and as to the meaning of 'election under the local government Act' see PARA 10 note 2 ante. As to elections in the City of London see PARA 30 ante.

5 For the meaning of 'Assembly election' see PARA 3 note 1 ante.

6 Representation of the People Act 1983 s 83(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 53(a).

7 Representation of the People Act 1983 s 83(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 53(b). As to a candidate's liability see PARAS 237, 265 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(iii) Financial Controls on Candidates at Elections where Election Agent is required/B. PAYMENT OF ELECTION EXPENSES/288. Publication of time and place for inspection of returns and declarations as to election expenses.

288. Publication of time and place for inspection of returns and declarations as to election expenses.

At a parliamentary¹, Authority², Welsh Assembly³ or European parliamentary election⁴, the returning officer⁵ must, within ten days⁶ after the end of the time allowed for delivering to him returns as to election expenses⁷, publish in not less than two newspapers circulating in the constituency or electoral area⁸, or not less than three newspapers circulating in the Welsh Assembly electoral region⁹, or at least one newspaper circulating in the European parliamentary electoral region¹⁰, for which the election was held¹¹, and must send to each of the election agents¹², a notice of the time and place at which the returns and declarations¹³ (including the accompanying documents) can be inspected¹⁴.

At an Assembly ordinary election¹⁵ or at an Assembly regional election other than at an ordinary election, the National Assembly for Wales¹⁶ must, within ten days after the end of the time allowed for delivering to it returns as to election expenses¹⁷: (1) in the case of an ordinary election, publish in not less than five newspapers circulating in Wales¹⁸; (2) in the case of a regional election other than at an ordinary election, publish in not less than three newspapers circulating in the Assembly electoral region for which the election was held¹⁹; and (3) send to each of the election agents for individual candidates, in the case of an ordinary election, at regional elections at the ordinary election or, in the case of a regional election other than at an ordinary election, at the regional election, a notice of the time and place at which the returns and declarations (including the accompanying documents) can be inspected²⁰.

However, if any return or declaration has not been received by the returning officer (or, alternatively, by the Assembly, in the case of Welsh Assembly elections) before the notice is dispatched for publication, the notice must so state, and a like notice about that return or declaration, if received afterwards, must within ten days after the receipt be published in like manner²¹ and sent to each of the persons to whom the first notice was sent other than an agent who is in default or an agent for a candidate who is in default²².

1 For the meaning of 'parliamentary election' see PARA 9 ante.

2 For the meaning of 'Authority election' see PARA 10 ante. The Representation of the People Act 1983 s 88 (as amended) does not apply at an election under the local government Act which is not a local government election (see the Representation of the People Act 1983 s 90(2) (as amended); and PARA 302 post); and, in relation to an election of parish councillors in England or of community councillors in Wales, the provisions of s 90(1), Sch 4 (both as amended) apply instead: see s 90(1)(b) (as amended); and PARAS 298-301 post. For the meaning of 'local government election' see PARA 10 ante; and as to the meaning of 'election under the local government Act' see PARA 10 note 2 ante. As to elections in the City of London see PARA 30 ante.

3 For the meaning of 'Assembly election' see PARA 3 note 1 ante.

4 Representation of the People Act 1983 s 88 (amended by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 27(1), (2)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 59(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 58(1). As to European parliamentary elections see PARA 224 et seq ante.

5 As to returning officers for elections generally see PARA 355 et seq post.

In the case of a Welsh Assembly election, the 'appropriate returning officer' is specified: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 59(1). For the meaning of 'appropriate returning officer' at a Welsh Assembly election see PARA 242 note 7 ante.

6 As to the computation of time for these purposes see PARA 237 ante.

7 Representation of the People Act 1983 s 88(a) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 32); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 59(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 58(1)(a). As to the time allowed referred to in the text see PARA 285 ante. For the meaning of 'election expenses' see PARA 274 ante; and for the meaning of 'return as to election expenses' see PARA 286 note 1 ante.

8 Representation of the People Act 1983 s 88(a) (amended by the Greater London Authority Act 1999 Sch 3 paras 1, 27(1), (3)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 59(1)(a)(i). As to parliamentary constituencies see PARA 9 ante. In the case of a Welsh Assembly election, an 'Assembly constituency' is specified: see art 59(1)(a)(i). For the meaning of 'Assembly constituency' for the purposes of Welsh Assembly elections see PARA 3 note 1 ante. For the meaning of 'electoral area' see PARA 10 ante.

9 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 59(1)(a)(ii). For the meaning of 'Assembly electoral region' see PARA 3 note 1 ante.

10 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 58(1)(a). In the case of a European parliamentary election held in the combined region, publication must take place in 'that part of the region which is in England and in at least one newspaper circulating in that part which is in Gibraltar': see reg 58(2). As to the establishment of electoral regions for the purpose of elections to the European Parliament (including the combined region) see PARA 76 ante.

11 Representation of the People Act 1983 s 88(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 59(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 58(1)(a).

12 As to the appointment of election agents generally see PARA 238 et seq ante.

13 For the meaning of 'declaration as to election expenses' see PARA 287 note 2 ante.

14 Representation of the People Act 1983 s 88(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 59(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 58(1)(a).

In the case of a Welsh Assembly constituency election, the notice referred to in the text is sent to each of the election agents (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 59(1)(b)(i)); and, in the case of a regional election, it is sent to each of the election agents for individual candidates (art 59(1)(b)(ii)). For the meanings of 'constituency election' and 'regional election' for the purposes of Welsh Assembly elections see PARA 3 note 1 ante; and for the meaning of 'individual candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante.

15 As to ordinary Assembly elections see PARA 12 et seq ante.

16 As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

17 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 59(2).

18 Ibid art 59(2)(a).

19 Ibid art 59(2)(b).

20 Ibid art 59(2)(c).

21 Representation of the People Act 1983 s 88(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 59(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 58(2).

22 Representation of the People Act 1983 s 88(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 59(3).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(iii) Financial Controls on Candidates at Elections where Election Agent is required/B. PAYMENT OF ELECTION EXPENSES/289. Inspection of returns and declarations as to election expenses.

289. Inspection of returns and declarations as to election expenses.

Where the appropriate officer¹ receives any return² or declaration as to election expenses³ in respect of a parliamentary election⁴, a local government election⁵, a Welsh Assembly election⁶, or a European parliamentary election⁷, or (except in relation to a European parliamentary election) any return or declaration as to expenses required to be authorised by the election agent⁸: (1) he must, as soon as reasonably practicable after receiving the return or declaration, make a copy of it, and any accompanying documents, available for public inspection at his office or at some other convenient place chosen by him, for a period of two years (or, in the case of a European parliamentary election, 12 months) beginning with the date when the return is received by him⁹; and (2) if requested to do so by any person, he must supply that person with a copy of the return or declaration and any accompanying documents, on payment of the fee that is specified or prescribed¹⁰. After the expiry of those two years (or, in the case of a European parliamentary election, 12 months), the appropriate officer may cause those returns and declarations, including the accompanying documents, to be destroyed¹¹. Alternatively, at an election other than a European parliamentary election, if the candidate¹² or his election agent¹³ so requires, the appropriate officer may return the documents, in the case of returns and declarations as to election expenses, to the candidate¹⁴ and, in the case of returns and declarations by persons who have incurred expenses required to be authorised by the election agent¹⁵, to the person delivering them if he so requires¹⁶.

1 For the meaning of 'appropriate officer' in relation to a parliamentary or local government election see PARA 238 note 5 ante; and for the meaning of the 'appropriate officer' in relation to a European parliamentary election see PARA 246 note 16 ante. For the meaning of 'appropriate returning officer', in relation to a Welsh Assembly election, see PARA 242 note 7 ante.

2 For the meaning of 'return as to election expenses' see PARA 286 note 1 ante.

3 For the meaning of 'election expenses' see PARA 274 ante; and for the meaning of 'declaration as to election expenses' see PARA 287 note 2 ante.

4 For the meaning of 'parliamentary election' see PARA 9 ante.

5 For the meaning of 'local government election' see PARA 10 ante. The Representation of the People Act 1983 s 89 (as amended) does not apply at an election under the local government Act which is not a local government election (see the Representation of the People Act 1983 s 90(2) (as amended); and PARA 302 post); and, in relation to an election of parish councillors in England or of community councillors in Wales, the provisions of s 90(1), Sch 4 (both as amended) apply instead: see s 90(1)(b) (as amended); and PARAS 298-301 post. As to the meaning of 'election under the local government Act' see PARA 10 note 2 ante. As to elections in the City of London see PARA 30 ante.

6 For the meaning of 'Assembly election' see PARA 3 note 1 ante.

7 Representation of the People Act 1983 s 89(1) (s 89(1) substituted by the Political Parties, Elections and Referendums Act 2000 s 138, Sch 18 paras 1, 10); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 60(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 59(1). As to European parliamentary elections see PARA 224 et seq ante.

8 Representation of the People Act 1983 s 89(1) (as substituted: see note 7 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 60(1). The text refers to a return or

declaration under the Representation of the People Act 1983 s 75 (as amended) or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44 (see PARA 277 ante).

9 Representation of the People Act 1983 s 89(1)(a) (as substituted: see note 7 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 60(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 59(1)(a). In relation to a Welsh Assembly election, a fee of £1.50 is payable for inspecting a return or declaration (including any accompanying documents) referred to in head (1) in the text: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 60(3). The National Assembly for Wales may by order made by statutory instrument vary the amount of any fee so payable: art 60(7).

If any such return contains a statement of donations in accordance with the Representation of the People Act 1983 s 71A, Sch 2A para 10 (as added and amended) (see PARA 297 post) or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 50(3)(f) (see PARA 285 ante) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 51(3)(f) (see PARA 285 ante), the appropriate officer must secure that the copy of the statement made available for public inspection under head (1) in the text or (as the case may be) supplied under head (2) in the text does not include, in the case of any donation by an individual, the donor's address: Representation of the People Act 1983 s 89(1A) (added by the Political Parties, Elections and Referendums Act 2000 Sch 18 paras 1, 10; and amended by the Electoral Administration Act 2006 s 74(1), Sch 1 paras 104, 115); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 60(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 59(2).

The amendments effected by the Electoral Administration Act 2006 Sch 1 paras 104, 115 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

10 Representation of the People Act 1983 s 89(1)(b) (as substituted: see note 7 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 60(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 59(1)(b).

If any such return contains a statement of donations in accordance with the Representation of the People Act 1983 s 71A, Sch 2A para 10 (as added and amended) (see PARA 297 post) or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 50(3)(f) (see PARA 285 ante) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 51(3)(f) (see PARA 285 ante), the appropriate officer must secure that the copy of the statement supplied under head (2) in the text does not include, in the case of any donation by an individual, the donor's address: Representation of the People Act 1983 s 89(1A) (as added and amended: see note 9 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 60(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 59(2).

In relation to a parliamentary or local government election, 'prescribed' means prescribed by regulations: Representation of the People Act 1983 s 202(1). Accordingly, the price of a copy of any such return, declaration or any accompanying document is at the rate of 20p for each side of each page: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 10(3) (amended by SI 2002/1871). As to the making of regulations under the Representation of the People Act 1983 generally see PARA 24 note 16 ante. In relation to a Welsh Assembly election, the fee payable for a copy of any such return, declaration or document referred to in head (2) in the text is at the rate of 15p for each side of each page: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 60(4). The National Assembly for Wales may by order made by statutory instrument vary the amount of any fee so payable: art 60(7).

11 Representation of the People Act 1983 s 89(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 60(5)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 59(3).

12 For the meaning of 'candidate' generally see PARA 237 ante.

13 As to the appointment of election agents generally see PARA 238 et seq ante.

14 Representation of the People Act 1983 s 89(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 60(5)(b).

15 See note 8 supra.

16 Representation of the People Act 1983 s 89(3) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 33); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 60(6).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(iii) Financial Controls on Candidates at Elections where Election Agent is required/B. PAYMENT OF ELECTION EXPENSES/290. Delivery of returns and declarations as to election expenses to the Electoral Commission.

290. Delivery of returns and declarations as to election expenses to the Electoral Commission.

Where the appropriate officer¹ receives any return² or declaration as to election expenses³, or any return or declaration as to expenses required to be authorised by the election agent⁴, in respect of a parliamentary election⁵, an election of the Mayor of London⁶, a Welsh Assembly election⁷, or a European parliamentary election⁸, he must as soon as reasonably practicable after receiving the return or declaration deliver a copy of it to the Electoral Commission⁹ and, if so requested by the Commission, he must also deliver to it a copy of any accompanying documents¹⁰.

1 For the meaning of 'appropriate officer' in relation to a parliamentary or local government election see PARA 238 note 5 ante; and for the meaning of the 'appropriate officer' in relation to a European parliamentary election see PARA 246 note 16 ante. In the case of a Welsh Assembly election, the 'appropriate returning officer' is specified: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 58. For the meaning of 'appropriate returning officer' at a Welsh Assembly election see PARA 242 note 7 ante.

2 For the meaning of 'return as to election expenses' see PARA 286 note 1 ante.

3 For the meaning of 'election expenses' see PARA 274 ante; and for the meaning of 'declaration as to election expenses' see PARA 287 note 2 ante.

4 See under the Representation of the People Act 1983 s 75 (as amended) (see PARA 277 ante).

5 For the meaning of 'parliamentary election' see PARA 9 ante.

6 As to elections for the return of an elected Mayor of London see PARA 206 et seq ante. The Representation of the People Act 1983 s 87A (as added) does not apply at an election under the local government Act which is not a local government election (see the Representation of the People Act 1983 s 90(2) (as amended); and PARA 302 post); and, in relation to an election of parish councillors in England or of community councillors in Wales, the provisions of s 90(1), Sch 4 (both as amended) apply instead: see s 90(1)(b) (as amended); and PARAS 298-301 post. For the meaning of 'local government election' see PARA 10 ante; and as to the meaning of 'election under the local government Act' see PARA 10 note 2 ante. As to elections in the City of London see PARA 30 ante.

7 For the meaning of 'Assembly election' see PARA 3 note 1 ante.

8 As to European parliamentary elections see PARA 224 et seq ante.

9 As to the Electoral Commission see PARA 31 et seq ante.

10 Representation of the People Act 1983 s 87A(1) (s 87A added by the Political Parties, Elections and Referendums Act 2000 s 138, Sch 18 paras 1, 9); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 58; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 57. Where the appropriate officer at a parliamentary election or an election of the Mayor of London receives any return or declaration in respect of any other election, he must, if so requested by the Electoral Commission, deliver to it a copy of the return and any accompanying documents: Representation of the People Act 1983 s 87A(2) (as so added).

UPDATE

290 Delivery of returns and declarations as to election expenses to the Electoral Commission

NOTE 6--1983 Act s 87A applied (with minor modification) for the purposes of local authority mayoral elections by the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(2)-(5), Sch 2 Table 1.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(iii) Financial Controls on Candidates at Elections where Election Agent is required/C. CONTROL OF DONATIONS TO INDIVIDUAL CANDIDATES DURING ELECTIONS/291. Restriction on contributions made to candidates for meeting election expenses.

C. CONTROL OF DONATIONS TO INDIVIDUAL CANDIDATES DURING ELECTIONS

291. Restriction on contributions made to candidates for meeting election expenses.

In the case of any candidate¹ at an election², any money or other property³ provided whether as a gift or loan⁴: (1) by any person other than the candidate or his election agent⁵; and (2) for the purpose of meeting election expenses incurred by or on behalf of the candidate⁶, must be provided to the candidate or his election agent⁷. However, this does not apply to any money or other property so provided for the purpose of meeting any such expenses which may be lawfully paid by a person other than the candidate, his election agent or any sub-agent (in the case of an election where sub-agents may be appointed)⁸. A person who provides any money or other property in contravention of these provisions is guilty of an illegal practice⁹.

The making of donations to candidates at elections is subject to restrictions¹⁰.

1 For the meaning of 'candidate' generally see PARA 237 ante. The reference in the text is to an 'individual candidate' for the purposes of: (1) a regional election for the return of members of the National Assembly for Wales (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(1)); or (2) European parliamentary elections (European Parliamentary Elections Regulations 2004, SI 2004/293, reg 42(1)). For the meaning of 'individual candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante; and for the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante.

2 I.e. at a parliamentary election, Authority election or election under the local government Act (Representation of the People Act 1983 s 202(1)) or a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'Authority election' see PARA 10 ante; and as to the meaning of 'election under the local government Act' see PARA 10 note 2 ante. However, the Representation of the People Act 1983 s 71A (as added) does not apply at an election under the local government Act which is not a local government election (see the Representation of the People Act 1983 s 90(2) (as amended); and PARA 302 post); and, in relation to an election of parish councillors in England or of community councillors in Wales, the provisions of s 90(1), Sch 4 (both as amended) apply instead: see s 90(1)(b) (as amended); and PARAS 298-301 post. For the meaning of 'local government election' see PARA 10 ante. As to elections in the City of London see PARA 30 ante. For the meanings of 'constituency election' and 'regional election' for the purposes of Welsh Assembly elections see PARA 3 note 1 ante. As to elections to the National Assembly for Wales generally see PARA 220 et seq ante; and as to European parliamentary elections see PARA 224 et seq ante.

3 For these purposes, 'property' includes any description of property; and references to the provision of property accordingly include the supply of goods: *ibid* s 71A(5) (s 71A added by the Political Parties, Elections and Referendums Act 2000 s 130(1), (2), (4)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(5); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 42(5). As to the meaning of 'money' see PARA 275 note 2 ante.

4 Representation of the People Act 1983 s 71A(1), s 202(1) (s 71A(1) as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 42(1).

5 Representation of the People Act 1983 s 71A(1)(a) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(1)(a); European Parliamentary Elections

Regulations 2004, SI 2004/293, reg 42(1)(a). As to the appointment of an election agent see PARA 238 et seq ante.

6 Representation of the People Act 1983 s 71A(1)(b) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 42(1)(b). For the meaning of 'election expenses' see PARA 274 ante.

7 Representation of the People Act 1983 s 71A(1) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 42(1). For the meaning of 'election expenses incurred by or on behalf of a candidate' see PARA 274 note 15 ante.

8 Representation of the People Act 1983 s 71A(2) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 42(2). A sub-agent may be appointed for a parliamentary election in a county constituency or for an Authority election (see PARA 240 ante), for elections to the National Assembly for Wales (see PARA 244 ante) or for European parliamentary elections (see PARA 248 ante).

9 See the Representation of the People Act 1983 s 71A(3) (as added); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(3); the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 42(3); and PARA 675 post.

10 See PARA 292 et seq post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(iii) Financial Controls on Candidates at Elections where Election Agent is required/C. CONTROL OF DONATIONS TO INDIVIDUAL CANDIDATES DURING ELECTIONS/292. Meaning of 'donation' in relation to candidates at an election.

292. Meaning of 'donation' in relation to candidates at an election.

For the purposes of controlling donations to candidates¹ at an election², 'donation' means, in relation to such a candidate at such an election³: (1) any gift⁴ to the candidate or his election agent⁵ of money or other property⁶; (2) any sponsorship provided in relation to the candidate⁷; (3) any money spent (otherwise than by the candidate, his election agent or any sub-agent⁸) in paying any election expenses⁹ incurred by or on behalf of the candidate¹⁰; (4) any money lent to the candidate or his election agent otherwise than on commercial terms¹¹; (5) the provision otherwise than on commercial terms of any property, services or facilities for the use or benefit of the candidate (including the services of any person)¹². Where anything would be a donation both by virtue of head (2) above and by virtue of any other provision mentioned in head (1) or heads (3) to (5) above, head (2) above applies in relation to that donation to the exclusion of the other provision¹³. Any donation whose value is not more than £50 is disregarded¹⁴; and none of the following is to be regarded as a donation: (a) the provision of any facilities provided in pursuance of any right conferred on a candidate at an election by the relevant statutory provisions¹⁵; (b) the provision by an individual of his own services which he provides voluntarily in his own time and free of charge¹⁶; (c) any interest accruing to a candidate or his election agent in respect of any donation which is sent back by the candidate or (as the case may be) his election agent¹⁷.

For these purposes, 'sponsorship' is provided in relation to a candidate if any money or other property is transferred to the candidate or to any person for the benefit of the candidate¹⁸ and the purpose (or one of the purposes) of the transfer is, or must, having regard to all the circumstances, reasonably be assumed to be¹⁹ either to help the candidate with meeting, or to meet, to any extent any defined expenses²⁰ incurred or to be incurred by or on behalf of the candidate²¹ or to secure that to any extent any such expenses are not so incurred²². However, for these purposes: (i) the making of any payment in respect of any charge for admission to any conference, meeting or other event²³ or in respect of the purchase price of, or any other charge for access to, any publication²⁴; or (ii) the making of any payment in respect of the inclusion of an advertisement in any publication where the payment is made at the commercial rate payable for the inclusion of such an advertisement in any such publication²⁵, do not constitute sponsorship²⁶.

1 For the meaning of 'candidate' generally see PARA 237 ante. The reference in the text is to an 'individual candidate' for the purposes of: (1) a regional election for the return of members of the National Assembly for Wales (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(1)); or (2) European parliamentary elections (European Parliamentary Elections Regulations 2004, SI 2004/293, reg 42(4), Sch 6 para 1(3)). For the meaning of 'individual candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante; and for the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante.

2 Representation of the People Act 1983 s 71A(4), Sch 2A para 1(1), (2) (s 71A, Sch 2A added by the Political Parties, Elections and Referendums Act 2000 s 130(1)-(4)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 42(4), Sch 6 para 1(1), (2).

For these purposes, 'donation' is to be construed in accordance with the Representation of the People Act 1983 Sch 2A paras 2-4 (as added), the National Assembly for Wales (Representation of the People) Order 2003, SI

2003/284, art 39(4), Sch 6 paras 2-4, or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 paras 2-4, as the case may be (see the text and notes 3-26 *infra*): Representation of the People Act 1983 Sch 2A para 1(5) (as so added); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 1; European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 1(6). The election referred to in the text may be any of a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 *ante*), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meaning of 'parliamentary election' see PARA 9 *ante*; for the meaning of 'Authority election' see PARA 10 *ante*; and as to the meaning of 'election under the local government Act' see PARA 10 note 2 *ante*. However, the Representation of the People Act 1983 s 71A (as added) does not apply at an election under the local government Act which is not a local government election (see the Representation of the People Act 1983 s 90(2) (as amended); and PARA 302 *post*); and, in relation to an election of parish councillors in England or of community councillors in Wales, the provisions of s 90(1), Sch 4 (both as amended) apply instead: see s 90(1)(b) (as amended); and PARAS 298-301 *post*. For the meaning of 'local government election' see PARA 10 *ante*. As to elections in the City of London see PARA 30 *ante*. For the meanings of 'constituency election' and 'regional election' for the purposes of Welsh Assembly elections see PARA 3 note 1 *ante*. As to elections to the National Assembly for Wales generally see PARA 220 *et seq ante*; and as to European parliamentary elections see PARA 224 *et seq ante*.

3 Ibid Sch 2A para 2(1) (as added: see note 2 *supra*); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 2(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 2(1). This provision is subject to the Representation of the People Act 1983 Sch 2A para 4 (as added) or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 4 or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 4, as the case may be (see the text and notes 14-17 *infra*).

4 For these purposes, 'gift' includes a bequest or any other form of testamentary disposition: Representation of the People Act 1983 Sch 2A para 2(6)(b) (as added: see note 2 *supra*); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 2(6)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 2(6)(b).

5 For these purposes, any reference to anything being given or transferred to a candidate or his election agent includes a reference to its being given or transferred either directly or indirectly through any third person: Representation of the People Act 1983 Sch 2A para 2(6)(a) (as added: see note 2 *supra*); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 2(6)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 2(6)(a).

Any reference to a donation received by a candidate when he is (or is deemed to be) his own election agent includes a reference to a donation received by a candidate on a list of candidates to be London members of the London Assembly at an ordinary election who is, or is deemed to be, the election agent of all the candidates on the list (Representation of the People Act 1983 Sch 2A para 1(9) (as so added)); and any donation which is received by such a candidate is regarded as received by him in his capacity as election agent (Sch 2A para 1(10) (as so added)). As to ordinary elections of London members of the London Assembly see PARA 206 *et seq ante*; and as to the appointment of an election agent see PARA 238 *et seq ante*.

6 Representation of the People Act 1983 Sch 2A para 2(1)(a) (as added: see note 2 *supra*); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 2(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 2(1)(a). Where: (1) any money or other property is transferred to a candidate or his election agent pursuant to any transaction or arrangement involving the provision by or on behalf of the candidate of any property, services or facilities or other consideration of monetary value (Representation of the People Act 1983 Sch 2A para 2(2)(a) (as so added); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 2(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 2(2)(a)); and (2) the total value in monetary terms of the consideration so provided by or on behalf of the candidate is less than the value of the money or (as the case may be) the market value of the property transferred (Representation of the People Act 1983 Sch 2A para 2(2)(b) (as so added); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 2(2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 2(2)(b)), the transfer of the money or property constitute a gift to the candidate or (as the case may be) his election agent for the purposes of the Representation of the People Act 1983 Sch 2A para 2(1)(a) (as added), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 2(1)(a) or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 2(1)(a) (whichever is appropriate), but subject to the Representation of the People Act 1983 Sch 2A para 2(4) (as added), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 2(4) or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 2(4) (see the text and note 13 *infra*) (whichever is appropriate) (Representation of the People Act 1983 Sch 2A para 2(2) (as so added); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 2(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 2(2)).

The value of any donation falling within the Representation of the People Act 1983 Sch 2A para 2(1)(a) (as added), other than money, must be taken to be the market value of the property in question: Representation of the People Act 1983 Sch 2A para 5(1) (as so added); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 5(1). However, where the Representation of the People Act 1983 Sch 2A para 2(1)(a) (as added) or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 2(1)(a) or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 2(1)(a) applies by virtue of the Representation of the People Act 1983 Sch 2A para 2(2) (as added) or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 2(2) or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 2(2), the value of the donation must be taken to be the difference between: (a) the value of the money (or the market value of the property) in question (Representation of the People Act 1983 Sch 2A para 5(2)(a) (as so added); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 5(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 5(2)(a)); and (b) the total value in monetary terms of the consideration provided by or on behalf of the candidate or his election agent (Representation of the People Act 1983 Sch 2A para 5(2)(b) (as so added); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 5(2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 5(2)(b)). For this purpose, 'market value', in relation to any property, means the price which might reasonably be expected to be paid for the property on a sale in the open market: Representation of the People Act 1983 Sch 2A para 5(6) (as so added); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 5(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 5(6). As to the meaning of 'property' for these purposes see PARA 291 note 3 ante.

7 Representation of the People Act 1983 Sch 2A para 2(1)(b) (as added: see note 2 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 2(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 2(1)(b). For these purposes, sponsorship provided in relation to the candidate is defined by the Representation of the People Act 1983 Sch 2A para 3 (as added), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 3 or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 3 (see the text and notes 18-26 *infra*) (whichever is appropriate): Representation of the People Act 1983 Sch 2A para 2(1)(b) (as so added); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 2(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 2(1)(b). The value of any donation falling within the Representation of the People Act 1983 Sch 2A para 2(1)(b) (as added), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 2(1)(b) or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 2(1)(b) (whichever is appropriate) is taken to be the value of the money or (as the case may be) the market value of the property, transferred as mentioned in the Representation of the People Act 1983 Sch 2A para 3(1) (as added), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 3(1) or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 3(1) (see the text and notes 18-22 *infra*); and accordingly any value in monetary terms of any benefit conferred on the person providing the sponsorship in question must be disregarded: Representation of the People Act 1983 Sch 2A para 5(3) (as so added); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 5(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 5(3).

8 A sub-agent may be appointed for a parliamentary election in a county constituency or for an Authority election (see PARA 240 ante), for elections to the National Assembly for Wales (see PARA 244 ante) or for European parliamentary elections (see PARA 248 ante).

9 For the meaning of 'election expenses' see PARA 274 ante.

10 Representation of the People Act 1983 Sch 2A para 2(1)(c) (as added: see note 2 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 2(1)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 2(1)(c). For the meaning of 'election expenses incurred by or on behalf of a candidate' see PARA 274 note 15 ante. The reference in the text to money spent is a reference to money so spent by a person, other than the candidate, his election agent or any sub-agent, out of his own resources, with no right to reimbursement out of the resources of any such other person; and where, by virtue of the Representation of the People Act 1983 Sch 2A para 2(1)(c) (as added), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 2(1)(c) or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 2(1)(c) (whichever is appropriate), money so spent constitutes a donation to the candidate, the candidate is treated as receiving an equivalent amount on the date on which the money is paid to the creditor in respect of the expenses in question: Representation of the People Act 1983 Sch 2A para 2(5) (as so added); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 2(5); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 2(5).

A donation to the candidate or his election agent for the purpose of meeting election expenses incurred by or on behalf of the candidate is referred to as a 'relevant donation' (Representation of the People Act 1983 Sch 2A para 1(3) (as so added); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 1; European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 1(4)), and includes a reference to a donation for the purpose of securing that any such expenses are not so incurred (Representation

of the People Act 1983 Sch 2A para 1(4) (as so added); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 1; European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 1(5)); and a donation is taken to be a donation for either of those purposes if, having regard to all the circumstances, it must be reasonably assumed to be such a donation (Representation of the People Act 1983 Sch 2A para 1(4) (as so added); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 1; European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 1(5)).

11 Representation of the People Act 1983 Sch 2A para 2(1)(d) (as added: see note 2 *supra*); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 2(1)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 2(1)(d). In determining, for these purposes, whether any money lent to a candidate or his election agent is so lent otherwise than on commercial terms (Representation of the People Act 1983 Sch 2A para 2(3)(a) (as so added); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 2(3)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 2(3)(a)), regard must be had to the total value in monetary terms of the consideration provided by or on behalf of the candidate in respect of the loan or the provision of the property, services or facilities (Representation of the People Act 1983 Sch 2A para 2(3) (as so added); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 2(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 2(3)). The value of any donation falling within the Representation of the People Act 1983 Sch 2A para 2(1)(d) (as added) or Sch 2A para 2(1)(e) (as added) or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 2(1)(d) or Sch 6 para 2(1)(e) or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 2(1)(e) (see head (5) in the text) is taken to be the amount representing the difference between: (1) the total value in monetary terms of the consideration that would have had to be provided by or on behalf of the candidate or his election agent in respect of the loan or the provision of the property, services or facilities if the loan had been made or the property, services or facilities had been provided, on commercial terms (Representation of the People Act 1983 Sch 2A para 5(4)(a) (as so added); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 5(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 5(4)(a)); and (2) the total value in monetary terms of the consideration, if any, actually so provided by or on behalf of the candidate or his election agent (Representation of the People Act 1983 Sch 2A para 5(4)(b) (as so added); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 5(4)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 5(4)(b)). Where such a donation confers an enduring benefit on the donee over a particular period, the value of the donation is determined at the time when it is made, but must be so determined by reference to the total benefit accruing to the donee over that period: Representation of the People Act 1983 Sch 2A para 5(5) (as so added); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 5(5); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 5(5).

12 Representation of the People Act 1983 Sch 2A para 2(1)(e) (as added: see note 2 *supra*); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 2(1)(e); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 2(1)(e). In determining, for these purposes, whether any property, services or facilities provided for the use or benefit of a candidate is or are so provided otherwise than on commercial terms (Representation of the People Act 1983 Sch 2A para 2(3)(b) (as so added); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 2(3)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 2(3)(b)), regard must be had to the total value in monetary terms of the consideration provided by or on behalf of the candidate in respect of the loan or the provision of the property, services or facilities (Representation of the People Act 1983 Sch 2A para 2(3) (as so added); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 2(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 2(3)). See also note 11 *supra*.

13 Representation of the People Act 1983 Sch 2A para 2(4) (as added: see note 2 *supra*); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 2(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 2(4). In the circumstances mentioned in the text, the general provisions as to sponsorship (see the text and notes 18-26 *infra*) apply as well as the provision mentioned in head (2) in the text: Representation of the People Act 1983 Sch 2A para 2(4) (as so added); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 2(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 2(4).

14 Representation of the People Act 1983 Sch 2A para 4(2) (as added: see note 2 *supra*); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 4(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 4(2). The value is determined in accordance with the Representation of the People Act 1983 Sch 2A para 5 (as added), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 5 or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 5 (see notes 6-7, 11 *supra*) (whichever is appropriate).

15 Representation of the People Act 1983 Sch 2A para 4(1)(a) (as added: see note 2 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 4(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 4(1)(a). The text refers to any right conferred on a candidate at an election by the Representation of the People Act 1983, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, or the European Parliamentary Elections Regulations 2004, SI 2004/293 (whichever is appropriate).

16 Representation of the People Act 1983 Sch 2A para 4(1)(b) (as added: see note 2 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 4(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 4(1)(b).

17 Representation of the People Act 1983 Sch 2A para 4(1)(c) (as added: see note 2 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 4(1)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 4(1)(c). The text refers to a donation which is dealt with by the candidate or (as the case may be) his election agent in accordance with the Political Parties, Elections and Referendums Act 2000 s 56(2)(a), (b), as applied by the Representation of the People Act 1983 Sch 2A para 7 (as added) or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 7 or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 7 (whichever is appropriate) (see PARA 294 post).

18 Representation of the People Act 1983 Sch 2A para 3(1)(a) (as added: see note 2 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 3(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 3(1)(a).

19 Representation of the People Act 1983 Sch 2A para 3(1)(b) (as added: see note 2 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 3(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 3(1)(b).

20 For this purpose, 'defined expenses' means expenses in connection with: (1) any conference, meeting or other event organised by or on behalf of the candidate; (2) the preparation, production or dissemination of any publication by or on behalf of the candidate; or (3) any study or research organised by or on behalf of the candidate: Representation of the People Act 1983 Sch 2A para 3(2) (as added: see note 2 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 3(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 3(2). For this purpose, 'publication' means a publication made available in whatever form and by whatever means, whether or not to the public at large or any section of the public: Representation of the People Act 1983 Sch 2A para 3(6) (as so added); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 3(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 3(4).

The Secretary of State may by order made on the recommendation of the Electoral Commission amend the Representation of the People Act 1983 Sch 2A para 3(2) (as added) or Sch 2A para 3(3) (as added) (see the text and notes 23-26 infra): Representation of the People Act 1983 Sch 2A paras 1(8), 3(4) (as so added). Any such order must be made by statutory instrument; but no such order is to be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament: Sch 2A para 3(5) (as so added). As to the Secretary of State see PARA 2 ante; and as to the Electoral Commission see PARA 31 et seq ante.

21 Representation of the People Act 1983 Sch 2A para 3(1)(b)(i) (as added: see note 2 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 3(1)(b)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 3(1)(b)(i).

22 Representation of the People Act 1983 Sch 2A para 3(1)(b)(ii) (as added: see note 2 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 3(1)(b)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 3(1)(b)(ii).

23 Representation of the People Act 1983 Sch 2A para 3(3)(a)(i) (as added: see note 2 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 3(3)(a)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 3(3)(a)(i). As to the Secretary of State's power to amend the provision set out in the text see note 20 supra.

24 Representation of the People Act 1983 Sch 2A para 3(3)(a)(ii) (as added: see note 2 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 3(3)(a)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 3(3)(a)(ii). As to the Secretary of State's power to amend the provision set out in the text see note 20 supra.

25 Representation of the People Act 1983 Sch 2A para 3(3)(b) (as added: see note 2 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 3(3)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 3(3)(b). As to the Secretary of State's power to amend the provision set out in the text see note 20 supra.

26 Representation of the People Act 1983 Sch 2A para 3(3) (as added: see note 2 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 3(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 3(3). As to the Secretary of State's power to amend the provision set out in the text see note 20 supra.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(iii) Financial Controls on Candidates at Elections where Election Agent is required/C. CONTROL OF DONATIONS TO INDIVIDUAL CANDIDATES DURING ELECTIONS/293. Restrictions on candidates at an election accepting certain donations.

293. Restrictions on candidates at an election accepting certain donations.

For the purposes of controlling donations¹ to candidates² at an election³, a relevant donation⁴ received by a candidate or his election agent⁵ must not be accepted⁶ if: (1) the person by whom the donation would be made is not, at the time of its receipt by the candidate or (as the case may be) his election agent, a permissible donor⁷; or (2) the candidate or (as the case may be) his election agent is, whether because the donation is given anonymously or by reason of any deception or concealment or otherwise, unable to ascertain the identity of the person offering the donation⁸. A 'permissible donor' referred to in head (1) above is any of the following: (a) an individual registered in an electoral register⁹; (b) a company registered under the Companies Act 1985 and incorporated within the United Kingdom¹⁰ or another member state which carries on business in the United Kingdom¹¹; (c) a registered party¹²; (d) a trade union entered in the list kept under the Trade Union and Labour Relations (Consolidation) Act 1992¹³; (e) a building society¹⁴; (f) a limited liability partnership registered under the Limited Liability Partnerships Act 2000 which carries on business in the United Kingdom¹⁵; (g) a friendly society registered under the Friendly Societies Act 1974¹⁶ or a society registered (or deemed to be registered) under the Industrial and Provident Societies Act 1965¹⁷; and (h) any unincorporated association of two or more persons which does not fall within any of the heads (a) to (g) above but which carries on business or other activities wholly or mainly in the United Kingdom and whose main office is there¹⁸.

For these purposes, where any person (the 'principal donor') causes an amount (the 'principal donation') to be received by a candidate or his election agent by way of a relevant donation either on behalf of himself and one or more other persons¹⁹ or on behalf of two or more other persons²⁰, then for the purposes of the provisions relating to the controls on donations received by candidates at an election²¹, each individual contribution by either such person of more than £50 is treated as if it were a separate donation received from that person²². Also, where any person (the 'agent') causes an amount to be received by a candidate or his election agent by way of a donation on behalf of another person (the 'donor')²³, and the amount of the donation is more than £50²⁴, the agent must ensure that, at the time when the donation is received by the candidate or his election agent, the candidate or (as the case may be) his election agent is given all such details in respect of the donor as are required to be included in donation reports²⁵.

A person commits an offence if, without reasonable excuse, he fails to comply with the provisions which impose controls on donations made through other persons or through agents²⁶.

1 For the meaning of 'donation' in relation to candidates at an election see PARA 292 ante.

2 For the meaning of 'candidate' generally see PARA 237 ante. The reference in the text is to an 'individual candidate' for the purposes of: (1) a regional election for the return of members of the National Assembly for Wales (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(1)); or (2) European parliamentary elections (European Parliamentary Elections Regulations 2004, SI 2004/293, reg 42(4), Sch 6 para 1(3)). For the meaning of 'individual candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante; and for the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante.

3 Representation of the People Act 1983 s 71A(4), Sch 2A para 1(1), (2) (s 71A, Sch 2A added by the Political Parties, Elections and Referendums Act 2000 s 130(1)-(4)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 42(4), Sch 6 para 1(1), (2).

The election referred to in the text may be any of a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'Authority election' see PARA 10 ante; and as to the meaning of 'election under the local government Act' see PARA 10 note 2 ante. However, the Representation of the People Act 1983 s 71A (as added) does not apply at an election under the local government Act which is not a local government election (see the Representation of the People Act 1983 s 90(2) (as amended); and PARA 302 post); and, in relation to an election of parish councillors in England or of community councillors in Wales, the provisions of s 90(1), Sch 4 (both as amended) apply instead: see s 90(1)(b) (as amended); and PARAS 298-301 post. For the meaning of 'local government election' see PARA 10 ante. As to elections in the City of London see PARA 30 ante. For the meanings of 'constituency election' and 'regional election' for the purposes of Welsh Assembly elections see PARA 3 note 1 ante. As to elections to the National Assembly for Wales generally see PARA 220 et seq ante; and as to European parliamentary elections see PARA 224 et seq ante. As to the application of the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 6 to an individual candidate (or his election agent) at a European parliamentary election in the combined region see Sch 6 para 6(9). As to the combined region and Gibraltar see PARA 76 ante.

4 For the meaning of 'relevant donation' in relation to candidates' election expenses see PARA 292 note 10 ante.

5 As to the appointment of an election agent see PARA 238 et seq ante.

6 Representation of the People Act 1983 Sch 2A para 6(1) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(4), Sch 6 para 6(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 6(1).

7 Representation of the People Act 1983 Sch 2A para 6(1)(a) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 6(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 6(1)(a). The text refers to a permissible donor falling within the Political Parties, Elections and Referendums Act 2000 s 54(2) (as amended) (see heads (a)-(h) in the text). For these purposes, any relevant donation received by a candidate or his election agent which is an exempt trust donation is regarded as a relevant donation received by the candidate or his election agent from such a permissible donor: Representation of the People Act 1983 Sch 2A para 6(2) (as so added); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 6(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 6(2). However, any relevant donation received by a candidate or his election agent from a trustee of any property (in his capacity as such) is regarded as being from a person who is not such a permissible donor if that donation is not: (1) an exempt trust donation; or (2) a relevant donation transmitted by the trustee to the candidate or his election agent on behalf of beneficiaries under the trust who are either persons who, at the time of its receipt by the candidate or his election agent, are such permissible donors or the members of an unincorporated association which at that time is such a permissible donor: Representation of the People Act 1983 Sch 2A para 6(3) (as so added); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 6(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 6(3).

The definition of 'exempt trust donation' in the Political Parties, Elections and Referendums Act 2000 s 162 (as amended) applies for these purposes as it applies for the purposes of that Act: Representation of the People Act 1983 Sch 2A para 6(2) (as so added); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 6(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 6(2). Accordingly, 'exempt trust donation' means: (a) any donation received from a trustee of any property in accordance with the terms of a trust which was created before 27 July 1999, to which no property has been transferred on or after that date, and whose terms have not been varied on or after that date, provided that, at or before the time of the receipt of the donation, the trustee gives the recipient of the donation the full name of the person who created the trust and of every other person by whom, or under whose will, property was transferred to the trust before that date (Political Parties, Elections and Referendums Act 2000 s 162(1)(a), (2) (as so applied)); (b) any donation received from a trustee of any property in accordance with the terms of a trust which was created by a person who was a permissible donor falling within s 54(2) (as amended) (see heads (a)-(h) in the text) at the time when the trust was created, or the will of a person who was, at any time within the period of five years ending with the date of his death, registered in an electoral register, and to which no property has been transferred otherwise than by a person who was a permissible donor falling within s 54(2) (as amended) at the time of the transfer, or under the will of a person who was, at any time within the period of five years ending with the date of his death, registered in an electoral register, provided that, at or before the time of the receipt of the donation, the trustee gives the recipient of the donation the relevant information (ss 54(3), 162(3) (as so applied)). However, the definition does not include a donation received from a trustee of

any property pursuant to the exercise of any discretion vested by a trust in him or any other person: s 162(5) (as so applied). For these purposes, the 'relevant information' means the information which is required by virtue of ss 62, 63, Sch 6 para 2 (as amended) (identity of donors (quarterly reports): see CONSTITUTIONAL LAW AND HUMAN RIGHTS) to be given in respect of a recordable donation to which s 162(3) applies (s 162(4) (as so applied)); 'donation' means a donation for the purposes of the provisions of the Political Parties, Elections and Referendums Act 2000 in which the relevant reference to an exempt trust donation occurs (s 162(6)(a) (as so applied)); 'property', in the context of the transfer of property to a trust, does not include any income of the trust (s 162(6)(b) (as so applied)); 'trust' includes a trust created by a will (s 162(6)(c) (as so applied)); and any reference to a donation received from a trustee is a reference to a donation received from a trustee in his capacity as such, other than a donation transmitted on behalf of a beneficiary under a trust (s 162(6)(d) (as so applied)).

8 Representation of the People Act 1983 Sch 2A para 6(1)(b) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 6(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 6(1)(b).

9 Political Parties, Elections and Referendums Act 2000 s 54(2)(a). For these purposes, 'electoral register' means any of the following: (1) a register of parliamentary or local government electors maintained under the Representation of the People Act 1983 s 9 (as substituted) (see PARA 156 ante) (Political Parties, Elections and Referendums Act 2000 s 54(8)(a)); (2) a register of relevant citizens of the European Union prepared under the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184 (see PARA 156 ante) (Political Parties, Elections and Referendums Act 2000 s 54(8)(b) (amended by the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 11(b))); or (3) a register of peers prepared under regulations under the Representation of the People Act 1985 s 3 (as substituted and amended) (see PARA 156 ante) (Political Parties, Elections and Referendums Act 2000 s 54(8)(c)).

10 For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

11 Political Parties, Elections and Referendums Act 2000 s 54(2)(b). As to the registration and incorporation of companies see COMPANIES vol 14 (2009) PARA 24 et seq; and as to the control of contributions and other donations made by companies to registered parties and other European Union political organisations, and European Union political expenditure incurred by companies, see the Companies Act 1985 Pt XA (ss 347A-347K) (as added); and COMPANIES vol 14 (2009) PARA 688 et seq.

12 Political Parties, Elections and Referendums Act 2000 s 54(2)(c) (amended by the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, art 4(2), Schedule paras 1, 12(a)). For the meaning of 'registered party' for these purposes see PARA 32 note 3 ante. The text refers to a registered party other than a Gibraltar party whose entry in the register includes a statement that it intends to contest one or more elections to the European Parliament in the combined region: Political Parties, Elections and Referendums Act 2000 s 54(2)(c) (as so amended). For these purposes, 'combined region' means the electoral region which includes Gibraltar, namely the South West electoral region: Political Parties, Elections and Referendums Act 2000 s 160(1) (definition added by the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, art 4(2), Schedule paras 1, 31(a)(ii)). As to the establishment of electoral regions (including the combined region) for the purpose of elections to the European Parliament see PARA 76 ante.

13 Political Parties, Elections and Referendums Act 2000 s 54(2)(d). As to the list referred to in the text see EMPLOYMENT vol 40 (2009) PARA 855. Unless certain conditions are met, the funds of a trade union may not be applied in the furtherance of certain political objects which include the expenditure of money in connection with the registration of electors, the candidature of any person, the selection of any candidate or the holding of any ballot by the union in connection with any election to a political office, or on the production, publication or distribution of any literature, document, film, sound recording or advertisement the main purpose of which is to persuade people to vote for a political party or candidate or to persuade them not to vote for a political party or candidate: see the Trade Union and Labour Relations (Consolidation) Act 1992 Pt I Ch VI (ss 71-96) (as amended); and EMPLOYMENT vol 40 (2009) PARA 924 et seq.

14 Political Parties, Elections and Referendums Act 2000 s 54(2)(e). The text refers to a building society within the meaning of the Building Societies Act 1986 (see FINANCIAL SERVICES AND INSTITUTIONS vol 50 (2008) PARA 1856).

15 Political Parties, Elections and Referendums Act 2000 s 54(2)(f). As to a limited liability partnership registered under the Limited Liability Partnerships Act 2000 see PARTNERSHIP vol 79 (2008) PARA 234 et seq.

16 As to friendly societies registered under the Friendly Societies Act 1974 see FINANCIAL SERVICES AND INSTITUTIONS vol 50 (2008) PARA 2084 et seq.

17 Political Parties, Elections and Referendums Act 2000 s 54(2)(g). As to societies registered under the Industrial and Provident Societies Act 1965 see FINANCIAL SERVICES AND INSTITUTIONS vol 50 (2008) PARAS 2394, 2410 et seq.

18 Political Parties, Elections and Referendums Act 2000 s 54(2)(h).

19 Representation of the People Act 1983 Sch 2A para 6(4)(a) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 6(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 6(4)(a).

20 Representation of the People Act 1983 Sch 2A para 6(4)(b) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 6(4)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 6(4)(b).

21 le for the purposes of the Representation of the People Act 1983 Sch 2A Pt II paras 6-9 (as added); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 Pt II paras 6-9; European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 Pt 2 paras 6-9.

22 Representation of the People Act 1983 Sch 2A para 6(4) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 6(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 6(4).

In relation to each such separate donation, the principal donor must ensure that, at the time when the principal donation is received by the candidate or his election agent, the candidate or (as the case may be) his election agent is given, except in the case of a donation which the principal donor is treated as making, all such details in respect of the person treated as making the donation as are required by virtue of the Representation of the People Act 1983 Sch 2A para 11(c) (as added), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 11(c) or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 11(c) (see PARA 297 post) and, in any case, all such details in respect of the donation as are required by virtue of the Representation of the People Act 1983 Sch 2A para 11(a) (as added), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 11(a) or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 11(a) (see PARA 297 post): Representation of the People Act 1983 Sch 2A para 6(5) (as so added); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 6(5); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 6(5).

23 Representation of the People Act 1983 Sch 2A para 6(6)(a) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 6(6)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 6(6)(a).

24 Representation of the People Act 1983 Sch 2A para 6(6)(b) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 6(6)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 6(6)(b).

25 Representation of the People Act 1983 Sch 2A para 6(6) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 6(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 6(6). The text refers to the details in respect of the donor that are required to be reported by virtue of the Representation of the People Act 1983 Sch 2A para 11(c) (as added), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 11(c) or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 11(c) (whichever is appropriate) (see PARA 297 post).

26 See the Representation of the People Act 1983 Sch 2A para 6(7), (8) (as added); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 6(7), (8); the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 6(7), (8); and PARA 755 post. The text refers to failure to comply with the Representation of the People Act 1983 Sch 2A para 6(5), (6) (as added), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 6(5), (6) or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 6(5), (6) (see the text and notes 22-25 supra).

UPDATE

293 Restrictions on candidates at an election accepting certain donations

NOTE 11--Political Parties, Elections and Referendums Act 2000 s 54(2)(b) amended: SI 2009/1941.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(iii) Financial Controls on Candidates at Elections where Election Agent is required/C. CONTROL OF DONATIONS TO INDIVIDUAL CANDIDATES DURING ELECTIONS/294. Acceptance or return of donations received by candidate at an election.

294. Acceptance or return of donations received by candidate at an election.

The provisions which require a registered party¹: (1) to take all reasonable steps to identify a donor in order to ascertain whether he is a permissible donor²; and (2) where a donor is unidentifiable or impermissible, to return the donation to its source or to send it to the Electoral Commission³ or to subject it to forfeiture on the application of the Commission⁴, apply, subject to minor modification, for the purposes of controlling donations⁵ to candidates⁶ at an election⁷ in relation to a relevant donation⁸ received by a candidate or his election agent⁹ and to the candidate or (as the case may be) the election agent¹⁰, as they apply in relation to a donation received by a registered party and in relation to the registered party¹¹.

Accordingly, where a donation is received by a registered party¹² and it is not immediately decided that the party should (for whatever reason) refuse the donation¹³, all reasonable steps must be taken forthwith by or on behalf of the party to verify (or, so far as any of the following is not apparent, ascertain) the identity of the donor, whether he is a permissible donor, and (if that appears to be the case) all such details in respect of the donor as are required to be included in donation reports¹⁴. If a registered party receives a donation which it is prohibited from accepting¹⁵, or which it is decided that the party should for any other reason refuse¹⁶, then the donation, or a payment of an equivalent amount, must be sent back to the person who made the donation or any person appearing to be acting on his behalf¹⁷ (unless the party is unable to ascertain the identity of the person by whom the donation would be made¹⁸, in which case the required steps¹⁹ must be taken in relation to the donation)²⁰, within the period of 30 days beginning with the date when the donation is received by the party²¹. Unless the donation is so returned (or such steps are taken in relation to the donation) within the period of 30 days so mentioned²², and unless a record can be produced of the receipt of the donation and of the return of the donation or the equivalent amount (or of the required steps being taken in relation to the donation, as the case may be)²³ then, for these purposes, a donation received by a registered party is taken to have been accepted by the party²⁴.

In England and Wales²⁵, a magistrates' court may, on an application made by the Commission, order the forfeiture by the party of an amount equal to the value of any donation²⁶ received by a registered party which²⁷ the party is prohibited from accepting²⁸ but which has been accepted by the party²⁹. The standard of proof in proceedings on such an application is that applicable to civil proceedings³⁰; and such an order may be made whether or not proceedings are brought against any person for an offence connected with the donation³¹. Where such an order (a 'forfeiture order') is made by a magistrates' court³², the registered party may, before the end of the period of 30 days beginning with the date on which any forfeiture order is made, appeal to the Crown Court³³. Such an appeal is by way of a rehearing; and the court hearing such an appeal may make such order as it considers appropriate³⁴. The standard of proof in relation to a rehearing on such an appeal remains that applicable to civil proceedings³⁵; and an appropriate order may be made whether or not proceedings are brought against any person for an offence connected with the donation³⁶. Any amount forfeited by an order made either on application or on appeal³⁷ must be paid into the Consolidated Fund³⁸, although this does not apply: (a) where an appeal is made³⁹, before the appeal is determined or otherwise disposed of⁴⁰; and (b) in any other case, before the end of the period of 30 days beginning with the date on which any forfeiture order is made⁴¹.

1 For the meaning of 'registered party' for these purposes see PARA 32 note 3 ante.

2 Ie the Political Parties, Elections and Referendums Act 2000 s 56 (see the text and notes 12-24 infra). Nothing in Pt IV (ss 50-71) (as amended) affects minor parties (as to which see PARA 260 ante). For the meaning of 'permissible donor' for these purposes see PARA 293 ante.

3 Ie *ibid* s 57 (see note 19 infra). See also note 2 supra. As to the Electoral Commission see PARA 31 et seq ante.

4 Ie *ibid* s 58 (as amended) (see the text and notes 25-31 infra). The registered party may appeal against a forfeiture order (see s 59 (as amended); and the text and notes 32-36 infra); and rules of court under s 60 (as amended) (see note 29 infra) may provide for the procedure on application or appeal under ss 58, 59 (as amended). See also note 2 supra.

5 For the meaning of 'donation' in relation to candidates at an election see PARA 292 ante.

6 For the meaning of 'candidate' generally see PARA 237 ante. The reference in the text is to an 'individual candidate' for the purposes of: (1) a regional election for the return of members of the National Assembly for Wales (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(1)); or (2) European parliamentary elections (European Parliamentary Elections Regulations 2004, SI 2004/293, reg 42(4), Sch 6 para 1(3)). For the meaning of 'individual candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante; and for the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante.

7 Representation of the People Act 1983 s 71A(4), Sch 2A paras 1(1), (2), 7(1) (s 71A, Sch 2A added by the Political Parties, Elections and Referendums Act 2000 s 130(1)-(4)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(4), Sch 6 para 7(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 42(4), Sch 6 paras 1(1), (2), 7(1).

The election referred to in the text may be any of a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'Authority election' see PARA 10 ante; and as to the meaning of 'election under the local government Act' see PARA 10 note 2 ante. However, the Representation of the People Act 1983 s 71A (as added) does not apply at an election under the local government Act which is not a local government election (see the Representation of the People Act 1983 s 90(2) (as amended); and PARA 302 post); and, in relation to an election of parish councillors in England or of community councillors in Wales, the provisions of s 90(1), Sch 4 (both as amended) apply instead: see s 90(1)(b) (as amended); and PARAS 298-301 post. For the meaning of 'local government election' see PARA 10 ante. As to elections in the City of London see PARA 30 ante. For the meanings of 'constituency election' and 'regional election' for the purposes of Welsh Assembly elections see PARA 3 note 1 ante. As to elections to the National Assembly for Wales generally see PARA 220 et seq ante; and as to European parliamentary elections see PARA 224 et seq ante.

8 For the meaning of 'relevant donation' in relation to candidates' election expenses see PARA 292 note 10 ante.

9 Representation of the People Act 1983 Sch 2A para 7(1)(a) (as added: see note 7 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 7(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 7(1)(a). As to the appointment of an election agent see PARA 238 et seq ante.

10 Representation of the People Act 1983 Sch 2A para 7(1)(b) (as added: see note 7 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 7(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 7(1)(b).

11 Representation of the People Act 1983 Sch 2A para 7(1) (as added: see note 7 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 7(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 7(1).

Accordingly, in the application of the Political Parties, Elections and Referendums Act 2000 ss 56-60 (as amended) for these purposes: (1) s 56(1) has effect as if the reference to the particulars relating to a donor which would be required to be included in a donation report by virtue of ss 62, 63, Sch 6 para 2 (as amended) (identity of donors (quarterly reports): see CONSTITUTIONAL LAW AND HUMAN RIGHTS), if the donation were a recordable donation within the meaning of Sch 6 (as amended) were construed as a reference to the particulars which are required to be included in a return by virtue of the Representation of the People Act 1983 Sch 2A para 11(c) (as added), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch

6 para 11(c) or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 11(c) (whichever is appropriate) (see PARA 297 post); (2) the Political Parties, Elections and Referendums Act 2000 s 56(3) has effect as if the reference to the party were omitted and the reference to the treasurer of the party were construed as a reference to the candidate or (as the case may be) his election agent; and (3) s 56(4) has effect as if the reference to the treasurer of the party were construed as a reference to the candidate or (as the case may be) his election agent: Representation of the People Act 1983 Sch 2A para 7(2) (as added: see note 7 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 7(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 7(2).

12 Political Parties, Elections and Referendums Act 2000 s 56(1)(a) (as applied: see the text and notes 1-11 supra).

13 Ibid s 56(1)(b) (as applied: see the text and notes 1-11 supra). Where a donation is received by a registered party in the form of an amount paid into any account held by the party with a financial institution, it is taken for these purposes to have been received by the party at the time when the party is notified in the usual way of the payment into the account: s 56(6) (as so applied).

14 Ibid s 56(1) (as applied and modified: see the text and notes 1-11 supra). The text refers to the details in respect of the donor that are required to be reported by virtue of the Representation of the People Act 1983 Sch 2A para 11(c) (as added), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 11(c) or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 11(c) (whichever is appropriate) (see PARA 297 post).

15 Ie by virtue of the Political Parties, Elections and Referendums Act 2000 s 54(1), which is in similar terms to the Representation of the People Act 1983 Sch 2A para 6(1) (as added), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 6(1) and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 6(1) (see PARA 293 ante).

16 Political Parties, Elections and Referendums Act 2000 s 56(2) (as applied: see the text and notes 1-11 supra).

17 Ibid s 56(2)(a) (as applied: see the text and notes 1-11 supra). Where this provision applies in relation to a donation and the donation is not dealt with accordingly, the candidate or (as the case may be) his election agent are each guilty of an offence: see s 56(3) (as applied and modified); and PARA 755 post.

18 Ie unless the donation falls within ibid s 54(1)(b), which is in similar terms to the Representation of the People Act 1983 Sch 2A para 6(1)(b) (as added), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 6(1)(b) and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 6(1)(b) (see PARA 293 ante).

19 For these purpose, the required steps are as follows: (1) if the donation was transmitted by a person other than the donor, and the identity of that person is apparent, to return the donation to that person (Political Parties, Elections and Referendums Act 2000 s 57(1)(a) (as applied: see the text and notes 1-11 supra)); (2) if head (1) supra does not apply but it is apparent that the donor has, in connection with the donation, used any facility provided by an identifiable financial institution, to return the donation to that institution (s 57(1)(b) (as so applied)); and (3) in any other case, to send the donation to the Electoral Commission (ss 57(1)(c), 160(1) (s 57(1)(c) as so applied)). Any reference to returning or sending a donation to any person or body includes a reference to sending a payment of an equivalent amount to that person or body (s 57(2) (as so applied)); and any amount sent to the Electoral Commission in pursuance of head (3) supra must be paid by it into the Consolidated Fund (ss 57(3), 160(1) (s 57(3) as so applied)). As to the Consolidated Fund see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 711 et seq; PARLIAMENT vol 78 (2010) PARAS 1028-1031.

20 Ibid s 56(2)(b) (as applied: see the text and notes 1-11 supra). Where this provision applies in relation to a donation and the donation is not dealt with accordingly, the candidate or (as the case may be) his election agent are each guilty of an offence: see s 56(4) (as applied and modified); and PARA 755 post.

21 Ibid s 56(2) (as applied: see the text and notes 1-11 supra).

22 Ibid s 56(5)(a) (as applied: see the text and notes 1-11 supra).

23 Ibid s 56(5)(b) (as applied: see the text and notes 1-11 supra).

24 Ibid s 56(5) (as applied: see the text and notes 1-11 supra).

25 For the meanings of 'England' and 'Wales' see PARA 13 note 1 ante.

26 Political Parties, Elections and Referendums Act 2000 s 58(2), (5)(a) (as applied: see the text and notes 1-11 supra).

27 Ie by virtue of *ibid* s 54(1)(a), (b), which is in similar terms to the Representation of the People Act 1983 Sch 2A para 6(1)(a), (b) (as added), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 6(1)(a), (b) and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 6(1)(a), (b) (see PARA 293 ante).

28 Political Parties, Elections and Referendums Act 2000 s 58(1)(a) (as applied: see the text and notes 1-11 *supra*).

29 *Ibid* s 58(1)(b) (as applied: see the text and notes 1-11 *supra*).

In relation to courts in any part of the United Kingdom, and without prejudice to the generality of any existing power to make rules, provision may be made by rules of court with respect to applications or appeals to any court under s 58 (as applied) or s 59 (as applied) (see the text and notes 32-36 *infra*), for the giving of notice of such applications or appeals to persons affected, and generally with respect to the procedure under those provisions before any court: s 60(1), (2) (as so applied). In the case of a registered party which is not a body corporate: (1) proceedings under s 58 (as applied) or s 59 (as applied) must be brought against or by the party in its own name (and not in that of any of its members) (s 60(5)(a) (as so applied)); (2) for the purposes of any such proceedings any rules of court relating to the service of documents apply as if the party were a body corporate (s 60(5)(b) (as so applied)); and (3) any amount forfeited by an order under s 58 (as applied) or s 59 (as applied) must be paid out of the funds of the party (s 60(5)(c) (as so applied)). In Acts passed after 1889, in relation to any court, 'rules of court' means rules made by the authority having power to make rules or orders regulating the practice of that court: see the Interpretation Act 1978 Sch 1, Sch 2 para 4(1)(a); and STATUTES vol 44(1) (Reissue) PARA 1386.

30 Political Parties, Elections and Referendums Act 2000 s 58(3) (as applied: see the text and notes 1-11 *supra*). See note 29 *supra*.

31 *Ibid* s 58(4) (as applied: see the text and notes 1-11 *supra*). See note 29 *supra*.

32 *Ibid* s 59(1) (as applied: see the text and notes 1-11 *supra*). See note 29 *supra*.

33 *Ibid* s 59(2) (as applied: see the text and notes 1-11 *supra*). See note 29 *supra*.

34 *Ibid* s 59(3) (as applied: see the text and notes 1-11 *supra*). See note 29 *supra*.

35 *Ibid* ss 58(3), 59(4) (as applied: see the text and notes 1-11 *supra*). See note 29 *supra*.

36 *Ibid* ss 58(4), 59(4) (as applied: see the text and notes 1-11 *supra*). See note 29 *supra*.

37 Ie an order under *ibid* s 58 (as applied) (see the text and notes 25-31 *supra*) or s 59 (as applied) (see the text and notes 32-36 *supra*).

38 *Ibid* s 60(3) (as applied: see the text and notes 1-11 *supra*).

39 Ie under *ibid* s 59(2) (as applied) (see the text and note 33 *supra*).

40 *Ibid* s 60(4)(a) (as applied: see the text and notes 1-11 *supra*).

41 *Ibid* ss 59(2), 60(4)(b) (as applied: see the text and notes 1-11 *supra*).

UPDATE

294 Acceptance or return of donations received by candidate at an election

NOTE 26--See *The Electoral Commission v City of Westminster Magistrates' Court* [2009] EWHC 78 (Admin), [2009] All ER (D) 184 (Jan) (partial forfeiture) (affd on other grounds: [2009] EWCA Civ 1078, [2010] 1 All ER 1167).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(iii) Financial Controls on Candidates at Elections where Election Agent is required/C. CONTROL OF DONATIONS TO INDIVIDUAL CANDIDATES DURING ELECTIONS/295. Transfer to election agent of donations received by candidate at an election.

295. Transfer to election agent of donations received by candidate at an election.

For the purposes of controlling donations¹ to candidates² at an election³, a candidate must, on receipt of any relevant donation⁴ received by him after the deadline for appointing an election agent⁵ (unless the candidate is, or is deemed to be, his own election agent at the time of receipt of the donation)⁶, forthwith deliver to his election agent⁷: (1) the donation⁸; (2) where the provisions which regulate the making of donations through other persons or through agents⁹ apply in relation to the donation, the information provided to the candidate in pursuance of those provisions¹⁰; and (3) any other information which the candidate has about the donation and its donor which might reasonably be expected to assist the election agent in the discharge of any duties imposed on him, in relation to the donation, either under the provisions which impose controls on such donations to candidates at an election¹¹ or under the provisions which require the reporting of such donations¹². Where a donation is delivered to an election agent in this way, the donation is treated for the purposes of the provisions which prohibit donations from impermissible donors¹³ and the provisions which regulate the acceptance or return of donations made to candidates at an election¹⁴ as if it had been originally received by the election agent¹⁵, and as if it had been so received by him on the date on which it was received by the candidate¹⁶.

For these purposes, where a candidate receives a relevant donation before the deadline for appointing an election agent but at a time when an appointment of a person (other than the candidate himself) as election agent is in force¹⁷, he must either: (a) forthwith deliver the donation and the information mentioned in heads (2) and (3) above to the agent¹⁸; or (b), if he fails to do so, deal with the donation in accordance with the provisions which regulate the acceptance or return of donations made to candidates at an election¹⁹. Where a donation is delivered to an election agent in accordance with head (a) above, the donation is treated for the purposes of the provisions which prohibit donations from impermissible donors²⁰ and the provisions which regulate the acceptance or return of donations made to candidates at an election²¹ as if it had been originally received by the election agent²², and as if it had been so received by him on the date on which it was received by the candidate²³.

For these purposes, where: (i) a relevant donation received by a candidate before the deadline for appointing an election agent has been dealt with by the candidate in accordance with the provisions which regulate the acceptance or return of donations made to candidates at an election²⁴, either because it was received by him at a time when no appointment of another person as his election agent was in force²⁵ or because, although such an appointment was in force, he was by virtue of head (b) above required to deal with the donation²⁶; and (ii) an appointment of a person (other than the candidate himself) as election agent is in force at, or at any time after²⁷, the deadline for appointing an election agent²⁸ or, if later, the time when the candidate has dealt with the donation in accordance with the provisions which regulate the acceptance or return of donations made to candidates at an election²⁹, the candidate must, as soon as reasonably practicable after the relevant time³⁰, deliver to the election agent³¹: (A) the donation (if it has been accepted by him)³²; and (B) any information which he has about the donation and the donor which might reasonably be expected to assist the election agent in the discharge of any duties imposed on him, in relation to the donation, under the provisions which require the reporting of such donations³³.

1 For the meaning of 'donation' in relation to candidates at an election see PARA 292 ante.

2 For the meaning of 'candidate' generally see PARA 237 ante. The reference in the text is to an 'individual candidate' for the purposes of: (1) a regional election for the return of members of the National Assembly for Wales (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(1)); or (2) European parliamentary elections (European Parliamentary Elections Regulations 2004, SI 2004/293, reg 42(4), Sch 6 para 1(3)). For the meaning of 'individual candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante; and for the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante.

3 Representation of the People Act 1983 s 71A(4), Sch 2A para 1(1), (2) (s 71A, Sch 2A added by the Political Parties, Elections and Referendums Act 2000 s 130(1)-(4)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 42(4), Sch 6 para 1(1), (2).

The election referred to in the text may be any of a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'Authority election' see PARA 10 ante; and as to the meaning of 'election under the local government Act' see PARA 10 note 2 ante. However, the Representation of the People Act 1983 s 71A (as added) does not apply at an election under the local government Act which is not a local government election (see the Representation of the People Act 1983 s 90(2) (as amended); and PARA 302 post); and, in relation to an election of parish councillors in England or of community councillors in Wales, the provisions of s 90(1), Sch 4 (both as amended) apply instead: see s 90(1)(b) (as amended); and PARAS 298-301 post. For the meaning of 'local government election' see PARA 10 ante. As to elections in the City of London see PARA 30 ante. For the meanings of 'constituency election' and 'regional election' for the purposes of Welsh Assembly elections see PARA 3 note 1 ante. As to elections to the National Assembly for Wales generally see PARA 220 et seq ante; and as to European parliamentary elections see PARA 224 et seq ante.

4 For the meaning of 'relevant donation' in relation to candidates' election expenses see PARA 292 note 10 ante.

5 For these purposes, any reference to the deadline for appointing an election agent is a reference to the latest time by which, in accordance with the Representation of the People Act 1983 s 67(1) or s 67(1A) (as added) (see PARA 238 ante) or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 38(1) (appointment of election agent for individual candidate: see PARA 246 ante) (whichever is appropriate), an election agent may be named as election agent by the candidate (Representation of the People Act 1983 Sch 2A para 8(10)(a) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(4), Sch 6 para 8(10)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 8(10)(a)), except in the case of a candidate on a list of candidates submitted by a registered political party to be London members of the London Assembly at an ordinary election), when the reference is a reference to the latest time by which an election agent may be so named as election agent by the party (Representation of the People Act 1983 Sch 2A para 8(10)(a) (as so added)). Although the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 8(10)(a) states that any reference to the deadline for appointing an election agent is a reference to the latest time by which an election agent may, in accordance with the Representation of the People Act 1983 s 67(1) or s 67(1A) (as added), be named as election agent by the candidate, proper provision is made for such appointment for the purposes of Welsh Assembly elections by the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 35(1) (see PARA 242 ante). As to ordinary elections of London members of the London Assembly see PARA 206 et seq ante.

6 Representation of the People Act 1983 Sch 2A para 8(1) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 8(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 8(1).

7 Representation of the People Act 1983 Sch 2A para 8(2) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 8(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 8(2).

8 Representation of the People Act 1983 Sch 2A para 8(2)(a) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 8(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 8(2)(a).

9 In the Representation of the People Act 1983 Sch 2A para 6(5), (6) (as added); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 6(5), (6); or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 6(5), (6) (see PARA 293 ante).

10 Representation of the People Act 1983 Sch 2A para 8(2)(b) (as added: see note 3 *supra*); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 8(2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 8(2)(b).

11 *Ie* under the Representation of the People Act 1983 Sch 2A Pt II paras 6-9 (as added), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 Pt II paras 6-9 or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 Pt 2 paras 6-9 (whichever is appropriate).

12 Representation of the People Act 1983 Sch 2A para 8(2)(c) (as added: see note 3 *supra*); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 8(2)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 8(2)(c). The text refers to reporting duties imposed under the Representation of the People Act 1983 Sch 2A Pt III paras 10-12 (as added and amended), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 Pt III paras 10-12 or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 Pt 3 paras 10-12 (whichever is appropriate) (see *PARA 297 post*).

13 *Ie* for the purposes of the Representation of the People Act 1983 Sch 2A para 6(1)-(4) (as added), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 6(1)-(4) and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 6(1)-(4) (whichever is appropriate) (see *PARA 293 ante*).

14 *Ie* for the purposes of the Political Parties, Elections and Referendums Act 2000 ss 56-60 (as amended), as applied by the Representation of the People Act 1983 Sch 2A para 7 (as added), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 7 and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 7 (whichever is appropriate) (see *PARA 294 ante*).

15 Representation of the People Act 1983 Sch 2A para 8(3)(a) (as added: see note 3 *supra*); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 8(3)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 8(3)(a).

16 Representation of the People Act 1983 Sch 2A para 8(3)(b) (as added: see note 3 *supra*); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 8(3)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 8(3)(b).

17 Representation of the People Act 1983 Sch 2A para 8(4) (as added: see note 3 *supra*); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 8(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 8(4).

18 Representation of the People Act 1983 Sch 2A para 8(4)(a) (as added: see note 3 *supra*); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 8(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 8(4)(a).

19 Representation of the People Act 1983 Sch 2A paras 8(4)(b), 10(b) (as added: see note 3 *supra*); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 paras 8(4)(b), 10(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 paras 8(4)(b), 10(b). The text refers to dealing with the donation in accordance with the Political Parties, Elections and Referendums Act 2000 s 56, as it is applied for the purposes of controlling donations to candidates at an election in relation to a relevant donation received by a candidate or his election agent and to the candidate or (as the case may be) the election agent: see *PARA 294 ante*.

20 See note 13 *supra*.

21 See note 14 *supra*.

22 Representation of the People Act 1983 Sch 2A para 8(3)(a) (as added: see note 3 *supra*) (applied by Sch 2A para 8(5) (as so added)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 8(3)(a) (applied by Sch 6 para 8(5)); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 8(3)(a) (applied by Sch 6 para 8(5)).

23 Representation of the People Act 1983 Sch 2A para 8(3)(b) (as added: see note 3 *supra*) (applied by Sch 2A para 8(5) (as so added)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 8(3)(b) (applied by Sch 6 para 8(5)); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 8(3)(b) (applied by Sch 6 para 8(5)).

24 Representation of the People Act 1983 Sch 2A paras 8(6)(a), 10(b) (as added: see note 3 *supra*); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 paras 8(6)(a), 10(b);

European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 paras 8(6)(a), 10(b). As to the provisions which regulate the acceptance or return of donations made to candidates at an election see note 19 *supra*.

25 Representation of the People Act 1983 Sch 2A para 8(6)(a)(i) (as added: see note 3 *supra*); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 8(6)(a)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 8(6)(a)(i).

26 Representation of the People Act 1983 Sch 2A para 8(6)(a)(ii) (as added: see note 3 *supra*); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 8(6)(a)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 8(6)(a)(ii).

27 Representation of the People Act 1983 Sch 2A para 8(6)(b) (as added: see note 3 *supra*); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 8(6)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 8(6)(b).

28 Representation of the People Act 1983 Sch 2A para 8(6)(b)(i) (as added: see note 3 *supra*); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 8(6)(b)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 8(6)(b)(i).

29 Representation of the People Act 1983 Sch 2A paras 8(6)(b)(ii), 10(b) (as added: see note 3 *supra*); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 paras 8(6)(b)(ii), 10(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 paras 8(6)(b)(ii), 10(b). As to the provisions which regulate the acceptance or return of donations made to candidates at an election see note 19 *supra*.

30 For these purposes, the 'relevant time' is either the time mentioned in the Representation of the People Act 1983 Sch 2A para 8(6)(b)(i) (as added) (see the text and note 28 *supra*) or Sch 2A para 8(6)(b)(ii) (as added) (see the text and note 29 *supra*), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 8(6)(b)(i) (see the text and note 28 *supra*) or Sch 6 para 8(6)(b)(ii) (see the text and note 29 *supra*) or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 8(6)(b)(i) (see the text and note 28 *supra*) or Sch 6 para 8(6)(b)(ii) (see the text and note 29 *supra*) (whichever is appropriate) if the appointment of another person as election agent is in force at that time or, otherwise, the time when any such appointment subsequently comes into force: Representation of the People Act 1983 Sch 2A para 8(8) (as added: see note 3 *supra*); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 8(8); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 8(8).

31 Representation of the People Act 1983 Sch 2A para 8(7) (as added: see note 3 *supra*); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 8(7); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 8(7).

32 Representation of the People Act 1983 Sch 2A para 8(7)(a) (as added: see note 3 *supra*); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 8(7)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 8(7)(a). However, the duty imposed on a candidate by head (A) in the text does not apply to any relevant donation to the extent to which it has been lawfully used by the candidate for the purpose of paying election expenses: Representation of the People Act 1983 Sch 2A para 8(9) (as added: see note 3 *supra*); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 8(9); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 8(9). For the meaning of 'election expenses' see PARA 274 *ante*.

33 Representation of the People Act 1983 Sch 2A para 8(7)(b) (as added: see note 3 *supra*); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 8(7)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 8(7)(b). The text refers to reporting duties imposed under the Representation of the People Act 1983 Sch 2A Pt III paras 10-12 (as added and amended), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 Pt III paras 10-12 or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 Pt 3 paras 10-12 (whichever is appropriate) (see PARA 297 *post*).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(iii) Financial Controls on Candidates at Elections where Election Agent is required/C. CONTROL OF DONATIONS TO INDIVIDUAL CANDIDATES DURING ELECTIONS/296. Evasion of restrictions on donations to candidate at an election.

296. Evasion of restrictions on donations to candidate at an election.

The provisions which create offences concerned with the evasion of restrictions on donations to a registered party¹ apply for the purposes of controlling donations to candidates at an election², subject to minor modification³.

1 Ie the Political Parties, Elections and Referendums Act 2000 s 61 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS).

2 Ie for the purposes of, in the case of a parliamentary or local government election, the Representation of the People Act 1983 s 71A(4), Sch 2A (as added) or, in the case of a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(4), Sch 6 or, in the case of a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 42(4), Sch 6 (whichever is appropriate) (see PARA 292 et seq ante).

3 See the Representation of the People Act 1983 Sch 2A para 9 (as added); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 9; the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 9; and PARA 755 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(iii) Financial Controls on Candidates at Elections where Election Agent is required/C. CONTROL OF DONATIONS TO INDIVIDUAL CANDIDATES DURING ELECTIONS/297. Statement of relevant donations received by candidate at an election.

297. Statement of relevant donations received by candidate at an election.

For the purposes of controlling donations¹ to candidates² at an election³, the candidate's election agent⁴ must include, in any return required to be delivered in relation to his election expenses⁵, a statement of relevant donations⁶ which complies with the requirement to report any donations received from persons who are permissible donors as well as those received from persons who are not permissible donors⁷.

Accordingly, in relation to each relevant donation accepted by the candidate or his election agent, the statement must record⁸: (1) the amount of the donation (if a donation of money, in cash or otherwise) or the nature of the donation and its value (in any other case)⁹; (2) the date when the donation was accepted by the candidate or his election agent¹⁰; (3) the information about the donor which is, in connection with recordable donations to registered parties¹¹, required to be recorded in donation reports¹²; and (4) such other information as may be required by regulations made by the Electoral Commission¹³.

Where a relevant donation has been received from a person who is not a permissible donor (an 'impermissible donor')¹⁴, the statement must record: (a) the name and address of the donor¹⁵; (b) the amount of the donation (if a donation of money, in cash or otherwise) or the nature of the donation (in any other case)¹⁶; (c) the date when the donation was received, and the date when, and the manner in which, it was dealt with in accordance with the provisions which regulate the handling of relevant donations made by impermissible donors¹⁷; (d) such other information as is required by regulations made by the Commission¹⁸. Where a relevant donation has been received from a person whose identity cannot be ascertained¹⁹, the statement must record: (i) details of the manner in which the donation was made²⁰; (ii) the amount of the donation (if a donation of money, in cash or otherwise) or the nature of the donation and its value (in any other case)²¹; (iii) the date when the donation was received, and the date when and the manner in which it was dealt with in accordance with the provisions which regulate the handling of relevant donations made by persons whose identity cannot be ascertained²²; and (iv) such other information as is required by regulations made by the Commission²³.

1 For the meaning of 'donation' in relation to candidates at an election see PARA 292 ante.

2 For the meaning of 'candidate' generally see PARA 237 ante. The reference in the text is to an 'individual candidate' for the purposes of: (1) a regional election for the return of members of the National Assembly for Wales (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(1)); or (2) European parliamentary elections (European Parliamentary Elections Regulations 2004, SI 2004/293, reg 42(4), Sch 6 para 1(3)). For the meaning of 'regional election' for the purposes of Welsh Assembly elections see PARA 3 note 1 ante. For the meaning of 'individual candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante; and for the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante.

3 Representation of the People Act 1983 s 71A(4), Sch 2A para 1(1), (2) (s 71A, Sch 2A added by the Political Parties, Elections and Referendums Act 2000 s 130(1)-(4)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 42(4), Sch 6 para 1(1), (2).

The election referred to in the text may be any of a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1

ante), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'Authority election' see PARA 10 ante; and as to the meaning of 'election under the local government Act' see PARA 10 note 2 ante. However, the Representation of the People Act 1983 s 71A (as added) does not apply at an election under the local government Act which is not a local government election (see the Representation of the People Act 1983 s 90(2) (as amended); and PARA 302 post); and, in relation to an election of parish councillors in England or of community councillors in Wales, the provisions of s 90(1), Sch 4 (both as amended) apply instead: see s 90(1)(b) (as amended); and PARAS 298-301 post. For the meaning of 'local government election' see PARA 10 ante. As to elections in the City of London see PARA 30 ante. For the meaning of 'constituency election' for the purposes of Welsh Assembly elections see PARA 3 note 1 ante. As to elections to the National Assembly for Wales generally see PARA 220 et seq ante; and as to European parliamentary elections see PARA 224 et seq ante.

4 As to the appointment of an election agent see PARA 238 et seq ante.

5 In any return required to be delivered under the Representation of the People Act 1983 s 81 (as amended) or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 51 (whichever is appropriate) (see PARA 285 ante). Although the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(4), Sch 6 para 10 states that the return mentioned in the text is that required to be delivered under the Representation of the People Act 1983 s 81 (as amended), such provision is made for the purposes of Welsh Assembly elections by the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 50 (see PARA 285 ante).

6 For the meaning of 'relevant donation' in relation to candidates' election expenses see PARA 292 note 10 ante.

7 Representation of the People Act 1983 Sch 2A para 10(1) (Sch 2A as added (see note 3 supra); and Sch 2A para 10(1) numbered as such by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 2, 16); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 10; European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 10. The text refers to the requirement for a statement of relevant donations to comply with the Representation of the People Act 1983 Sch 2A paras 11-12 (as added), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 paras 11-12 and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 paras 11-12 (whichever apply) (see the text and notes 8-23 infra). For the meaning of 'permissible donor' for these purposes see PARA 293 ante.

In relation to a parliamentary election, Authority election or election under the local government Act, if the statement of relevant donations states that the candidate's election agent has seen evidence, of such description as is prescribed by the Secretary of State in regulations, that an individual donor has an anonymous entry in an electoral register, the statement must be accompanied by a copy of the evidence: Representation of the People Act 1983 Sch 2A para 10(2), (3) (Sch 2A as so added; and Sch 2A para 10(2), (3) added by the Electoral Administration Act 2006 Sch 1 paras 2, 16). The evidence prescribed for these purposes is a certificate of anonymous registration: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 45H (added by SI 2006/2910). For the meaning of 'certificate of anonymous registration' see PARA 160 note 12 ante; and for the meaning of 'anonymous entry' in relation to a register of electors see PARA 174 ante. As to the Secretary of State see PARA 2 ante. As to the making of regulations under the Representation of the People Act 1983 generally see PARA 24 note 16 ante.

8 Representation of the People Act 1983 Sch 2A para 11 (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 11; European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 11.

9 Representation of the People Act 1983 Sch 2A para 11(a) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 11(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 11(a). The value of the donation is determined in accordance with, in relation to a parliamentary or local government election, the Representation of the People Act 1983 Sch 2A para 5 (as added), in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 5 or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 5 (see PARA 292 notes 6-7, 11 ante).

10 Representation of the People Act 1983 Sch 2A para 11(b) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 11(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 11(b). As to the acceptance of donations made to a candidate at an election see PARA 294 ante.

11 For the meaning of 'registered political party', in relation to parliamentary and local government elections, see PARA 238 note 7 ante; and, in relation to Welsh Assembly elections, see PARA 237 note 23 ante. For the meaning of 'registered party' in relation to European parliamentary elections see PARA 237 note 30 ante.

12 Representation of the People Act 1983 Sch 2A para 11(c) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 11(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 11(c). The text refers to information about the donor which is required to be recorded in donation reports by virtue of the Political Parties, Elections and Referendums Act 2000 ss 62, 63, Sch 6 para 2 (as amended) (identity of donors (quarterly reports): see CONSTITUTIONAL LAW AND HUMAN RIGHTS).

13 Representation of the People Act 1983 Sch 2A paras 1(8), 11(d) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 paras 1, 11(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 paras 1(8), 11(d). Regulations made by the Electoral Commission are not statutory instruments and are not recorded in this work: see further PARA 42 ante. As to the Electoral Commission see PARA 31 et seq ante.

14 Representation of the People Act 1983 Sch 2A para 12(1), (2) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 12(1), (2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 12(1), (2). The text refers to the circumstance where the Representation of the People Act 1983 Sch 2A para 6(1)(a) (as added), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 6(1)(a) or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 6(1)(a) applies (see PARA 293 ante).

15 Representation of the People Act 1983 Sch 2A para 12(2)(a) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 12(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 12(2)(a).

16 Representation of the People Act 1983 Sch 2A para 12(2)(b) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 12(2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 12(2)(b). As to the ascertainment of value for these purposes see note 9 supra.

17 Representation of the People Act 1983 Sch 2A para 12(2)(c), (4) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 12(2)(c), (4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 12(2)(c), (4). The text refers to dealing with the donation in accordance with the Political Parties, Elections and Referendums Act 2000 s 56(2)(a), as it is applied for the purposes of controlling donations to candidates at an election in relation to a relevant donation received by a candidate or his election agent and to the candidate or (as the case may be) the election agent: see PARA 294 ante.

18 Representation of the People Act 1983 Sch 2A paras 1(8), 12(2)(d) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 paras 1, 12(2)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 paras 1(8), 12(2)(d). As to regulations made by the Electoral Commission see note 13 supra.

19 Representation of the People Act 1983 Sch 2A para 12(1), (3) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 12(1), (3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 12(1), (3). The text refers to the circumstance where the Representation of the People Act 1983 Sch 2A para 6(1)(b) (as added), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 6(1)(b) or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 6(1)(b) applies (see PARA 293 ante).

20 Representation of the People Act 1983 Sch 2A para 12(3)(a) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 12(3)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 12(3)(a).

21 Representation of the People Act 1983 Sch 2A para 12(3)(b) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 12(3)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 12(3)(b). As to the ascertainment of value for these purposes see note 9 supra.

22 Representation of the People Act 1983 Sch 2A para 12(3)(c), (4) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 12(3)(c), (4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 12(3)(c), (4). The text refers to dealing with the donation in accordance with the Political Parties, Elections and Referendums Act 2000 s 56(2)(b), as it is applied for the purposes of controlling donations to candidates at an election in relation to a relevant donation received by a candidate or his election agent: see PARA 294 ante.

23 Representation of the People Act 1983 Sch 2A paras 1(8), 12(3)(d) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 paras 1, 12(3)(d); European

Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 paras 1(8), 12(3)(d). As to regulations made by the Electoral Commission see note 13 *supra*.

UPDATE

297 Statement of relevant donations received by candidate at an election

NOTE 7--SI 2004/293 Sch 6 para 10 amended: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(iv) Financial Controls on Individual Candidates at Elections where Election Agent not required/A. ELECTION OF PARISH COUNCILLORS IN ENGLAND OR OF COMMUNITY COUNCILLORS IN WALES/298. Election expenses at an election of parish or community councillors.

(iv) Financial Controls on Individual Candidates at Elections where Election Agent not required

A. ELECTION OF PARISH COUNCILLORS IN ENGLAND OR OF COMMUNITY COUNCILLORS IN WALES

298. Election expenses at an election of parish or community councillors.

In relation to an election of parish councillors in England¹ or of community councillors in Wales², at which an election agent is not required³, the statutory provisions relating to election expenses⁴ generally do not apply⁵, except that the provisions limiting the amount of election expenses⁶, and the definition of 'election expenses'⁷, are applied with slight modifications⁸.

1 As to the election of parish councillors see PARA 207 et seq ante. For the meaning of 'England' see PARA 13 note 1 ante.

2 As to the election of community councillors see PARA 207 et seq ante. For the meaning of 'Wales' see PARA 13 note 1 ante.

3 See PARA 238 note 3 ante.

4 I.e the Representation of the People Act 1983 ss 71A--75, 78-89, Sch 2A (as amended) (see PARA 274 et seq ante).

5 Ibid s 90(1)(b) (amended by the Political Parties, Elections and Referendums Act 2000 s 138(1), Sch 18 paras 1, 11(b)). As to the provisions which apply in lieu of the excluded provisions see PARA 299 et seq post.

6 I.e the Representation of the People Act 1983 s 76 (as amended) (limitation of election expenses: see PARA 278 ante) and s 77 (as amended) (limitation of election expenses for joint candidates at certain local government elections: see PARA 279 ante). As to the application of s 76A (as added and substituted) for these purposes see PARA 300 note 10 post.

7 See PARA 274 ante; and see note 8 infra.

8 Representation of the People Act 1983 s 90(1)(a) (amended by the Political Parties, Elections and Referendums Act 2000 s 138(1), Sch 18 paras 1, 11(a); and the Electoral Administration Act 2006 s 74(1), Sch 1 paras 104, 116). The modification to the definition of 'election expenses' referred to in the text affects the Representation of the People Act 1983 s 90ZA(4) (as added) and s 90C (as added and amended) (see PARA 274 ante): s 90(1)(a) (as so amended).

Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 104, 116 has no effect in relation to a parliamentary by-election, an election under the Local Government Act 1972 s 89 (as amended) (i.e an election to fill a casual vacancy: see PARA 209 ante) or an election under the Greater London Authority Act 1999 s 10 (filling a vacancy in an Assembly constituency: see PARA 211 ante) or s 16 (filling a vacancy in the office of London Mayor: see PARA 211 ante) where the day of the poll is on or before 3 May 2007 (or, in the case of an uncontested election, would have been had the election been contested): see the Electoral Administration Act 2006 (Commencement No 1 and Transitional Provisions) Order 2006, SI 2006/1972, art 4, Sch 2 para 2.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(iv) Financial Controls on Individual Candidates at Elections where Election Agent not required/A. ELECTION OF PARISH COUNCILLORS IN ENGLAND OR OF COMMUNITY COUNCILLORS IN WALES/299. Claims in respect of election expenses at an election of parish or community councillors.

299. Claims in respect of election expenses at an election of parish or community councillors.

In relation to an election of parish councillors in England¹ or of community councillors in Wales², at which an election agent is not required³, any claim against any person in respect of any election expenses⁴ incurred by or on behalf of a candidate⁵ which is not sent in⁶ within 14 days after the day of election⁷ is barred and must not be paid, and all election expenses so incurred must be paid within 21 days after the day of election and not otherwise⁸. If any person makes a payment⁹ in contravention of this provision he is guilty of an illegal practice¹⁰.

1 As to the election of parish councillors see PARA 207 et seq ante. For the meaning of 'England' see PARA 13 note 1 ante.

2 As to the election of community councillors see PARA 207 et seq ante. For the meaning of 'Wales' see PARA 13 note 1 ante.

3 See PARA 238 note 3 ante.

4 For the meaning of 'election expenses' generally see PARA 274 ante; and in relation to an election of parish or community councillors specifically see PARA 298 ante.

5 For the meaning of 'candidate' generally see PARA 237 ante.

6 It is not clear whether the claim must be in the possession of the person within the 14 days or merely have been dispatched within that time. However, to the extent that 'send' is synonymous with 'transmit', the latter construction is the correct one: see *Mackinnon v Clark* [1898] 2 QB 251 at 257, CA, per A L Smith LJ.

7 As to the day of election referred to in the text see PARA 213 et seq ante; and as to the computation of time for these purposes see PARA 237 note 11 ante.

8 Representation of the People Act 1983 s 90(1)(b), Sch 4 para 1(1).

9 As to the meaning of 'payment' for these purposes see PARA 275 note 2 ante.

10 See the Representation of the People Act 1983 Sch 4 para 1(2); and PARA 678 post. A candidate is not liable nor is his election void for any such illegal practice as is mentioned in the text which is committed without his consent or connivance: see Sch 4 para 1(2); and PARA 678 post. As to the consequences of an illegal practice see PARA 886 et seq post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(iv) Financial Controls on Individual Candidates at Elections where Election Agent not required/A. ELECTION OF PARISH COUNCILLORS IN ENGLAND OR OF COMMUNITY COUNCILLORS IN WALES/300. Return and declaration as to election expenses.

300. Return and declaration as to election expenses.

At an election of parish councillors in England¹ or of community councillors in Wales², at which an election agent is not required³, every agent of a candidate⁴ at the election must, within 23 days after the day of election⁵, make a true return to the candidate in writing of all election expenses⁶ incurred by the agent, and if he fails to do so he is liable on summary conviction to a fine⁷.

Within 28 days after the day of election, every candidate must deliver to the proper officer⁸ of the authority for which the election is held, a return of all election expenses incurred by the candidate or his agents vouched (except in the case of sums under £10) by bills stating the particulars or by receipts and accompanied by a declaration by the candidate⁹ as to election expenses¹⁰. If, subsequent to the delivery of the return, leave is given by the court for the payment of a statute-barred claim, a return of any sum so paid must forthwith after payment be sent to the proper officer of the authority¹¹.

1 As to the election of parish councillors see PARA 207 et seq ante. For the meaning of 'England' see PARA 13 note 1 ante.

2 As to the election of community councillors see PARA 207 et seq ante. For the meaning of 'Wales' see PARA 13 note 1 ante.

3 See PARA 238 note 3 ante.

4 For the meaning of 'candidate' generally see PARA 237 ante.

5 As to the day of election referred to in the text see PARA 213 et seq ante; and as to the computation of time for these purposes see PARA 237 note 11 ante.

6 For the meaning of 'election expenses' generally see PARA 274 ante; and in relation to an election of parish or community councillors specifically see PARA 298 ante.

7 Representation of the People Act 1983 s 90(1)(b), Sch 4 para 2. The penalty is a fine not exceeding level 3 on the standard scale: see Sch 4 para 2. As to the standard scale see PARA 736 note 3 post. Because this offence is not an illegal practice, the relief that can be obtained in respect of illegal practices generally (as to which see PARA 693 post) cannot be obtained in relation to this offence (but see Sch 4 para 7; and PARA 692 post).

8 For the meaning of 'proper officer' see PARA 155 note 2 ante.

9 The form of declaration as to election expenses is that prescribed by rules under the Representation of the People Act 1983 s 36 (as amended) (see PARA 388 post) relating to the election of parish or, as the case may be, community councillors, or a form to the like effect: Representation of the People Act 1983 s 90(1)(b). See the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 7, Sch 4 (Declaration as to expenses); and, in relation to the election of community councillors, see also the Local Elections (Communities) (Welsh Forms) Order 1987, SI 1987/561, art 2, Schedule (Declaration as to expenses, datganiad am dreuliau).

10 Representation of the People Act 1983 Sch 4 para 3 (amended by the Representation of the People Act 1985 ss 14(6), 24, Sch 4 para 89(a); and the Political Parties, Elections and Referendums Act 2000 s 138(1), Sch 18 paras 1, 17). The Secretary of State may by order made by statutory instrument vary the sum of £10 where in his opinion there has been a change in the value of money since the last occasion on which that sum was fixed and the variation is such as in his opinion is justified by that change: Representation of the People Act

1983 s 76A(1) (added by the Representation of the People Act 1985 s 14(4); and substituted by the Political Parties, Elections and Referendums Act 2000 s 133(1)); Representation of the People Act 1983 s 90(1)(c) (substituted by the Political Parties, Elections and Referendums Act 2000 Sch 18 paras 1, 11(c)).

11 Representation of the People Act 1983 Sch 4 para 6.

UPDATE

300 Return and declaration as to election expenses

NOTE 9--SI 1987/561 replaced: Local Elections (Communities) (Welsh Forms) Order 2007, SI 2007/1013.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(iv) Financial Controls on Individual Candidates at Elections where Election Agent not required/A. ELECTION OF PARISH COUNCILLORS IN ENGLAND OR OF COMMUNITY COUNCILLORS IN WALES/301. Public inspection of returns and declarations.

301. Public inspection of returns and declarations.

At an election of parish councillors in England¹ or of community councillors in Wales², at which an election agent is not required³, the return and declaration required to be made by the candidate⁴ as to election expenses⁵ must be kept at the office of the proper officer of the authority⁶, and must at all reasonable times during the 12 months next after they are received by him be open to inspection by any person on payment of the prescribed fee, and the proper officer must on demand provide copies of them, or of any part of them, at the prescribed price⁷. At the expiration of the 12 months, the proper officer may cause the return and declaration to be destroyed, or, if the candidate so requires, he may return them to him⁸.

1 As to the election of parish councillors see PARA 207 et seq ante. For the meaning of 'England' see PARA 13 note 1 ante.

2 As to the election of community councillors see PARA 207 et seq ante. For the meaning of 'Wales' see PARA 13 note 1 ante.

3 See PARA 238 note 3 ante.

4 For the meaning of 'candidate' generally see PARA 237 ante.

5 As to the return and declaration required as mentioned in the text see PARA 300 ante. For the meaning of 'election expenses' generally see PARA 274 ante; and in relation to an election of parish or community councillors specifically see PARA 298 ante.

6 For the meaning of 'proper officer' see PARA 155 note 2 ante.

7 Representation of the People Act 1983 s 90(1)(b), Sch 4 para 8(1). 'Prescribed' means prescribed by regulations: s 202(1). As to the regulations so made see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341; and PARA 289 note 10 ante. As to the making of regulations under the Representation of the People Act 1983 generally see PARA 24 note 16 ante.

8 Ibid Sch 4 para 8(2).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(iv) Financial Controls on Individual Candidates at Elections where Election Agent not required/B. ELECTION UNDER THE LOCAL GOVERNMENT ACT WHICH IS NOT A LOCAL GOVERNMENT ELECTION/302. Disapplication of election expenses provisions.

B. ELECTION UNDER THE LOCAL GOVERNMENT ACT WHICH IS NOT A LOCAL GOVERNMENT ELECTION

302. Disapplication of election expenses provisions.

At an election under the Local Government Act 1972¹ which is not a local government election², the general statutory provisions relating to election expenses³ have no application⁴. If a candidate at such an election or any person on his behalf knowingly pays any sum or incurs any expense, whether before, during or after that election, on account of or in respect of the conduct or management of the election, he is guilty of an illegal practice⁵.

1 As to the meaning 'election under the local government Act' see PARA 10 note 2 ante.

In the application of the Representation of the People Act 1983 Pt II (ss 67-119) (as amended) to a poll consequent on a parish or community meeting, 'election under the local government Act' is deemed to include a reference to a poll consequent on a parish meeting (as to which see PARA 207 et seq ante): Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(g).

2 For the meaning of 'local government election' see PARA 10 ante.

3 Ie the Representation of the People Act 1983 ss 71A--89 (as amended) (see PARA 274 et seq ante).

4 Ibid s 90(2) (amended by the Political Parties, Elections and Referendums Act 2000 s 138(1), Sch 18 paras 1, 11(d)).

5 See the Representation of the People Act 1983 s 90(2) (as amended); and PARA 681 post. As to the consequences of an illegal practice see PARA 886 et seq post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(v) Financial Controls on Registered Political Parties at National Election Campaigns/A. CONTINUOUS FINANCIAL CONTROLS ON REGISTERED PARTIES/303. General accounting requirements for registered parties.

(v) Financial Controls on Registered Political Parties at National Election Campaigns

A. CONTINUOUS FINANCIAL CONTROLS ON REGISTERED PARTIES

303. General accounting requirements for registered parties.

The treasurer of a registered party¹ must ensure that accounting records are kept with respect to the party which are sufficient to show and explain the party's transactions². He must also prepare a statement of accounts in respect of each financial year of the party³, and deliver that statement to the Electoral Commission⁴, along with a copy of the auditor's report (where the requirement for a party's accounts to be audited by a qualified auditor applies to that party)⁵. If a registered party fails to submit a proper statement of accounts, or fails to deliver any statement of accounts, notification or auditor's report before the end of the required period, the person who was the treasurer of the party for the relevant period is guilty of an offence⁶.

1 For the meaning of 'registered party' for these purposes see PARA 32 note 3 ante. As to the treasurer of a registered party see PARA 260 ante.

2 See the Political Parties, Elections and Referendums Act 2000 s 41; and CONSTITUTIONAL LAW AND HUMAN RIGHTS. As to the application to ss 41-48 (as amended) where a registered party is a party with accounting units see s 49, Sch 5; and CONSTITUTIONAL LAW AND HUMAN RIGHTS. For the meanings of 'accounting units' and 'party with accounting units' see PARA 260 note 15 ante.

3 See *ibid* s 42 (as amended); and CONSTITUTIONAL LAW AND HUMAN RIGHTS. 'Financial year', in relation to a registered party, means such period as may be determined by the Electoral Commission (see note 4 *infra*), whether in relation to registered parties generally, any description of registered parties which includes the party, or the party itself: see ss 41(6), 160(1). Where a registered party's gross income or total expenditure in any financial year exceeds £250,000, the accounts of the party for that year must be audited by a qualified auditor: see ss 43, 44 (as amended); and CONSTITUTIONAL LAW AND HUMAN RIGHTS.

4 As to the Electoral Commission see PARA 31 *et seq* ante.

5 See the Political Parties, Elections and Referendums Act 2000 s 45 (as amended); and CONSTITUTIONAL LAW AND HUMAN RIGHTS. For these purposes, 'qualified auditor' means a person who is, in accordance with the Companies Act 1989 s 25 (eligibility for appointment: see COMPANIES vol 15 (2009) PARA 969), eligible for appointment as a company auditor: Political Parties, Elections and Referendums Act 2000 s 160(1) (definition amended by the European Parliamentary Elections (Combined Region and Controlled Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, art 4(2), Schedule paras 1, 31(a)(i)). However, a person is not a qualified auditor in relation to any registered party or any other body or individual if he is either a member of the party or body or the individual himself or an officer or employee of the party, body or individual (for which purpose, 'officer or employee' does not include an auditor): Political Parties, Elections and Referendums Act 2000 s 160(2).

Where the Commission receives any statement of accounts under s 45 (as amended), it must make a copy of the statement available for public inspection and keep any such copy available for public inspection: see s 46; and CONSTITUTIONAL LAW AND HUMAN RIGHTS. Provision is made for the treasurer of a registered party to revise a defective statement of accounts: see s 48 (as amended); and CONSTITUTIONAL LAW AND HUMAN RIGHTS.

6 See *ibid* s 47; and CONSTITUTIONAL LAW AND HUMAN RIGHTS.

UPDATE

303 General accounting requirements for registered parties

NOTE 5--Definition of 'qualified auditor' amended to take account of the coming into force of the Companies Act 2006: SI 2008/948.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(v) Financial Controls on Registered Political Parties at National Election Campaigns/B. CONTROLS AFFECTING CAMPAIGN EXPENDITURE BY REGISTERED PARTIES DURING ELECTION PERIODS/(A) In general/304. Meaning of 'campaign expenditure'.

B. CONTROLS AFFECTING CAMPAIGN EXPENDITURE BY REGISTERED PARTIES DURING ELECTION PERIODS

(A) IN GENERAL

304. Meaning of 'campaign expenditure'.

For the purposes of controlling campaign expenditure incurred by registered parties during election periods¹, 'campaign expenditure', in relation to a registered party², means expenses incurred by or on behalf of the party³ which are expenses incurred for election purposes⁴ in respect of any of the matters set out in the following list⁵:

- 357 (1) party political broadcasts, including agency fees, design costs and other costs in connection with preparing or producing such broadcasts⁶;
- 358 (2) advertising of any nature (whatever the medium used), including agency fees, design costs and other costs in connection with preparing, producing, distributing or otherwise disseminating such advertising or anything incorporating such advertising and intended to be distributed for the purpose of disseminating it⁷;
- 359 (3) unsolicited material addressed to electors (whether addressed to them by name or intended for delivery to households within any particular area or areas⁸), including design costs and other costs in connection with preparing, producing or distributing such material (including the cost of postage)⁹;
- 360 (4) any manifesto or other document setting out the party's policies, including design costs and other costs in connection with preparing or producing or distributing or otherwise disseminating any such document¹⁰;
- 361 (5) market research or canvassing conducted for the purpose of ascertaining polling intentions¹¹;
- 362 (6) the provision of any services or facilities in connection with press conferences or other dealings with the media¹²;
- 363 (7) the transport (by any means) of persons to any place or places with a view to obtaining publicity in connection with an election campaign¹³, including the costs of hiring a particular means of transport for the whole or part of the period during which the election campaign is being conducted¹⁴;
- 364 (8) rallies and other events, including public meetings (but not annual or other party conferences) organised so as to obtain publicity in connection with an election campaign or for other purposes connected with an election campaign, including costs incurred in connection with the attendance of persons at such events, the hire of premises for the purposes of such events or the provision of goods, services or facilities at them¹⁵.

'Campaign expenditure' does not include anything which, in accordance with any enactment¹⁶, falls to be included in a return as to election expenses¹⁷ in respect of a candidate or candidates at a particular election¹⁸. Nor should anything in heads (1) to (8) above to be taken as extending to any expenses:

- 365 (a) in respect of newsletters or similar publications issued by or on behalf of the party with a view to giving electors in a particular electoral area information about the opinions or activities of, or other personal information relating to, their elected representatives or existing or prospective candidates¹⁹;
- 366 (b) incurred in respect of unsolicited material addressed to party members²⁰;
- 367 (c) in respect of any property, services or facilities so far as those expenses fall to be met out of public funds²¹;
- 368 (d) incurred in respect of the remuneration or allowances payable to any member of the staff (whether permanent or otherwise) of the party²²; or
- 369 (e) incurred in respect of an individual by way of travelling expenses (by any means of transport) or in providing for his accommodation or other personal needs to the extent that the expenses are paid by the individual from his own resources and are not reimbursed to him²³.

Where, in the case of a registered party, either: (i) property is transferred to the party²⁴; or (ii) property, services or facilities is or are provided for the use or benefit of the party²⁵, either free of charge or at a discount of more than 10 per cent²⁶, and the property, services or facilities is or are made use of by or on behalf of the party²⁷ in circumstances such that, if any expenses were to be (or are) actually incurred by or on behalf of the party in respect of that use, they would be (or are) campaign expenditure incurred by or on behalf of the party²⁸, an amount of campaign expenditure (the 'appropriate amount') is treated, for the purposes of the statutory provisions which govern the control of campaign expenditure, as incurred by the party during the period for which the property, services or facilities is or are made so use of²⁹. Where the whole or part of any such period falls within any period which is, in relation to the party, a relevant campaign period for the purposes of making returns as to campaign expenditure³⁰, then such proportion of the appropriate amount³¹ as reasonably represents the use made of the property, services or facilities during the relevant campaign period is treated as incurred by or on behalf of the party during the relevant campaign period³², and the treasurer³³ or a deputy treasurer³⁴ must make a declaration of that amount³⁵, unless that amount is not more than £200³⁶. Where head (i) above applies, the appropriate amount is determined as being such proportion of either the market value of the property (where the property is transferred free of charge)³⁷ or the difference between the market value of the property and the amount of expenses actually incurred by or on behalf of the party in respect of the property (where the property is transferred at a discount)³⁸, as is reasonably attributable to the use made of the property³⁹. Where head (ii) above applies, the appropriate amount is determined as being such proportion of either the commercial rate for the use of the property or the provision of the services or facilities (where the property, services or facilities is or are provided free of charge)⁴⁰ or the difference between that commercial rate and the amount of expenses actually incurred by or on behalf of the party in respect of the use of the property or the provision of the services or facilities (where the property, services or facilities is or are provided at a discount)⁴¹, as is reasonably attributable to the use made of the property, services or facilities⁴². However, no amount of campaign expenditure is to be regarded as so incurred in respect of: (A) the transmission by a broadcaster of a party political broadcast⁴³; (B) any facilities provided in accordance with any right conferred on candidates or a party at an election by any enactment⁴⁴; or (C) the provision by any individual of his own services which he provides voluntarily in his own time and free of charge⁴⁵.

The Electoral Commission may prepare, and from time to time revise, a code of practice giving guidance as to the kinds of expenses which do, or do not, fall within the matters specified either in heads (1) to (8) above or in heads (a) to (e) above⁴⁶. Once the Commission has prepared a draft of such a code, it must submit it to the Secretary of State for his approval⁴⁷; and he may approve a draft code either without modification or with such modifications as he may determine⁴⁸. The Secretary of State may also by order make such amendments to the

matters specified either in heads (1) to (8) above or in heads (a) to (e) above as he considers appropriate⁴⁹; and he may make such an order either where the order gives effect to a recommendation of the Commission⁵⁰ or after consultation with the Commission⁵¹.

1 le for the purposes of the Political Parties, Elections and Referendums Act 2000 Pt V (ss 72-84) (as amended). Nothing in Pt V (as amended) applies in relation to expenses incurred or to be incurred by or on behalf of a minor party: s 72(10). For the meaning of 'minor party' see PARA 260 note 8 ante.

2 For the meaning of 'registered party' for these purposes see PARA 32 note 3 ante.

3 Where a registered party is a party with accounting units: (1) expenses incurred or to be incurred by or on behalf of any accounting unit of the party are to be regarded as expenses incurred or to be incurred by or on behalf of the party (Political Parties, Elections and Referendums Act 2000 s 72(8)(a)); and (2) references to campaign expenditure incurred or to be incurred by or on behalf of a registered party accordingly extend, in relation to the party, to expenses which constitute such expenditure by virtue of head (1) supra (s 72(8)(b)). For the meanings of 'accounting units' and 'party with accounting units' see PARA 260 note 15 ante.

4 Ibid s 72(1), (2). In relation to a registered party, 'for election purposes' means for the purpose of or in connection with: (1) promoting or procuring electoral success for the party at any relevant election, that is to say, the return at any such election of candidates either standing in the name of the party or included in a list of candidates submitted by the party in connection with the election (s 72(4)(a)); or (2) otherwise enhancing the standing of the party, or of any such candidates, with the electorate in connection with future relevant elections, whether imminent or otherwise (s 72(4)(b)). For these purposes: (a) the reference to doing any of the things mentioned in head (1) supra or, as the case may be, head (2) supra includes doing so by prejudicing the electoral prospects at the election of other parties or candidates or, as the case may be, by prejudicing the standing with the electorate of other parties or candidates (s 72(5)(a)); (b) a course of conduct may constitute the doing of one of those things even though it does not involve any express mention being made of the name of any party or candidate (s 72(5)(b)); and (c) it is immaterial that any candidates standing in the name of the party also stand in the name of one or more other registered parties (s 72(5)(c)). The following elections are 'relevant elections' for these purposes: (i) parliamentary elections (s 22(5)(a); applied by s 72(6)); (ii) local government elections (s 22(5)(f); applied by s 72(6)); (iii) elections to the National Assembly for Wales (s 22(5)(d); applied by s 72(6)); and (iv) elections to the European Parliament (s 22(5)(b); applied by s 72(6)). 'Candidates' includes future candidates, whether identifiable or not: s 72(9). For the meaning of 'candidate' generally see PARA 237 ante. As to references to persons standing for election in the name of a registered party see PARA 260 note 8 ante. For the meaning of 'parliamentary election' see PARA 9 ante; and for the meaning of 'local government election' see PARA 10 ante. As to elections to the National Assembly for Wales see PARA 220 et seq ante; and as to European parliamentary elections see PARA 224 et seq ante.

5 le expenses falling within ibid s 72(2), Sch 8 Pt I paras 1-2 (see heads (1)-(8) and (a)-(e) in the text): Sch 8 para 1.

6 Ibid Sch 8 para 1(1). As to party political broadcasts generally see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 222-223; and TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARAS 291, 506-509.

7 Ibid Sch 8 para 1(2). As to the control of advertising relating to a pending parliamentary, European Parliamentary, Welsh Assembly or local government election see PARA 338 et seq post.

8 For the meaning of 'electoral area' see PARA 10 ante.

9 Political Parties, Elections and Referendums Act 2000 Sch 8 para 1(3). As to a candidate's right to send election addresses to electors generally see PARA 335 et seq post.

10 Ibid Sch 8 para 1(4).

11 Ibid Sch 8 para 1(5).

12 Ibid Sch 8 para 1(6).

13 For these purposes, 'election campaign', in relation to a registered party, means a campaign conducted by the party for election purposes: ibid s 72(3).

14 Ibid Sch 8 para 1(7).

15 Ibid Sch 8 para 1(8).

16 As to the meaning of 'enactment' see PARA 48 note 2 ante.

17 As to returns as to candidates' election expenses see PARA 285 ante.

18 Political Parties, Elections and Referendums Act 2000 s 72(7).

19 Ibid Sch 8 para 2(1)(a) (Sch 8 para 2(1) renumbered by the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, art 7(a)).

However, head (a) in the text does not apply in relation to any expenses which are incurred: (1) in respect of newsletters or similar publications issued by or on behalf of a party with a view to giving electors in a particular electoral area information about the opinions or activities of, or other personal information relating to, a member of the European Parliament elected in Great Britain (including the combined region) or existing or prospective candidates for such election (Political Parties, Elections and Referendums Act 2000 Sch 8 para 2(2) (a) (Sch 8 para 2(2) added by the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, art 7(b))); and (2) within the period of four months ending with the date of the poll for an election to the European Parliament (Political Parties, Elections and Referendums Act 2000 Sch 8 para 2(2)(b) (as so added)). As to the date of the poll at a European parliamentary election see PARA 229 ante.

20 Political Parties, Elections and Referendums Act 2000 Sch 8 para 2(1)(b) (as renumbered: see note 19 supra).

21 Ibid Sch 8 para 2(1)(c) (as renumbered: see note 19 supra). As to the meaning of 'property' for these purposes see PARA 31 note 8 ante.

References (in whatever terms) to payments out of public funds are references to any of the following, namely: (1) payments out of the Consolidated Fund of the United Kingdom or money provided by Parliament; (2) payments by any Minister of the Crown, any government department, or the National Assembly for Wales; and (3) payments by the Electoral Commission; and references (in whatever terms) to expenses met, or things provided, out of public funds are references to expenses met, or things provided, by means of any such payments: s 160(4). As to the Electoral Commission see PARA 31 et seq ante. As to the Consolidated Fund see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 711 et seq; PARLIAMENT vol 78 (2010) PARAS 1028-1031.

22 Ibid Sch 8 para 2(1)(d) (as renumbered: see note 19 supra).

23 Ibid Sch 8 para 2(1)(e) (as renumbered: see note 19 supra).

24 Ibid s 73(1)(a)(i). Any property given or transferred to any registered party or to any accounting unit of the party in its capacity as such is to be regarded as given or transferred to the party (and references to donations received by a party or any such accounting unit accordingly include donations so given or transferred) (s 50(6); applied by s 73(10)); and any reference to property being given or transferred to a party or any such accounting unit is a reference to its being so given or transferred either directly or indirectly through any third person (s 50(8)(a); applied by s 73(10)).

25 Ibid s 73(1)(a)(ii).

26 Ibid s 73(1)(a)(i), (ii). The discount referred to in the text is a discount of more than: (1) 10% of the market value of the property, in the case of head (i) in the text; or (2) 10% of the commercial rate for the use of the property or for the provision of the services or facilities, in the case of head (ii) in the text. For these purposes, 'market value', in relation to any property, means the price which might reasonably be expected to be paid for the property on a sale in the open market: s 160(1). Where the services of an employee are made available by his employer for the use or benefit of a registered party, then for the purposes of determining campaign expenditure, the amount which is to be taken as constituting the commercial rate for the provision of those services is the amount of the remuneration or allowances payable to the employee by his employer in respect of the period for which his services are so made available (but do not include any amount in respect of any contributions or other payments for which the employer is liable in respect of the employee): s 73(5).

27 For these purposes, references to anything done by or in relation to a registered party include a reference to any such thing done by or in relation to any accounting unit of the party: ibid s 73(10).

28 Ibid s 73(1)(b).

29 Ibid s 73(2). This provision has effect subject to s 73(9) (see heads (A)-(C) in the text). The text refers to the use made of the property or goods as mentioned in s 73(1)(b) (see the text and note 28 supra).

30 Ie for the purposes of ibid s 80 (see PARA 312 post). For the meaning of 'relevant campaign period' for those purposes see PARA 312 note 4 post.

31 Ie such proportion of the appropriate amount determined in accordance with *ibid* s 73(3), (4) (see the text and notes 37-42 *infra*).

32 *Ibid* s 73(6)(a), (7).

33 As to the treasurer of a registered party see *PARA* 260 *ante*.

34 Ie appointed under the Political Parties, Elections and Referendums Act 2000 s 74 (as amended) (see *PARA* 305 *post*).

35 *Ibid* s 73(6)(b). A person commits an offence if he knowingly or recklessly makes such a declaration which is false: see s 73(8); and *PARA* 754 *post*.

36 *Ibid* s 73(6). The Secretary of State may by order vary any sum for the time being specified in any provision of the Political Parties, Elections and Referendums Act 2000 (other than the sum specified in s 12(8) (policy development grants: see *PARA* 55 *ante*) or s 36(5) (assistance for existing parties: see *CONSTITUTIONAL LAW AND HUMAN RIGHTS*)): s 155(1). The Secretary of State may make such an order either where he considers it expedient to do so in consequence of changes in the value of money (s 155(2)(a)), or where the order gives effect to a recommendation of the Commission (s 155(2)(b)). At the date at which this volume states the law no such order had been made. As to the Secretary of State see *PARA* 2 *ante*.

37 *Ibid* s 73(3)(a).

38 *Ibid* s 73(3)(b).

39 *Ibid* s 73(3). The text refers to the use made of the property as mentioned in s 73(1)(b) (see the text and note 28 *supra*).

40 *Ibid* s 73(4)(a).

41 *Ibid* s 73(4)(b).

42 *Ibid* s 73(4). The text refers to the use made of the property as mentioned in s 73(1)(b) (see the text and note 28 *supra*).

43 *Ibid* s 73(9)(a). For these purposes, 'broadcaster' means the holder of a licence under the Broadcasting Act 1990 or the Broadcasting Act 1996 (see *TELECOMMUNICATIONS AND BROADCASTING* vol 45(1) (2005 Reissue) *PARA* 328 *et seq*), the British Broadcasting Corporation, or Sianel Pedwar Cymru: Political Parties, Elections and Referendums Act 2000 s 37(2). As to the BBC see *TELECOMMUNICATIONS AND BROADCASTING* vol 45(1) (2005 Reissue) *PARA* 306 *et seq*; and as to Sianel Pedwar Cymru see *TELECOMMUNICATIONS AND BROADCASTING* vol 45(1) (2005 Reissue) *PARA* 396. For the purposes of European parliamentary elections taking place in the combined region, the reference in s 73(9)(a) to a broadcaster includes a reference to the Gibraltar Broadcasting Corporation: see s 73(11) (added by the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, art 4(2), Schedule paras 1, 18). As to the combined region see *PARA* 76 *ante*.

44 Political Parties, Elections and Referendums Act 2000 s 73(9)(b).

45 *Ibid* s 73(9)(c).

46 *Ibid* s 160(1), Sch 8 para 3(1).

47 *Ibid* s 160(1), Sch 8 para 3(2).

48 *Ibid* Sch 8 para 3(3). For these purposes, references to a draft code include a revised draft code: Sch 8 para 3(10). Once the Secretary of State has approved a draft code he must lay a copy of the draft, whether in its original form or in a form which incorporates any modifications determined under Sch 8 para 3(3), before each House of Parliament: Sch 8 para 3(4). As to the meaning of 'modification' for these purposes see *PARA* 39 note 9 *ante*. If the draft incorporates any such modifications, the Secretary of State must at the same time lay before each House a statement of his reasons for making them: Sch 8 para 3(5). If, within the 40-day period, either House resolves not to approve the draft, the Secretary of State must take no further steps in relation to the draft code (Sch 8 para 3(6)); but, if no such resolution is made within the 40-day period, the Secretary of State must issue the code in the form of the draft laid before Parliament, and the code is to come into force on such date as the Secretary of State may by order appoint (Sch 8 para 3(7)). The Commission must arrange for the code to be published in such manner as it thinks appropriate: Sch 8 para 3(7). The prohibition from taking further action in relation to a draft code (ie Sch 8 para 3(6)) does not prevent a new draft code from being laid before Parliament: Sch 8 para 3(8). For these purposes, the '40-day period', in relation to a draft code, means, if

the draft is laid before one House on a day later than the day on which it is laid before the other House, the period of 40 days beginning with the later of the two days, and, in any other case, the period of 40 days beginning with the day on which the draft is laid before each House: Sch 8 para 3(8). In calculating this period, no account is taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days: Sch 8 para 3(9).

49 Ibid Sch 8 para 4(1).

50 Ibid Sch 8 para 4(2)(a).

51 Ibid Sch 8 para 4(2)(b).

UPDATE

304 Meaning of 'campaign expenditure'

NOTE 21--2000 Act s 160(4) amended: SI 2007/1388.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(v) Financial Controls on Registered Political Parties at National Election Campaigns/B. CONTROLS AFFECTING CAMPAIGN EXPENDITURE BY REGISTERED PARTIES DURING ELECTION PERIODS/(A) In general/305. Officers of registered party with responsibility for campaign expenditure.

305. Officers of registered party with responsibility for campaign expenditure.

For the purposes of controlling campaign expenditure incurred by registered parties during election periods¹, the treasurer of a registered party² may appoint, on such terms as he may determine, one or more deputy treasurers of the party, but not more than 12 persons may hold such appointments at the same time³. The appointment of a person as deputy treasurer of a party is effective for those purposes once the treasurer has given the Electoral Commission⁴ a notification of the appointment⁵ which contains the name of the person so appointed and the address of his office⁶ and is accompanied by a declaration of acceptance of office signed by that person⁷. If, where the appointment of any deputy treasurer of a registered party has been so notified to the Commission, the deputy treasurer dies or his appointment terminates for any other reason⁸ or any change occurs in the address of his office⁹, the treasurer of the party must notify the Commission of that fact within the appropriate period¹⁰.

A person is not, however, eligible to be appointed as deputy treasurer of a registered party if, at any time within the last five years, he has been convicted of any offence under the Political Parties, Elections and Referendums Act 2000¹¹ or of any other offence committed in connection with a relevant election¹² or a referendum¹³.

1 For the purposes of the Political Parties, Elections and Referendums Act 2000 Pt V (ss 72-84) (as amended). For the meaning of 'campaign expenditure' see PARA 304 ante. Nothing in Pt V (as amended) applies in relation to expenses incurred or to be incurred by or on behalf of a minor party: s 72(10). For the meaning of 'minor party' see PARA 260 note 8 ante.

2 For the meaning of 'registered party' for these purposes see PARA 32 note 3 ante. As to the treasurer of a registered party see PARA 260 ante.

3 Political Parties, Elections and Referendums Act 2000 s 74(1).

4 As to the Electoral Commission see PARA 31 et seq ante.

5 Political Parties, Elections and Referendums Act 2000 ss 74(2), 160(1). Any notification required to be given under the Political Parties, Elections and Referendums Act 2000 must be in writing: s 157(1).

6 *Ibid* s 74(2)(a). The name of any deputy treasurer of a registered party and the address of his office, as so notified to the Commission, must be included in the party's entry in the Great Britain register (s 74(8)); and where the Commission receives a notification under s 74(6) (see the text and notes 8-10 *infra*), it must cause any change required as a consequence of the notification to be made in any such entry as soon as is reasonably practicable (s 74(9)). For these purposes, the address of any deputy treasurer of such a party is to be regarded as being the address for the time being registered in relation to him in accordance with s 74(8): s 74(10)(a). For the meaning of the 'Great Britain register' see PARA 260 note 8 ante.

7 *Ibid* s 74(2)(b).

8 *Ibid* s 74(6)(a).

9 *Ibid* s 74(6)(b).

10 *Ibid* s 74(6). For these purposes, the 'appropriate period' means either the period of 14 days beginning with the date of the deputy treasurer's death or the termination of his appointment or the period of 28 days beginning with the date when the change of address occurs, as the case may be: s 74(7).

Where the requirements of s 74(6) are not complied with in relation to any notification required to be given by the treasurer of a registered party then, in addition to any criminal liability imposed on any person, the relevant organisation is liable to a civil penalty: see s 147(1)(d), (2); and PARA 757 post.

11 As to the punishment of offences under the Political Parties, Elections and Referendums Act 2000 see PARAS 890-891 post.

12 le within the meaning of *ibid* Pt II (ss 22-40) (as amended) (as applied) (see PARA 304 note 4 ante). For the purposes of European parliamentary elections taking place in the combined region, eligibility is also affected by an offence committed in connection with an election to the House of Assembly of Gibraltar: see s 74(3) (amended by the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, art 4(2), Schedule paras 1, 19). As to the combined region see PARA 76 ante.

13 Political Parties, Elections and Referendums Act 200 s 74(3) (as amended: see note 12 supra). The text refers to a referendum within the meaning of Pt VII (ss 101-129) (as amended) (see PARA 519 et seq post).

Where a deputy treasurer of a registered party is convicted of an offence falling within s 74(3) (as amended), his appointment as deputy treasurer terminates on the date of the conviction: s 74(5). A person commits an offence if he accepts the office of deputy treasurer of a registered party when, by virtue of s 74(3) (as amended), he is not eligible to be so appointed: see s 74(4); and 754 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(v) Financial Controls on Registered Political Parties at National Election Campaigns/B. CONTROLS AFFECTING CAMPAIGN EXPENDITURE BY REGISTERED PARTIES DURING ELECTION PERIODS/(B) General Restrictions relating to Campaign Expenditure/306. Restriction on incurring campaign expenditure without authority.

(B) GENERAL RESTRICTIONS RELATING TO CAMPAIGN EXPENDITURE

306. Restriction on incurring campaign expenditure without authority.

For the purposes of controlling campaign expenditure incurred by registered parties during election periods¹, no campaign expenditure may be incurred by or on behalf of a registered party² unless it is incurred with the authority of: (1) the treasurer of the party³; (2) a deputy treasurer of the party⁴; or (3) a person authorised in writing by the treasurer or a deputy treasurer⁵. Where any expenses are incurred in contravention of this restriction, the expenses do not count as campaign expenditure incurred by or on behalf of the party either for the purposes of the statutory provisions which impose financial limits on such expenditure⁶ or for the purposes of the statutory provisions which require returns as to such expenditure⁷.

A person commits an offence if, without reasonable excuse, he incurs any expenses in contravention of the restriction on incurring campaign expenditure⁸.

1 Ie for the purposes of the Political Parties, Elections and Referendums Act 2000 Pt V (ss 72-84) (as amended). For the meaning of 'campaign expenditure' see PARA 304 ante. Nothing in Pt V (as amended) applies in relation to expenses incurred or to be incurred by or on behalf of a minor party: s 72(10). For the meaning of 'minor party' see PARA 260 note 8 ante.

2 For the meaning of 'registered party' for these purposes see PARA 32 note 3 ante.

3 Political Parties, Elections and Referendums Act 2000 s 75(1)(a). As to the treasurer of a registered party see PARA 260 ante.

4 Ibid s 75(1)(b). As to the appointment of deputy treasurers of a registered party for the purposes of controlling campaign expenditure see PARA 305 ante.

5 Ibid s 75(1)(c).

6 Ie for the purposes of ibid s 79, Sch 9 (as amended) (see PARAS 310-311 post).

7 Ibid s 75(3). The text refers to the statutory provisions in ss 80-83 (see PARAS 312-314 post).

8 See ibid s 75(2); and PARA 754 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(v) Financial Controls on Registered Political Parties at National Election Campaigns/B. CONTROLS AFFECTING CAMPAIGN EXPENDITURE BY REGISTERED PARTIES DURING ELECTION PERIODS/(B) General Restrictions relating to Campaign Expenditure/307. Restriction on payments in respect of campaign expenditure.

307. Restriction on payments in respect of campaign expenditure.

For the purposes of controlling campaign expenditure incurred by registered parties during election periods¹, no payment (of whatever nature) may be made in respect of any campaign expenditure incurred or to be incurred by or on behalf of a registered party² unless it is made by: (1) the treasurer of the party³; (2) a deputy treasurer of the party⁴; or (3) a person authorised in writing by the treasurer or a deputy treasurer⁵. Any payment made in respect of any such expenditure by a person within any of heads (1) to (3) above must be supported by an invoice or a receipt unless it is not more than £200⁶; and where any such payment is made by a person within head (2) or head (3) above, he must deliver to the treasurer both notification that he has made the payment⁷ and the supporting invoice or receipt⁸, as soon as possible after making the payment⁹.

A person commits an offence if, without reasonable excuse, he makes any payment in contravention of the restriction on payments made in respect of campaign expenditure or if he is a person within head (2) or head (3) above who contravenes the requirements imposed on such a person regarding the delivery of notification and evidence¹⁰.

1 For the purposes of the Political Parties, Elections and Referendums Act 2000 Pt V (ss 72-84) (as amended). For the meaning of 'campaign expenditure' see PARA 304 ante. Nothing in Pt V (as amended) applies in relation to expenses incurred or to be incurred by or on behalf of a minor party: s 72(10). For the meaning of 'minor party' see PARA 260 note 8 ante.

2 For the meaning of 'registered party' for these purposes see PARA 32 note 3 ante.

3 Political Parties, Elections and Referendums Act 2000 s 76(1)(a). As to the treasurer of a registered party see PARA 260 ante.

4 Ibid s 76(1)(b). As to the appointment of deputy treasurers of a registered party for the purposes of controlling campaign expenditure see PARA 305 ante.

5 Ibid s 76(1)(c). As to the returns of campaign expenditure that are required see PARA 312 post.

6 Ibid s 76(2). The Secretary of State may by order vary the sum for the time being specified in s 76(2): see s 155; and PARA 304 note 36 ante. At the date at which this volume states the law no such order had been made. As to the Secretary of State see PARA 2 ante.

7 Ibid s 76(3)(a). Any notification required to be given under the Political Parties, Elections and Referendums Act 2000 must be in writing: s 157(1).

8 Ibid s 76(3)(b).

9 Ibid s 76(3).

10 See ibid s 76(4); and PARA 754 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(v) Financial Controls on Registered Political Parties at National Election Campaigns/B. CONTROLS AFFECTING CAMPAIGN EXPENDITURE BY REGISTERED PARTIES DURING ELECTION PERIODS/(B) General Restrictions relating to Campaign Expenditure/308. Claims against registered party in respect of campaign expenditure.

308. Claims against registered party in respect of campaign expenditure.

For the purposes of controlling campaign expenditure incurred by registered parties during election periods¹, a claim for payment in respect of campaign expenditure incurred by or on behalf of a registered party² during any period which is, in relation to the party, a relevant campaign period³ is not payable unless the claim is sent⁴ to the treasurer⁵ or a deputy treasurer of the party⁶ or any other person authorised⁷ to incur the expenditure⁸, not later than 30 days⁹ after the end of the relevant campaign period¹⁰. Any claim so sent must be paid not later than 60 days after the end of the relevant campaign period¹¹; but this is without prejudice to any rights of a creditor of a registered party to obtain payment before the end of the period so allowed¹².

A person commits an offence if, without reasonable excuse he pays any claim for payment in respect of campaign expenditure which by virtue of being statute-barred¹³ is not payable or if he makes any payment in respect of a claim after the end of the period allowed for the payment of claims¹⁴.

If the treasurer or other person to whom a claim for payment in respect of campaign expenditure incurred by or on behalf of a registered party is sent fails or refuses to pay the claim within the period allowed¹⁵, where the claim is sent to the treasurer of the party¹⁶ or to any other person with whose authority it is alleged that the expenditure was incurred¹⁷, within the period allowed before such claims are barred¹⁸, the claim is deemed to be a disputed claim¹⁹. The person by whom the disputed claim is made may bring an action for a disputed claim, and any sum paid in pursuance of a court's judgment or order so made in the proceedings is not deemed to be in contravention of the statutory provision forbidding payment of campaign expenditure later than 42 days after the end of the relevant campaign period²⁰.

1 Ie for the purposes of the Political Parties, Elections and Referendums Act 2000 Pt V (ss 72-84) (as amended). For the meaning of 'campaign expenditure' see PARA 304 ante. Nothing in Pt V (as amended) applies in relation to expenses incurred or to be incurred by or on behalf of a minor party: s 72(10). For the meaning of 'minor party' see PARA 260 note 8 ante.

2 For the meaning of 'registered party' for these purposes see PARA 32 note 3 ante.

3 Ie within the meaning of the Political Parties, Elections and Referendums Act 2000 s 80 (see PARA 312 note 4 post).

4 Ibid s 77(1).

5 As to the treasurer of a registered party see PARA 260 ante.

6 Political Parties, Elections and Referendums Act 2000 s 77(1)(a). As to the appointment of deputy treasurers of a registered party for the purposes of controlling campaign expenditure see PARA 305 ante.

7 Ie authorised in writing by the treasurer or a deputy treasurer under ibid s 75 (see PARA 306 ante).

8 Ibid s 77(1)(b).

9 Where, in the case of any campaign expenditure, the period allowed under *ibid* s 77(1) (as amended) or s 77(2) (as amended) (see the text and note 11 *infra*), would, apart from s 77(9) (as amended), end on: (1) a Saturday or Sunday or Christmas Eve, Christmas Day or Good Friday (s 77(9)(a) (amended by the Electoral Administration Act 2006 ss 20, 74(2), Sch 1 paras 49, 54, Sch 2)); (2) a bank holiday (Political Parties, Elections and Referendums Act 2000 s 77(9)(b)); or (3) a day appointed for public thanksgiving or mourning (s 77(9)(c)), the period instead ends on the first day following that day which is not one of those days (s 77(9)). For the purposes of head (2) *supra*, 'bank holiday' means: a day which is a bank holiday under the Banking and Financial Dealings Act 1971 (see *TIME* vol 97 (2010) PARA 321) in any part of the United Kingdom: (a) in which is situated the office of the treasurer, deputy treasurer or (as the case may be) other authorised person to whom the claim is sent pursuant to s 77(1) (as amended) (s 77(10)(a)); or (b) in which the person providing the property, services or facilities to which the expenditure relates conducts his business (s 77(10)(b)); or (c) (if he conducts his business in more than one part of the United Kingdom) in which is situated the office from which dealings relating to the expenditure were conducted (s 77(10)(c)). For these purposes, the address of the treasurer of a registered party is to be regarded as being the registered address of the party: s 74(10)(a). 'Business' includes every trade, profession and occupation: s 160(1). For the meaning of 'United Kingdom' see PARA 13 note 1 *ante*. As to the meaning of 'property' for these purposes see PARA 31 note 8 *ante*. As to European parliamentary elections taking place in the combined region see s 77(10), (11) (s 77(10) amended, and s 77(11) added, by the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, art 4(2), Schedule paras 1, 20(a), (b)). As to the combined region see PARA 76 *ante*.

Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 49, 54 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. Accordingly, until that date, Maundy Thursday appears in the list of days excluded under head (1) *supra*.

10 Political Parties, Elections and Referendums Act 2000 s 77(1) (amended by the Electoral Administration Act 2006 s 65(1)(a)).

11 Political Parties, Elections and Referendums Act 2000 s 77(2) (amended by the Electoral Administration Act 2006 s 65(1)(b)).

12 Political Parties, Elections and Referendums Act 2000 s 77(6).

13 *Ie* by virtue of *ibid* s 77(1) (as amended) (see the text and notes 1-10 *supra*).

14 See *ibid* s 77(3); and PARA 754 *post*. The text refers to payment in respect of a claim after the end of the period allowed under s 77(2) (as amended) (see the text and note 11 *supra*).

15 *Ibid* s 78(1)(b). The text refers to the period allowed under s 77(2) (as amended) (see the text and note 11 *supra*), which is without prejudice to any rights of a creditor of a registered party to obtain payment before the end of the period so allowed (ss 77(6), 78(3)).

16 *Ibid* s 78(1)(a)(i).

17 *Ibid* s 78(1)(a)(ii).

18 *Ibid* s 78(1)(a). The text refers to the period allowed under s 77(1) (as amended) (see the text and notes 1-10 *supra*).

19 *Ibid* s 78(1). As to the power to apply to the court for leave to pay a disputed claim see PARA 309 *post*; and as to the returns required in relation to disputed claims see PARA 312 *post*.

20 *Ibid* s 78(2). The text refers to the restriction otherwise contained in s 77(2) (as amended) (see the text and note 11 *supra*).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(v) Financial Controls on Registered Political Parties at National Election Campaigns/B. CONTROLS AFFECTING CAMPAIGN EXPENDITURE BY REGISTERED PARTIES DURING ELECTION PERIODS/(B) General Restrictions relating to Campaign Expenditure/309. Application for leave to pay claims in respect of campaign expenditure.

309. Application for leave to pay claims in respect of campaign expenditure.

For the purposes of controlling campaign expenditure incurred by registered parties during election periods¹, the person making a claim for payment in respect of campaign expenditure incurred by or on behalf of a registered party², or the person with whose authority the expenditure in question was incurred³, may apply to the High Court or to the county court for leave to pay such a claim (even if it is sent in after the statutory period allowed of 30 days⁴) or may apply to the High Court or to the county court for leave to pay a disputed claim⁵. The court, if satisfied that for any special reason it is appropriate to do so, may by order grant the leave⁶. Any sum paid in pursuance of such an order of leave is not deemed to be a contravention of the provisions forbidding the making or payment of claims relating to campaign expenditure later than the statutory period allowed⁷.

1 le for the purposes of the Political Parties, Elections and Referendums Act 2000 Pt V (ss 72-84) (as amended). For the meaning of 'campaign expenditure' see PARA 304 ante. Nothing in Pt V (as amended) applies in relation to expenses incurred or to be incurred by or on behalf of a minor party: s 72(10). For the meaning of 'minor party' see PARA 260 note 8 ante.

2 Ibid s 77(4)(a). The text refers to a claim to which s 77(1) (as amended) applies (see PARA 308 ante). For the meaning of 'registered party' for these purposes see PARA 32 note 3 ante.

3 Ibid s 77(4)(b). As to persons authorised to incur expenditure as mentioned in the text see s 75; and PARA 306 ante.

4 le the period mentioned in ibid s 77(1) (as amended) (see PARA 308 ante).

5 Ibid ss 77(4), 78(3).

6 Ibid ss 77(4), 78(3).

7 Ibid ss 77(5), 78(3). The text refers to the period of 30 days within which a claim otherwise must be made under s 77(1) (as amended) or the period of 60 days within which a claim otherwise must be paid under s 77(2) (as amended) (see PARA 308 ante). As to the returns required in relation to claims which are paid following an application for leave see PARA 312 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(v) Financial Controls on Registered Political Parties at National Election Campaigns/B. CONTROLS AFFECTING CAMPAIGN EXPENDITURE BY REGISTERED PARTIES DURING ELECTION PERIODS/(C) Financial Limits on Campaign Expenditure/310. Limitation of campaign expenditure.

(C) FINANCIAL LIMITS ON CAMPAIGN EXPENDITURE

310. Limitation of campaign expenditure.

For the purposes of controlling campaign expenditure incurred by registered parties during election periods¹, the limit which applies in relation to campaign expenditure incurred by or on behalf of a registered party² contesting one or more constituencies³ at a parliamentary general election⁴ in the relevant period⁵ in England or Wales (as the case may be) is⁶:

- 370 (1) £30,000 multiplied by the number of constituencies contested by the party in England or Wales (as the case may be)⁷; or
- 371 (2) if greater, the appropriate amount specified⁸, being, in relation to England, £810,000⁹ and, in relation to Wales, £60,000¹⁰.

Where, at the election, a candidate stands for election in any constituency in the name of a registered party and one or more other registered parties¹¹, the amount applying to the party in respect of the constituency under head (1) above, instead of being the amount specified there, is that amount divided by the number of registered parties in whose name the candidate stands for election¹².

For the purposes of controlling campaign expenditure incurred by registered parties during election periods, the limit which applies in relation to campaign expenditure incurred by or on behalf of a registered party which contests one or more constituencies¹³ or regions¹⁴ at an ordinary election to the Welsh Assembly¹⁵ in the relevant period¹⁶ in Wales is¹⁷: (a) £10,000 for each constituency contested by the party¹⁸; plus (b) £40,000 for each region contested by the party¹⁹.

For the purposes of controlling campaign expenditure incurred by registered parties during election periods, the limit which applies in relation to campaign expenditure incurred by or on behalf of a registered party which stands for election or (as the case may be) in whose name candidates stand for election at a general election to the European Parliament²⁰ in the relevant period²¹ is²²:

- 372 (i) £45,000 multiplied by the number of members of the European Parliament ('MEPs')²³ to be returned for the electoral region²⁴ at an election where a registered party stands for election in only one electoral region in England (including the combined region)²⁵;
- 373 (ii) £45,000 multiplied by the total number of MEPs to be returned for the electoral regions taken together at an election where a registered party stands for election in two or more electoral regions in England (including the combined region)²⁶;
- 374 (iii) £45,000 multiplied by the number of MEPs to be returned for Wales at an election where a registered party stands for election in Wales²⁷.

Where, at any time before the beginning of any relevant campaign period²⁸, any expenses falling within the matters which qualify as campaign expenditure²⁹ are incurred by or on behalf of a registered party in respect of any property, services or facilities³⁰, but the property, services or facilities is or are made use of by or on behalf of the party during the relevant campaign period in circumstances such that, had any expenses been incurred in respect of that use during that period, they would have constituted³¹ campaign expenditure incurred by or on behalf of the party during that period³², the appropriate proportion of those expenses³³ is treated for the purposes of the statutory provisions which impose financial limits on such expenditure³⁴ or for the purposes of the statutory provisions which require returns as to such expenditure³⁵, as campaign expenditure incurred by or on behalf of the party during that period³⁶.

Special provision is made for limiting campaign expenditure where, in special circumstances, election campaigns are combined³⁷.

Where, during the period in relation to which any limitation of campaign expenditure applies in relation to a registered party, any campaign expenditure is incurred by or on behalf of the party in excess of that limit, the treasurer or any deputy treasurer of the party is guilty of an offence if he authorised the expenditure to be incurred by or on behalf of the party, and he knew or ought reasonably to have known that the expenditure would be incurred in excess of that limit; and the party is also guilty of an offence³⁸.

1 le for the purposes of the Political Parties, Elections and Referendums Act 2000 Pt V (ss 72-84) (as amended). For the meaning of 'campaign expenditure' see PARA 304 ante. Nothing in Pt V (as amended) applies in relation to expenses incurred or to be incurred by or on behalf of a minor party: s 72(10). For the meaning of 'minor party' see PARA 260 note 8 ante.

2 For the meaning of 'registered party' for these purposes see PARA 32 note 3 ante.

For these purposes, campaign expenditure incurred by or on behalf of a party registered in the Great Britain register is attributed to each of England and Wales in proportion to the number of parliamentary constituencies for the time being situated in that part of Great Britain (ibid s 79(1), Sch 9 para 2(1)); and campaign expenditure whose effects are wholly or substantially confined to any particular parts or part of Great Britain is attributed to those parts in proportion to the number of parliamentary constituencies for the time being situated in those parts or are attributed solely to that part, as the case may be (Sch 9 para 2(2)). For this purpose, the effects of campaign expenditure are wholly or substantially confined to any particular parts or part of Great Britain if they have no significant effects in any other part or parts (so that, for example, expenditure on an advertisement in a newspaper circulating in Wales is to be attributed solely to Wales if the newspaper does not circulate to any significant extent in any other part of Great Britain): Sch 9 para 2(3). As respects campaign expenditure incurred in the period of four months ending with the date of the poll for an election to the European Parliament in the combined region, that region is to be regarded as part of England for the purposes of the references to a part or parts of Great Britain: see Sch 9 para 2(3A) (added by the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, art 4(2), Schedule paras 1, 35(a)). References in the Political Parties, Elections and Referendums Act 2000 Sch 9 (as amended) to campaign expenditure 'in' a particular part of the United Kingdom are accordingly to campaign expenditure which is to be attributed to that part in accordance with Sch 9 para 2 (as amended): Sch 9 para 2(4). For the meaning of 'constituency' for the purposes of parliamentary elections see PARA 9 ante; for the meanings of 'England', 'Great Britain' and 'Wales' see PARA 13 note 1 ante; and for the meaning of the 'Great Britain register' see PARA 260 note 8 ante. As to the combined region see PARA 76 ante.

3 For these purposes, a registered party contests a constituency if any candidate stands for election for that constituency in the name of the party: ibid Sch 9 para 1(2)(a). For the meaning of 'candidate' generally see PARA 237 ante. As to references to persons standing for election in the name of a registered party see PARA 260 note 8 ante.

4 As to parliamentary general elections see PARA 196 et seq ante. For the meaning of 'parliamentary election' see PARA 9 ante.

5 For these purposes, the relevant period is: (1) the period of 365 days ending with the date of the poll for the election (Political Parties, Elections and Referendums Act 2000 Sch 9 para 3(7)(a)); or (2) where the election (the 'election in question') follows another parliamentary general election held less than 365 days previously, the period beginning with the day after the date of the poll for the earlier election and ending with the date of

the poll for the election in question (Sch 9 para 3(7)(b)). As to the date of the poll at a parliamentary general election see PARA 202 ante.

6 Ibid Sch 9 para 3(1), (2).

7 Ibid Sch 9 para 3(2)(a).

8 Ibid Sch 9 para 3(2)(b).

9 Ibid Sch 9 para 3(3)(a).

10 Ibid Sch 9 para 3(3)(c).

11 Ibid Sch 9 para 3(5).

12 Ibid Sch 9 para 3(6).

13 For the meaning of 'constituency' for the purposes of Welsh Assembly elections see PARA 3 note 1 ante.

14 For these purposes, a registered party contests any region if the party is included in the statement of parties and candidates nominated for that region: Political Parties, Elections and Referendums Act 2000 Sch 9 para 1(2)(b). For the meaning of 'region' for the purposes of Welsh Assembly elections see PARA 3 note 1 ante.

15 For these purposes, an 'ordinary election to the Welsh Assembly' means an election held under the Government of Wales Act 1998 s 3 (see PARA 220 ante): Political Parties, Elections and Referendums Act 2000 Sch 9 para 1(1)(c). The provisions of the Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies to the holding of ordinary elections after that date see the Government of Wales Act 2006 s 3; and PARA 220 ante.

16 For these purposes, the relevant period is the period beginning with the appropriate date and ending with the date of the poll: Political Parties, Elections and Referendums Act 2000 Sch 9 para 6(3). The 'appropriate date' is the date which falls four months before the date of the poll where: (1) the date of the poll is that determined by the Government of Wales Act 1998 s 3(2) (see PARA 220 ante) (Political Parties, Elections and Referendums Act 2000 Sch 9 para 6(4)(a)); (2) no less than five months before the day on which the poll would have taken place under the Government of Wales Act 1998 s 3(2), the date of the poll is brought forward under s 3(3) (see PARA 220 ante) (Political Parties, Elections and Referendums Act 2000 Sch 9 para 6(4)(b)); or (3) no less than four months before the day on which the poll would have taken place under the Government of Wales Act 1998 s 3(2), the date of the poll is postponed under s 3(3) (Political Parties, Elections and Referendums Act 2000 Sch 9 para 6(4)(c)); but where the date of the poll is brought forward or postponed otherwise than as mentioned in head (2) or head (3) supra, the 'appropriate date' means the date which falls four months before the date when the poll would have taken place under the Government of Wales Act 1998 s 3(2) (Political Parties, Elections and Referendums Act 2000 Sch 9 para 6(4)). As to the date of the poll at ordinary elections to the National Assembly for Wales see PARA 220 ante. The provisions of the Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies to the holding of ordinary elections after that date see the Government of Wales Act 2006 s 3; and PARA 220 ante.

17 Political Parties, Elections and Referendums Act 2000 Sch 9 para 6(1), (2).

18 Ibid Sch 9 para 6(2)(a). In a case where, at the election, a candidate stands for election in any constituency in the name of a registered party and one or more other registered parties, the amount applying to the party in respect of the constituency under head (a) in the text, instead of being the amount specified there, is that amount divided by the number of registered parties in whose name the candidate stands for election: see Sch 9 para 6(2A), (2B) (added by the Electoral Administration Act 2006 s 64(1), (3)).

19 Political Parties, Elections and Referendums Act 2000 Sch 9 para 6(2)(b).

20 As to European parliamentary general elections see PARA 224 et seq ante.

21 For these purposes, the relevant period is the period of four months ending with the date of the poll for the election: Political Parties, Elections and Referendums Act 2000 Sch 9 para 4(5). As to the date of the poll at a European parliamentary election see PARA 229 ante.

22 Ibid Sch 9 para 4(1), (2).

23 As to the number of MEPs to be returned at European parliamentary elections in the United Kingdom see PARA 13 et seq ante.

24 As to the establishment of electoral regions for the purpose of elections to the European Parliament see PARA 76 ante.

25 Political Parties, Elections and Referendums Act 2000 Sch 9 para 4(2) (amended by the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, art 4(2), Schedule paras 1, 35(b)). For the meaning of 'combined region' see PARA 293 note 12 ante.

26 Political Parties, Elections and Referendums Act 2000 Sch 9 para 4(3) (amended by the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, art 4(2), Schedule paras 1, 35(b)).

27 Political Parties, Elections and Referendums Act 2000 Sch 9 para 4(4).

28 Ie within the meaning of ibid s 80 (see PARA 312 note 4 post).

29 Ie expenses within ibid s 72(2) (see PARA 304 ante).

30 Ibid s 79(4)(a). As to the meaning of 'property' for these purposes see PARA 31 note 8 ante.

31 Ie by virtue of ibid s 72(2) (see PARA 304 ante).

32 Ibid s 79(4)(b).

33 Ie the expenses mentioned in ibid s 79(4)(a) (see the text and notes 28-30 supra). For these purposes, the appropriate proportion of the expenses mentioned in s 79(4)(a) is such proportion of those expenses as is reasonably attributable to the use made of the property, services or facilities as mentioned in s 79(4)(b) (see the text and notes 31-32 supra): s 79(5).

34 Ie for the purposes of ibid s 79, Sch 9 (as amended).

35 Ie for the purposes of ibid ss 80-83 (see PARAS 312-314 post).

36 Ibid s 79(4).

37 As to the limitation of campaign expenditure where campaigns are combined see PARA 311 post.

38 See the Political Parties, Elections and Referendums Act 2000 s 79(2); and PARA 754 post. As to the treasurer of a registered party see PARA 260 ante; and as to the appointment of deputy treasurers of a registered party for the purposes of controlling campaign expenditure see PARA 305 ante.

UPDATE

310 Limitation of campaign expenditure

TEXT AND NOTES 13-19--2000 Act Sch 9 para 6 amended: SI 2007/1388.

NOTE 15--2000 Act Sch 9 para 1(1)(c), (ca) substituted for Sch 9 para 1(1)(c): SI 2007/1388.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(v) Financial Controls on Registered Political Parties at National Election Campaigns/B. CONTROLS AFFECTING CAMPAIGN EXPENDITURE BY REGISTERED PARTIES DURING ELECTION PERIODS/(C) Financial Limits on Campaign Expenditure/311. Limitation of campaign expenditure where campaigns are combined.

311. Limitation of campaign expenditure where campaigns are combined.

For the purposes of controlling campaign expenditure incurred by registered parties during election periods¹, special limits apply to campaign expenditure incurred by or on behalf of a registered party² in England³ or Wales⁴ at combined polls⁵ in circumstances:

- 375 (1) where separate limits would apply in relation to a general election to the European Parliament⁶ and in relation to an ordinary election to the Welsh Assembly⁷ and any part of the period which would be the relevant period⁸ for the purposes of the general election to the European Parliament falls within any part of the period which would be the relevant period⁹ for the purposes of the ordinary election to the Welsh Assembly¹⁰;
- 376 (2) where separate limits would apply in relation to a parliamentary general election¹¹, and in relation to a general election to the European Parliament¹² or an ordinary election to the Welsh Assembly¹³ and the parliamentary general election is pending¹⁴ during any part of the period in relation to which the limit imposed in relation to the European Parliament or an ordinary election to the Welsh Assembly would apply¹⁵;
- 377 (3) where a limit under head (2) above would apply in relation to a relevant period for those purposes¹⁶ and another limit in relation to a general election to the European Parliament¹⁷ or an ordinary election to the Welsh Assembly¹⁸ applies in relation to a period which is not a period during which the parliamentary general election is pending but which either falls wholly within or ends at any time falling within the relevant period for the purposes of head (2) above¹⁹;
- 378 (4) where a limit would apply in relation to a parliamentary general election²⁰, and another limit applies in relation to a general election to the European Parliament²¹ or an ordinary election to the Welsh Assembly²² in relation to any period which either falls wholly within, or ends at any time falling within, the period which would be the relevant period in relation to the parliamentary general election, and where head (2) above does not apply in connection with that expenditure²³.

1 For the purposes of the Political Parties, Elections and Referendums Act 2000 Pt V (ss 72-84) (as amended). For the meaning of 'campaign expenditure' see PARA 304 ante. Nothing in Pt V (as amended) applies in relation to expenses incurred or to be incurred by or on behalf of a minor party: s 72(10). For the meaning of 'minor party' see PARA 260 note 8 ante.

2 For the meaning of 'registered party' for these purposes see PARA 32 note 3 ante.

3 For the meaning of 'England' see PARA 13 note 1 ante.

4 For the meaning of 'Wales' see PARA 13 note 1 ante.

5 As to the combination of polls at a parliamentary general election and a European parliamentary general election see PARA 21 ante; and as to the combination of polls at elections for related areas see PARA 29 ante.

6 le under the Political Parties, Elections and Referendums Act 2000 s 79(1), Sch 9 para 4 (as amended) (see PARA 310 ante). As to European parliamentary general elections see PARA 224 et seq ante.

7 le under ibid Sch 9 para 6 (as amended) (see PARA 310 ante). For the meaning of 'ordinary election to the Welsh Assembly' for these purposes see PARA 310 note 15 ante.

8 For the meaning of 'relevant period' for these purposes see PARA 310 note 21 ante.

9 For the meaning of 'relevant period' for these purposes see PARA 310 note 16 ante.

10 See the Political Parties, Elections and Referendums Act 2000 Sch 9 para 8.

11 le under ibid Sch 9 para 3 (see PARA 310 ante). As to parliamentary general elections see PARA 196 et seq ante. For the meaning of 'parliamentary election' see PARA 9 ante.

12 See note 6 supra.

13 See note 7 supra.

14 For these purposes, a parliamentary general election is pending during the period: (1) beginning with the date on which Her Majesty's intention to dissolve Parliament is announced in connection with a forthcoming parliamentary general election (Political Parties, Elections and Referendums Act 2000 Sch 9 para 1(3)(a)); and (2) ending with the date of the poll for that election (Sch 9 para 1(3)(b)). As to proclamations summoning a new Parliament see PARA 196 ante; and as to the date of the poll at a parliamentary general election see PARA 202 ante.

15 See ibid Sch 9 para 9.

16 le a relevant period for the purposes of ibid Sch 9 para 9(3) or a first relevant period for the purposes of Sch 9 para 9(5).

17 See note 6 supra.

18 See note 7 supra.

19 See the Political Parties, Elections and Referendums Act 2000 Sch 9 para 10.

20 See note 11 supra.

21 See note 6 supra.

22 See note 7 supra.

23 See the Political Parties, Elections and Referendums Act 2000 Sch 9 para 11.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(v) Financial Controls on Registered Political Parties at National Election Campaigns/B. CONTROLS AFFECTING CAMPAIGN EXPENDITURE BY REGISTERED PARTIES DURING ELECTION PERIODS/(D) Returns as to Campaign Expenditure/312. Returns as to campaign expenditure.

(D) RETURNS AS TO CAMPAIGN EXPENDITURE

312. Returns as to campaign expenditure.

For the purposes of controlling campaign expenditure incurred by registered parties during election periods¹, where any limit imposed² in relation to campaign expenditure incurred by or on behalf of a registered party³ applies during the relevant campaign period⁴ and that period ends⁵, the treasurer of the party⁶ must prepare a return in respect of campaign expenditure incurred by or on behalf of the party during that period in any relevant part or parts of the United Kingdom⁷.

Such a return must specify the poll for the relevant election (or, as the case may be, the polls for the relevant elections) that took place during the relevant campaign period, and must contain⁸:

- 379 (1) a statement of all payments made in respect of campaign expenditure incurred by or on behalf of the party during the relevant campaign period in the relevant part or parts of the United Kingdom⁹;
- 380 (2) a statement of all disputed claims¹⁰ of which the treasurer is aware¹¹; and
- 381 (3) a statement of all the unpaid claims (if any) of which the treasurer is aware in respect of which an application has been made, or is about to be made, to a court for leave to pay the claim¹².

Such a return must be accompanied by:

- 382 (a) all invoices or receipts relating to the payments mentioned in head (1) above¹³; and
- 383 (b) in the case of any expenditure in relation to which an appropriate amount is treated as campaign expenditure incurred by the party¹⁴, any declaration falling to be made with respect to that expenditure¹⁵.

Where, however, any payments or claims falling to be dealt with in such a return have already been dealt with in an earlier return¹⁶, it is sufficient for the later return to deal with those payments or claims by specifying overall amounts in respect of them¹⁷; and the requirement imposed by heads (a) and (b) above does not apply to any invoices, receipts or declarations which accompanied the earlier return and are specified as such in the later return¹⁸.

A report must be prepared by a qualified auditor¹⁹ on such a return in respect of campaign expenditure where, during a relevant campaign period, the campaign expenditure incurred by or on behalf of a registered party in the relevant part or parts of the United Kingdom exceeds £250,000²⁰.

¹ le for the purposes of the Political Parties, Elections and Referendums Act 2000 Pt V (ss 72-84) (as amended). For the meaning of 'campaign expenditure' see PARA 304 ante. Nothing in Pt V (as amended) applies

in relation to expenses incurred or to be incurred by or on behalf of a minor party: s 72(10). For the meaning of 'minor party' see PARA 260 note 8 ante.

2 Ie imposed by *ibid* s 79(1), Sch 9 (as amended) (see PARAS 310-311 ante).

3 For the meaning of 'registered party' for these purposes see PARA 32 note 3 ante.

4 Political Parties, Elections and Referendums Act 2000 s 80(2)(a). For these purposes, the relevant campaign period, in relation to any limit imposed by Sch 9 (as amended), is the period in relation to which the limit is so imposed: s 80(1)(a).

5 *Ibid* s 80(2)(b).

6 As to the treasurer of a registered party see PARA 260 ante.

7 Political Parties, Elections and Referendums Act 2000 s 80(2). For these purposes, a part of the United Kingdom is a relevant part, in relation to any limit imposed by Sch 9 (as amended), if the limit applies to campaign expenditure which, within the meaning of Sch 9 (as amended), is incurred in that part: s 80(1)(b). For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

8 *Ibid* s 80(3). The Electoral Commission may by regulations prescribe a form of return which may be used for these purposes: ss 80(6), 160(1). Regulations made by the Electoral Commission are not statutory instruments and are not recorded in this work: see further PARA 42 ante. As to the Electoral Commission see PARA 31 et seq ante.

9 *Ibid* s 80(3)(a).

10 Ie within the meaning of *ibid* s 78 (see PARA 308 ante).

11 *Ibid* s 80(3)(b).

12 *Ibid* s 80(3)(c). The text refers to an application for leave to pay claims in respect of campaign expenditure made under s 77(4) (see PARA 309 ante).

13 *Ibid* s 80(4)(a).

14 Ie by virtue of *ibid* s 73 (as amended) (see PARA 304 ante).

15 *Ibid* s 80(4)(b). The text refers to a declaration falling to be made under s 73(6) (see PARA 304 ante).

16 *Ibid* s 80(5).

17 *Ibid* s 80(5)(a).

18 *Ibid* s 80(5)(b).

19 In relation to the appointment of an auditor to prepare a report under *ibid* s 81(1) (or, as the case may be, an auditor so appointed), s 43(6), (7) (regulations made by the Electoral Commission with respect to the appointment of auditors: see CONSTITUTIONAL LAW AND HUMAN RIGHTS) and s 44 (as amended) (supplementary provisions about auditors: see CONSTITUTIONAL LAW AND HUMAN RIGHTS) apply as they apply in relation to the appointment of an auditor to carry out an audit under s 43 (annual audits: see CONSTITUTIONAL LAW AND HUMAN RIGHTS) (or, as the case may be, an auditor so appointed): s 81(2). For the meaning of 'qualified auditor' see PARA 303 note 5 ante. As to the general accounting requirements for registered parties see PARA 303 ante.

20 *Ibid* s 81(1). For the meaning of 'relevant campaign period' for these purposes see note 4 supra; and for the meaning of 'relevant part of the United Kingdom' see note 7 supra (definitions applied by virtue of s 81(3)). The Secretary of State may by order vary the sum for the time being specified in s 81(1): see s 155; and PARA 304 note 36 ante. At the date at which this volume states the law no such order had been made.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(v) Financial Controls on Registered Political Parties at National Election Campaigns/B. CONTROLS AFFECTING CAMPAIGN EXPENDITURE BY REGISTERED PARTIES DURING ELECTION PERIODS/(D) Returns as to Campaign Expenditure/313. Delivery of returns as to campaign expenditure to the Electoral Commission.

313. Delivery of returns as to campaign expenditure to the Electoral Commission.

For the purposes of controlling campaign expenditure incurred by registered parties during election periods¹, where any return as to campaign expenditure falls to be prepared², and an auditor's report on it falls to be prepared also³, the treasurer of the party⁴ must deliver the return to the Electoral Commission⁵, together with a copy of the auditor's report, within six months of the end of the relevant campaign period⁶. In the case of any other such return which falls to be prepared⁷, the treasurer of the party must deliver the return to the Commission within three months of the end of the relevant campaign period⁸.

Where, after the date on which a return is so delivered to the Commission, leave is given by a court for any claim to be paid⁹, the treasurer of the party in question must, within seven days after the payment, deliver to the Commission a return of any sums paid in pursuance of the leave accompanied by a copy of the order of the court giving the leave¹⁰.

The treasurer of a registered party commits an offence if, without reasonable excuse, he fails to comply with the requirements as to any return or auditor's report¹¹; and, notwithstanding any criminal liability of any person, the registered party is liable to a civil penalty¹².

1 Ie for the purposes of the Political Parties, Elections and Referendums Act 2000 Pt V (ss 72-84) (as amended). For the meaning of 'campaign expenditure' see PARA 304 ante. Nothing in Pt V (as amended) applies in relation to expenses incurred or to be incurred by or on behalf of a minor party: s 72(10). For the meaning of 'minor party' see PARA 260 note 8 ante.

2 Ibid s 82(1)(a). The text refers to a return as to campaign expenditure which falls to be prepared under s 80 (see PARA 312 ante).

3 Ibid s 82(1)(b). The text refers to an auditor's report on a return as to campaign expenditure which falls to be prepared under s 81(1) (see PARA 312 ante).

4 As to the treasurer of a registered party see PARA 260 ante.

5 As to the Electoral Commission see PARA 31 et seq ante.

6 Political Parties, Elections and Referendums Act 2000 s 82(1). For the meaning of the 'relevant campaign period' for these purposes see PARA 312 note 4 ante.

7 Ie under ibid s 80 (see PARA 312 ante).

8 Ibid s 82(2).

9 Ie leave to pay claims in respect of campaign expenditure made under ibid s 77(4) (see PARA 309 ante).

10 Ibid s 82(3).

11 See ibid s 82(4); and PARA 754 post.

12 See ibid s 147(1)(e), (2); and PARA 757 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(v) Financial Controls on Registered Political Parties at National Election Campaigns/B. CONTROLS AFFECTING CAMPAIGN EXPENDITURE BY REGISTERED PARTIES DURING ELECTION PERIODS/(D) Returns as to Campaign Expenditure/314. Declaration as to campaign expenditure.

314. Declaration as to campaign expenditure.

For the purposes of controlling campaign expenditure incurred by registered parties during election periods¹, each return as to campaign expenditure² must, when delivered to the Electoral Commission³, be accompanied by a declaration which is signed by the treasurer⁴ and which must state that the treasurer has examined the return in question⁵ and that, to the best of his knowledge and belief⁶, it is a complete and correct return as required by law⁷ and all expenses shown in it as paid have been paid by him or a deputy treasurer of the party⁸ or a duly authorised person⁹.

A person commits an offence if he knowingly or recklessly makes such a declaration falsely or if the requirements as to such a declaration are contravened at a time when he is treasurer of the registered party to which the return relates¹⁰.

1 Ie for the purposes of the Political Parties, Elections and Referendums Act 2000 Pt V (ss 72-84) (as amended). For the meaning of 'campaign expenditure' see PARA 304 ante. Nothing in Pt V (as amended) applies in relation to expenses incurred or to be incurred by or on behalf of a minor party: s 72(10). For the meaning of 'minor party' see PARA 260 note 8 ante.

2 Ie each return as to campaign expenditure which falls to be prepared under *ibid* s 80 (see PARA 312 ante).

3 As to the Electoral Commission see PARA 31 et seq ante; and as to the delivery of returns to the Electoral Commission see PARA 313 ante.

4 Political Parties, Elections and Referendums Act 2000 ss 83(1), 160(1). As to the treasurer of a registered party see PARA 260 ante.

5 *Ibid* s 83(2)(a).

6 *Ibid* s 83(2)(b).

7 *Ibid* s 83(2)(b)(i).

8 As to the appointment of deputy treasurers of a registered party for the purposes of controlling campaign expenditure see PARA 305 ante.

9 Political Parties, Elections and Referendums Act 2000 s 83(2)(b)(ii). The text refers to a person authorised in writing by the treasurer or a deputy treasurer under s 75 (see PARA 306 ante).

10 See *ibid* s 83(3); and PARA 754 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(v) Financial Controls on Registered Political Parties at National Election Campaigns/B. CONTROLS AFFECTING CAMPAIGN EXPENDITURE BY REGISTERED PARTIES DURING ELECTION PERIODS/(D) Returns as to Campaign Expenditure/315. Public inspection of returns as to campaign expenditure.

315. Public inspection of returns as to campaign expenditure.

For the purposes of controlling campaign expenditure incurred by registered parties during election periods¹, where the Electoral Commission² receives any return as to campaign expenditure³, it must⁴, as soon as reasonably practicable after receiving the return, make a copy of the return, and of any documents accompanying it, available for public inspection⁵ and keep any such copy available for public inspection for the period for which the return or other document is kept by it⁶. Where the Commission is for the time being required to make available for public inspection a copy of any document in this way, it must make the copy available for public inspection during ordinary office hours, either at the Commission's offices or at some convenient place appointed by it⁷, although the Commission may make other arrangements for members of the public to have access to the document's contents⁸. If requested to do so by any person, the Commission must supply him with a copy of the document or any part of it⁹; and the Commission may charge such reasonable fee as it may determine in respect of any inspection or access so allowed or any copy so supplied¹⁰. Where any such document is held by the Commission in electronic form, any copy so made available for public inspection or so supplied must be made available, or (as the case may be) supplied, in a legible form¹¹.

At the end of the period of two years beginning with the date when any such return or other document is received by the Commission¹², it may cause the return or other document to be destroyed¹³; but, if requested to do so by the treasurer of the party¹⁴ concerned, it must arrange for the return or other document to be returned to the treasurer¹⁵.

1 Ie for the purposes of the Political Parties, Elections and Referendums Act 2000 Pt V (ss 72-84) (as amended). For the meaning of 'campaign expenditure' see PARA 304 ante. Nothing in Pt V (as amended) applies in relation to expenses incurred or to be incurred by or on behalf of a minor party: s 72(10). For the meaning of 'minor party' see PARA 260 note 8 ante.

2 As to the Electoral Commission see PARA 31 et seq ante.

3 Ie any return as to campaign expenditure which falls to be prepared under the Political Parties, Elections and Referendums Act 2000 s 80 (see PARA 312 ante). As to the delivery of returns to the Electoral Commission see PARA 313 ante.

4 Ibid ss 84(1), 160(1).

5 Ibid s 84(1)(a).

6 Ibid s 84(1)(b).

7 Ibid s 149(2), (6)(b).

8 Ibid s 149(3), (6)(b).

9 Ibid s 149(4), (6)(b).

10 Ibid s 149(5), (6)(b).

11 Ibid s 149(7).

- 12 Ibid s 84(2).
- 13 Ibid s 84(2)(a).
- 14 As to the treasurer of a registered party see PARA 260 ante.
- 15 Political Parties, Elections and Referendums Act 2000 s 84(2)(b).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(v) Financial Controls on Registered Political Parties at National Election Campaigns/C. CONTROLS AFFECTING DONATIONS MADE TO REGISTERED PARTIES DURING ELECTION PERIODS/316. Weekly reporting of donations made to registered parties during election periods.

C. CONTROLS AFFECTING DONATIONS MADE TO REGISTERED PARTIES DURING ELECTION PERIODS

316. Weekly reporting of donations made to registered parties during election periods.

In the case of any parliamentary general election period¹, the treasurer of a registered party² must prepare a report in respect of each of the following periods³: (1) the period of seven days beginning with the first day of the general election period⁴; (2) each succeeding period of seven days falling within the general election period⁵; and (3) any final period of less than seven days falling within that period⁶. Such a report is known as a 'weekly report' and a 'reporting period', in relation to such a report, is the period mentioned in any of heads (1) to (3) above to which the report relates⁷. The weekly report for any reporting period must record each donation⁸ of more than £5,000 received during that period⁹ either by the party (if it is not a party with accounting units)¹⁰ or by the central organisation of the party¹¹ (if it is a party with accounting units)¹². If, during any reporting period, no such donations have been received as so mentioned, the weekly report for that period must contain a statement to that effect¹³. In relation to each recordable donation¹⁴, a weekly report must give: (a) all such details of the name and address of the donor as are for the time being known to the party¹⁵; (b) details about the donations¹⁶, specifically the amount of the donation (if the donation was a donation of money, in cash or otherwise)¹⁷ or the nature of the donation and its value (otherwise)¹⁸; (c) the relevant date for the donation¹⁹ and, if the donation was regarded as having been received from a permissible donor on the basis that its purpose was to meet costs in connection with a visit conducted outside the United Kingdom²⁰, the date or dates on or between which the visit to which the donation relates took place²¹ and the destination and purpose of the visit²²; and (d) such other information (if any) as is required by regulations made by the Electoral Commission²³.

The requirement to prepare a weekly report does not apply in relation to a registered party in respect of a general election period if the party has made an exemption declaration which covers the general election in question²⁴. A registered party is taken to have made an exemption declaration which covers a particular general election if:

- 384 (i) a declaration that the party does not intend to have any candidates at that election²⁵ is signed by the responsible officers of the party²⁶ and is sent to the Commission within the period of seven days beginning with the date on which Her Majesty's intention to dissolve Parliament is announced in connection with a forthcoming parliamentary general election²⁷; or
- 385 (ii) the party's application for registration²⁸ was accompanied by a declaration that the party was not intending to have candidates at parliamentary elections²⁹ and either the poll for the general election in question takes place within the period of 12 months beginning with the date of its registration³⁰ or the declaration has been confirmed in the party's most recent notification given to the Commission regarding confirmation of the party's registered particulars³¹ and the poll for the general election in question takes place within the period of 12 months beginning with the date when that notification was so given³².

However, an exemption declaration does not cover a particular general election if the party in question withdraws its declaration by a notice signed by the responsible officers of the party³³ and sent to the Commission³⁴, before the beginning of the general election period³⁵. Where a registered party has made an exemption declaration which otherwise would cover a particular general election³⁶, but the party has one or more candidates at that election³⁷, the exemption declaration is treated as if it had been withdrawn at the beginning of the general election period (and the requirement to prepare a weekly report accordingly applies retrospectively as from the beginning of that period)³⁸.

The Secretary of State may, after consulting the Electoral Commission and all registered parties, by order³⁹ make provision for the provisions relating to⁴⁰: (A) the weekly reporting of donations made to registered parties during election periods⁴¹; (B) the submission of those reports and the declaration required to be made by a treasurer in relation to such reports⁴²; and (c) the relevant civil penalties which apply in relation to the submission of those reports⁴³, to apply in relation to the specified election period⁴⁴, in the case of one or more relevant elections, with such modifications as are specified in the order⁴⁵.

1 For these purposes, 'general election period' means the period beginning with the date on which Her Majesty's intention to dissolve Parliament is announced in connection with a forthcoming parliamentary general election, and ending with the date of the poll: Political Parties, Elections and Referendums Act 2000 s 63(6). As to parliamentary general elections and the commanding of elections for a new parliament see PARA 196 ante; and as to the date of the poll at a parliamentary general election see PARA 202 ante.

2 For the meaning of 'registered party' for these purposes see PARA 32 note 3 ante. As to the treasurer of a registered party see PARA 260 ante. Nothing in *ibid* Pt IV (ss 50-71) (as amended) affects minor parties: see s 50(9). For the meaning of 'minor party' see PARA 260 note 8 ante.

3 *Ibid* s 63(1). This requirement is subject to s 64 (exemption declarations: see the text and notes 24-38 *infra*).

4 *Ibid* s 63(1)(a).

5 *Ibid* s 63(1)(b).

6 *Ibid* s 63(1)(c).

7 *Ibid* s 63(2).

8 For the meaning of 'donation' in this context see *ibid* s 50(2); and CONSTITUTIONAL LAW AND HUMAN RIGHTS. Under Pt IV (as amended) generally, a donation received by a registered party must not be accepted unless it is made by a permissible donor; where a donor is unidentifiable or impermissible, the donation must be returned to its source or sent to the Electoral Commission: see CONSTITUTIONAL LAW AND HUMAN RIGHTS. For the purposes of controlling donations to candidates at an election, ss 56-60 (as amended) have been applied by the Representation of the People Act 1983 s 71A(4), Sch 2A para 7 (as added), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(4), Sch 6 para 7 and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 42(4), Sch 6 para 7: see PARA 294 ante. For the meaning of 'permissible donor' for these purposes see PARA 293 ante. As to the Electoral Commission see PARA 31 *et seq* ante.

9 Political Parties, Elections and Referendums Act 2000 s 63(3). The mechanism for preparing and submitting weekly reports is the same as that required for quarterly reports prepared under s 62 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS), and only the main differences which apply to weekly reports are specified in this title. As to the submission of weekly and quarterly donation reports to the Electoral Commission see s 65 (as amended); as to the declaration required to be made by a treasurer in relation to such reports see s 66; as to the register of all donations reported to the Electoral Commission see s 69 (as amended); and see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

10 *Ibid* s 63(3)(a). For the meanings of 'accounting units' and 'party with accounting units' see PARA 260 note 15 ante.

11 For the meaning of 'central organisation' (in relation to a registered party) see PARA 260 note 15 ante.

12 Political Parties, Elections and Referendums Act 2000 s 63(3)(b).

13 Ibid s 63(4).

14 For these purposes, 'recordable donation', in relation to a weekly report, means a donation required to be recorded in that report; and 'weekly report' means a report required to be prepared by virtue of ibid s 63: s 63(5), Sch 6 para 1.

15 Ibid Sch 6 para 3(1) (renumbered by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 24, 27). In the case of a donation by a person who has an anonymous entry in an electoral register (within the meaning of the Representation of the People Act 1983: see PARA 174 ante), instead of giving details of the address of the donor the party must state that it has seen evidence of such description as is prescribed by the Secretary of State in regulations that the person has such an entry: Political Parties, Elections and Referendums Act 2000 Sch 6 para 3(2) (Sch 6 para 3(2), (3) added by the Electoral Administration Act 2006 Sch 1 paras 24, 27). In the case of a donation in the form of a bequest by a person who either at the time of his death, or at any time in the period of five years ending at the date of his death, had such an entry, instead of giving details of the address of the donor, the party must state that it has seen evidence of such description as is prescribed by the Secretary of State in regulations that the person had, at that time, such an entry: Political Parties, Elections and Referendums Act 2000 Sch 6 para 3(3) (as so added). The evidence prescribed for the purposes of Sch 6 para 3(2), (3) (as added) is a certificate of anonymous registration issued pursuant to the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 45G (as added) (see PARA 160 ante): Political Donations and Regulated Transactions (Anonymous Electors) (England and Wales) Regulations 2006, SI 2006/2974, reg 3. This provision refers to 'a certificate of anonymous registration issued pursuant to the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 45E', but that regulation provides for the supply of the record of anonymous entries to the security services (see PARA 182 ante) and reg 45G (as added) provides for the issue of a certificate of anonymous registration; accordingly, it is submitted that the reference should be to reg 45G (as added). As to the Secretary of State see PARA 2 ante; and as to the making of regulations under the Political Parties, Elections and Referendums Act 2000 generally see PARA 31 note 2 ante.

16 Ibid Sch 6 para 4(1).

17 Ibid Sch 6 para 4(2).

18 Ibid Sch 6 para 4(3). The value of such a donation is determined in accordance with s 53 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS).

19 Ibid Sch 6 para 5(1)(a). For these purposes, in relation to a weekly report, the relevant date for a donation is the date when the donation was received by the party or its central organisation as mentioned in s 63(3) (see the text and notes 8-12 supra): Sch 6 para 5(4).

20 In the case of a donation to which ibid s 55(3) applies: see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

21 Ibid Sch 6 para 5(2)(a).

22 Ibid Sch 6 para 5(2)(b).

23 Ibid s 160(1), Sch 6 para 8. Regulations made by the Electoral Commission are not statutory instruments and are not recorded in this work: see further PARA 42 ante.

24 Ibid s 64(1).

25 Ibid s 64(2). For these purposes, a registered party is taken to have a candidate at a general election if any statement published, in connection with the election, under the Representation of the People Act 1983 s 23(1), Sch 1 r 14 (as amended) (see PARA 272 ante) contains the name of a candidate standing in the name of the party: Political Parties, Elections and Referendums Act 2000 s 64(9). As to references to persons standing for election in the name of a registered party see PARA 260 note 8 ante. For the meaning of 'candidate' see PARA 237 ante.

26 Ibid s 64(2)(a). For these purposes, the 'responsible officers' are the registered leader, the registered nominating officer and, where the leader and the nominating officer are the same person, any other registered officer: s 64(7). If any responsible officer is unable to sign a declaration or notice for these purposes, the holder of some other office in the party may sign in his place and the declaration or notice must include both a statement of the reason why the responsible officer is unable to sign and a declaration that the holder of the other office is authorised to sign in his place: s 64(8). As to the registered leader and the registered nominating officer see PARA 260 ante.

27 Ibid ss 63(6)(a), 64(2)(b), 160(1).

28 As to applications for registration made by a political party see PARA 260 ante.

29 Political Parties, Elections and Referendums Act 2000 s 64(3).

30 Ibid s 64(3)(a).

31 The notification given under ibid s 32 (as amended) (see PARA 260 ante; and CONSTITUTIONAL LAW AND HUMAN RIGHTS).

32 Ibid ss 64(3)(b) 160(1).

33 Ibid s 64(4)(a).

34 Ibid s 64(4)(b).

35 Ibid s 64(4).

36 Ibid s 64(5)(a).

37 Ibid s 64(5)(b).

38 Ibid s 64(5).

39 At the date at which this volume states the law, no order had been made under ibid s 67. As to the making of orders under the Political Parties, Elections and Referendums Act 2000 generally see PARA 31 note 2 ante.

40 Ibid ss 67(1) 160(1).

41 Ibid s 67(1)(a). The text refers to the provisions contained in ss 63, 64, together with Sch 6 (as amended) (see the text and notes 1-38 supra).

42 Ibid s 67(1)(b). The text refers to the provisions contained in ss 65, 66 (see note 9 supra; and CONSTITUTIONAL LAW AND HUMAN RIGHTS).

43 Ibid s 67(1)(c). The text refers to the provisions contained in s 147 so far as applying in relation to s 65(1), (2) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS).

44 For these purposes, 'specified election period', in relation to a relevant election, means such period ending with the date of the poll for the election as may be specified in an order under ibid s 67(1) (s 67(2)(a)); and 'relevant election' means an election to the European Parliament or an election to the National Assembly for Wales (s 67(2)(b)(i), (iii)). As to the date of the poll at ordinary elections to the National Assembly for Wales see PARA 220 ante; and as to the date of the poll at a European parliamentary election see PARA 229 ante.

45 Ibid s 67(1), (2)(b)(i), (iii). As to the meaning of 'modifications' for these purposes see PARA 39 note 9 ante.

UPDATE

316 Weekly reporting of donations made to registered parties during election periods

NOTE 14--SI 2006/2974 replaced: Political Donations and Regulated Transactions (Anonymous Electors) Regulations 2008, SI 2008/2869.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(v) Financial Controls on Registered Political Parties at National Election Campaigns/D. CONTROLS AFFECTING REGULATED TRANSACTIONS DURING ELECTION PERIODS/317. Weekly reporting of regulated transactions involving registered parties during election periods.

D. CONTROLS AFFECTING REGULATED TRANSACTIONS DURING ELECTION PERIODS

317. Weekly reporting of regulated transactions involving registered parties during election periods.

The following provisions have effect except in relation to minor parties¹.

In the case of any parliamentary general election period², the treasurer of a registered party³ must prepare a report in respect of each of the following periods⁴: (1) the period of seven days beginning with the first day of the general election period⁵; (2) each succeeding period of seven days falling within the general election period⁶; and (3) any final period of less than seven days falling within that period⁷. Such a report is known as a 'weekly report' and a 'reporting period', in relation to such a report, is the period mentioned in any of heads (1) to (3) above to which the report relates⁸. The weekly report for any reporting period must record each regulated transaction⁹ of more than £5,000 entered into during that period¹⁰ either by the party (if it is not a party with accounting units)¹¹ or by the central organisation of the party¹² (if it is a party with accounting units)¹³. If, during any reporting period, no such transactions have been entered into as so mentioned, the weekly report for that period must contain a statement to that effect¹⁴.

In relation to each recordable transaction¹⁵, a weekly report must:

- 386 (a) give all such details of the name and address of each authorised participant (other than the registered party¹⁶ deriving the benefit of the transaction) as are for the time being known to the party¹⁷;
- 387 (b) give the name and address of each person who is not an authorised participant but who is a party to a recordable transaction¹⁸ and the date when, and the manner in which, the transaction was duly dealt with¹⁹;
- 388 (c) give the nature of the transaction (that is to say, whether it is a loan, a credit facility or an arrangement by which any form of security is given)²⁰, the value of the transaction²¹ or, in the case of a credit facility or security to which no limit is specified, a statement to that effect²², and the relevant date for the transaction²³;
- 389 (d) where each recordable transaction is an agreement between a registered party and another person by which the other person makes a loan of money to the party²⁴ or an agreement between a registered party and another person by which the other person provides a credit facility to the party²⁵: (i) give the date when the loan is to be repaid or the facility is to end (or a statement that the loan or facility is indefinite)²⁶ or, where that date is to be determined under the agreement, a statement of how it is to be so determined²⁷; (ii) give the rate of interest payable on the loan or on sums advanced under the facility (or a statement that no interest is payable)²⁸ or, where that rate is to be determined under the agreement, a statement of how it is to be so determined²⁹; (iii) state whether the agreement contains a provision which enables outstanding interest to be added to any sum for the time being owed in respect of the loan or credit facility³⁰; (iv) state whether any form of security is given in respect of the loan or the sums advanced under the facility³¹;

- 390 (e) where a registered party and another person (A) enter into a regulated transaction of a description mentioned in head (d) above or a transaction under which any property, services or facilities are provided for the use or benefit of the party (including the services of any person), and A also enters into an arrangement whereby another person (B) gives any form of security (whether real or personal) for a sum owed to A by the party under the transaction³²: (i) if the transaction³³ is a regulated transaction, identify that transaction by reference to the transaction report in which it is recorded³⁴ and, in any other case, give a description of the principal features of that transaction³⁵; (ii) where the security given consists in or includes rights over any property, state the nature of that property³⁶; (iii) if the person giving the security receives from the registered party any consideration for giving the security, give a statement of that consideration³⁷ or, in any other case, state that no such consideration is received³⁸.

The weekly report for any reporting period must also record any change³⁹ during that period to a regulated transaction recorded by the party (if it is not a party with accounting units)⁴⁰ or by the central organisation of the party (if it is a party with accounting units)⁴¹; and if during any reporting period there have been no such changes, the weekly report for that period must contain a statement to that effect⁴².

The requirement to prepare a weekly report does not apply in relation to a registered party in respect of a general election period if the party has made an exemption declaration which covers the general election in question⁴³.

The Secretary of State may, after consulting the Electoral Commission and all registered parties, by order⁴⁴ make provision for the provisions relating to⁴⁵: (A) the weekly reporting of regulated transactions involving registered parties during election periods⁴⁶; (B) the submission of those reports and the declaration required to be made by a treasurer in relation to such reports⁴⁷; and (C) the relevant civil penalties which apply in relation to the submission of those reports⁴⁸, to apply in relation to the specified election period⁴⁹, in the case of one or more relevant elections⁵⁰, with such modifications as are specified in the order⁵¹.

1 The Political Parties, Elections and Referendums Act 2000 ss 71Q-71R, 71U, 71X and Sch 6A are added by the Electoral Administration Act 2006 s 61(1), except in relation to minor parties within the meaning of the Political Parties, Elections and Referendums Act 2000 s 160(1) (as to which see PARA 260 ante): see the Electoral Administration Act 2006 (Commencement No 1 and Transitional Provisions) Order 2006, SI 2006/1972, art 3, Sch 1 para 20(a) (amended by SI 2006/2268).

2 For the meaning of 'general election period' for these purposes see PARA 316 note 1 ante; definition applied by virtue of the Political Parties, Elections and Referendums Act 2000 s 71Q(9) (as added: see note 1 supra).

3 For the meaning of 'registered party' for these purposes see PARA 32 note 3 ante. As to the treasurer of a registered party see PARA 260 ante.

4 Political Parties, Elections and Referendums Act 2000 s 71Q(1) (as added: see note 1 supra). This requirement is subject to s 71R (as added) (exemption declarations: see the text and note 43 infra).

5 Ibid s 71Q(1)(a) (as added: see note 1 supra).

6 Ibid s 71Q(1)(b) (as added: see note 1 supra).

7 Ibid s 71Q(1)(c) (as added: see note 1 supra).

8 Ibid s 71Q(2) (as added: see note 1 supra).

9 For these purposes, 'regulated transaction' must be construed in accordance with ibid s 71F (as added) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see s 71X(1) (as added: see note 1 supra). Under Pt 4A (ss 71F-71Y) (as added) generally, certain agreements or transactions between a registered party and another person (or between that person and another by which the registered party derives a benefit) may be entered into only if any of the other parties is an authorised participant, being a person who is a 'permissible donor' within the

meaning of s 54(2) (as amended) (see PARA 293 ante); see ss 71F-71L (as added); and CONSTITUTIONAL LAW AND HUMAN RIGHTS. Quarterly reports of regulated transactions have to be made by registered parties and submitted to the Electoral Commission on a continuous basis: see ss 71M-71P, 71S-71T (as added); and CONSTITUTIONAL LAW AND HUMAN RIGHTS. The Secretary of State may by order make in relation to a relevant matter such provision as he thinks appropriate which corresponds to or is similar to any provision of Pt 4A (as added) or s 71Y, Sch 7A (as added) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Electoral Administration Act 2006 s 62(1); and CONSTITUTIONAL LAW AND HUMAN RIGHTS.

10 Political Parties, Elections and Referendums Act 2000 s 71Q(3) (as added: see note 1 supra). The mechanism for preparing and submitting weekly reports is the same as that required for quarterly reports prepared under s 71M (as added) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS), and only the main differences which apply to weekly reports are specified in this title. As to the submission of weekly and quarterly transaction reports to the Electoral Commission see s 71S (as added); as to the declaration required to be made by a treasurer in relation to such reports see s 71T (as added); as to the register of recordable transactions reported to the Electoral Commission see s 71V (as added); and see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

11 Ibid s 71Q(3)(a) (as added: see note 1 supra). For the meanings of 'accounting units' and 'party with accounting units' see PARA 260 note 15 ante.

12 For the meaning of 'central organisation' (in relation to a registered party) see PARA 260 note 15 ante.

13 Political Parties, Elections and Referendums Act 2000 s 71Q(3)(b) (as added: see note 1 supra).

14 Ibid s 71Q(4) (as added: see note 1 supra).

15 For these purposes, 'recordable transaction', in relation to a weekly report, means a transaction required to be recorded in that report; and 'weekly report' means a report required to be prepared by virtue of ibid s 71Q (as added): s 71Q(5), Sch 6A para 1(1) (as added: see note 1 supra).

The Secretary of State may by order amend Sch 6A paras 3-7 (as added) (see the text and notes 16-38 infra) so as to vary the details which a weekly report must give about a transaction: Sch 6A para 9(1) (as so added). However, the Secretary of State must not make such an order unless he first consults the Electoral Commission: s 160(1), Sch 6A para 9(2) (as added). As to the Secretary of State see PARA 2 ante; and as to the Electoral Commission see PARA 31 et seq ante.

16 For these purposes, references to a registered party must, in the case of a party with accounting units, be read as references to the central organisation of the party: ibid Sch 6A para 1(2) (as added: see note 1 supra).

17 Ibid Sch 6A para 3(1) (as added: see note 1 supra). In the case of a participant who is an individual having an anonymous entry in an electoral register (within the meaning of the Representation of the People Act 1983: see PARA 174 ante) instead of giving details of the address of the individual the party must state that it has seen evidence of such description as is prescribed by the Secretary of State in regulations that the individual has such an entry: Political Parties, Elections and Referendums Act 2000 Sch 6A para 3(2) (as so added). At the date at which this volume states the law no such regulations had been made. As to the making of regulations under the Political Parties, Elections and Referendums Act 2000 generally see PARA 31 note 2 ante.

Schedule 6A para 3(2) (as added) does not have effect in relation to minor parties within the meaning of s 160(1) (see PARA 260 ante): see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 4.

18 Political Parties, Elections and Referendums Act 2000 Sch 6A para 4(a) (as added: see note 1 supra).

19 Ibid Sch 6A para 4(b) (as added: see note 1 supra). The text refers to transactions being dealt with in accordance with s 71I(3)-(5) (as added), or those provisions as applied by s 71I(6) (as added) or s 71J(2) (as added): see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

20 Ibid Sch 6A para 5(1), (2) (as added: see note 1 supra). For these purposes, 'credit facility' has the meaning given by s 71F(11) (as added) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see s 71X(1) (as added: see note 1 supra).

21 Ie determined in accordance with ibid s 71G (as added) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS).

22 Ibid Sch 6A para 5(1), (3) (as added: see note 1 supra).

23 Ibid Sch 6A para 5(1), (4) (as added: see note 1 supra). For these purposes, in relation to a weekly report, the relevant date for a transaction is the date when the transaction was received by the party or its central organisation as mentioned in s 71Q(3) (as added) (see the text and notes 9-13 supra): Sch 6A para 8(2) (as so added).

- 24 le a recordable transaction of a description mentioned in ibid s 71F(2) (as added) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS).
- 25 le a recordable transaction of a description mentioned in ibid s 71F(3) (as added) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS).
- 26 Ibid Sch 6A para 6(1), (2)(a) (as added: see note 1 supra).
- 27 Ibid Sch 6A para 6(1), (2)(b) (as added: see note 1 supra).
- 28 Ibid Sch 6A para 6(1), (3)(a) (as added: see note 1 supra).
- 29 Ibid Sch 6A para 6(1), (3)(b) (as added: see note 1 supra).
- 30 Ibid Sch 6A para 6(1), (4) (as added: see note 1 supra).
- 31 Ibid Sch 6A para 6(1), (5) (as added: see note 1 supra).
- 32 le a recordable transaction of a description mentioned in ibid s 71F(4)(b) (as added) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS).
- 33 le the transaction mentioned in ibid s 71F(4)(a) (as added) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS).
- 34 Ibid Sch 6A para 7(1), (2)(a) (as added: see note 1 supra).
- 35 Ibid Sch 6A para 7(1), (2)(b) (as added: see note 1 supra).
- 36 Ibid Sch 6A para 7(1), (3) (as added: see note 1 supra).
- 37 Ibid Sch 6A para 7(1), (4)(a) (as added: see note 1 supra).
- 38 Ibid Sch 6A para 7(1), (4)(b) (as added: see note 1 supra).
- 39 le as mentioned in ibid s 71N(1) (as added) or s 71N(3) (as added) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS).
- 40 Ibid s 71Q(6)(a) (as added: see note 1 supra). For these purposes, a transaction is recorded by a party if it is or has been recorded in a transaction report prepared under s 71M(1) (as added) or a weekly report prepared for that or a previous reporting period falling within the general election period: s 71Q(7) (as so added).
- 41 Ibid s 71Q(6)(b) (as added: see note 1 supra). For these purposes, a transaction is recorded by the central organisation of a party if it is or has been recorded in a transaction report prepared under s 71M(1) (as added) or a weekly report prepared for that or a previous reporting period falling within the general election period: s 71Q(7) (as so added).
- 42 Ibid s 71Q(8) (as added: see note 1 supra).
- 43 Ibid s 71R(1) (as added: see note 1 supra). The text refers to an exemption declaration made under s 64 (see PARA 316 ante) but in its application, in accordance with s 71R(1) (as added), in relation to s 71Q (as added), the reference in s 64(5) to s 63 is to be read as a reference to s 71Q (as added) and s 64(6) is omitted: s 71R(2) (as so added).
- 44 At the date at which this volume states the law, no such order had been made. As to the making of orders under the Political Parties, Elections and Referendums Act 2000 generally see PARA 31 note 2 ante.
- 45 Ibid s 71U(1) (as added: see note 1 supra), s 160(1).
- 46 Ibid s 71U(1)(a) (as added: see note 1 supra). The text refers to the provisions contained in ss 71Q-71R (as added) (see the text and notes 2-14, 39-43 supra), together with Sch 6A (as added) (see the text and notes 15-38 supra).
- 47 Ibid s 71U(1)(b) (as added: see note 1 supra). The text refers to the provisions contained in ss 71S-71T (as added) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS).
- 48 Ibid s 71U(1)(c) (as added: see note 1 supra). The text refers to the provisions contained in s 147 so far as applying in relation to s 71S(1), (2) (as added) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS).

49 For the meaning of 'specified election period' for these purposes see PARA 316 note 44 ante; definition applied by virtue of *ibid* s 71U(2) (as added: see note 1 supra).

50 For the meaning of 'relevant election' for these purposes see PARA 304 note 4 ante; definition applied by virtue of *ibid* s 71U(2) (as added: see note 1 supra).

51 *Ibid* s 71U(1). As to the meaning of 'modifications' for these purposes see PARA 39 note 9 ante.

UPDATE

317 Weekly reporting of regulated transactions involving registered parties during election periods

NOTES 9, 17, 21, 43, 51--Political Parties, Elections and Referendums Act 2000 ss 71GA, 71R(1A), 71U(3) added, Sch 6A para 3(2), Sch 7A amended: SI 2009/185.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/ (vi) Financial Controls on Recognised Third Parties at National Election Campaigns/A. CONTROLS AFFECTING EXPENDITURE BY RECOGNISED THIRD PARTIES IN NATIONAL PARLIAMENTARY ELECTION CAMPAIGNS/(A) In general/318. Meaning of 'controlled expenditure' in relation to third parties.

(vi) Financial Controls on Recognised Third Parties at National Election Campaigns

A. CONTROLS AFFECTING EXPENDITURE BY RECOGNISED THIRD PARTIES IN NATIONAL PARLIAMENTARY ELECTION CAMPAIGNS

(A) IN GENERAL

318. Meaning of 'controlled expenditure' in relation to third parties.

For the purposes of controls affecting the involvement of third parties in national parliamentary election campaigns¹, 'controlled expenditure', in relation to a third party², means³ expenses incurred by or on behalf of the third party in connection with the production or publication of election material⁴ which is made available to the public at large or any section of the public (in whatever form and by whatever means)⁵.

Where, in the case of a third party, either: (1) property is transferred to the third party⁶; or (2) property, services or facilities is or are provided for the use or benefit of the third party⁷, either free of charge or at a discount of more than 10 per cent⁸, and the property, services or facilities is or are made use of by or on behalf of the third party in circumstances such that, if any expenses were to be (or are) actually incurred by or on behalf of the third party in respect of that use, they would be (or are) controlled expenditure incurred by or on behalf of the third party⁹, an amount of controlled expenditure (the 'appropriate amount') is treated, for the purposes of the statutory provisions which govern the control of expenditure by third parties at a relevant election, as incurred by the third party during the period for which the property, services or facilities is or are made so use of¹⁰. Where an amount of controlled expenditure is treated in this way as incurred by or on behalf of a third party during any period the whole or part of which falls within any period which is a regulated period¹¹, then such proportion of the appropriate amount¹² as reasonably represents the use made of the property, services or facilities during the regulated period is treated as incurred by or on behalf of the third party during the regulated period¹³, and, if a return falls to be prepared¹⁴ in respect of controlled expenditure incurred by or on behalf of the third party during that period, the responsible person¹⁵ must make a declaration of that amount¹⁶, unless that amount is not more than £200¹⁷. Where head (1) above applies, the appropriate amount is determined as being such proportion of either the market value of the property (where the property is transferred free of charge)¹⁸ or the difference between the market value of the property and the amount of expenses actually incurred by or on behalf of the third party in respect of the property (where the property is transferred at a discount)¹⁹, as is reasonably attributable to the use made of the property²⁰. Where head (2) above applies, the appropriate amount is determined as being such proportion of either the commercial rate for the use of the property or the provision of the services or facilities (where the property, services or facilities is or are provided free of charge)²¹ or the difference between that commercial rate and the amount of expenses actually incurred by or on behalf of the third party in respect of the use of the property or the provision of the services

or facilities (where the property, services or facilities is or are provided at a discount)²², as is reasonably attributable to the use made of the property, services or facilities²³.

However, no amount of controlled expenditure is to be regarded as so incurred by a third party in respect of: (a) the publication of any matter relating to an election, other than an advertisement, in a newspaper or periodical, a broadcast made by the British Broadcasting Corporation or by Sianel Pedwar Cymru (or by the Gibraltar Broadcasting Corporation, in relation to the combined region²⁴), or a programme included in any service licensed under the Broadcasting Act 1990 or the Broadcasting Act 1996²⁵; (b) any reasonable personal expenses incurred by an individual in travelling or in providing for his accommodation or other personal needs²⁶; or (c) the provision by any individual of his own services which he provides voluntarily in his own time and free of charge²⁷; or (d) any property, services or facilities to the extent that the property, services or facilities is or are used in circumstances in which an amount of campaign expenditure is to be regarded as incurred by or on behalf of a registered party for the purposes of controlling campaign expenditure²⁸ or in which an amount of expenses falls, in accordance with any enactment²⁹, to be included in a return as to election expenses³⁰ in respect of a candidate or candidates at a particular election³¹, in respect of that use³².

1 le for the purposes of the Political Parties, Elections and Referendums Act 2000 Pt VI (ss 85-100) (as amended).

2 In relation to any relevant election, 'third party', means any person or body other than a registered party or, subject to *ibid* s 85(9) (see note 4 *infra*), any registered party: s 85(8). For the meaning of 'relevant election' for these purposes see *PARA* 304 note 4 *ante*; definition applied by virtue of s 85(6). For the meaning of 'registered party' for these purposes see *PARA* 32 note 3 *ante*.

3 le subject to *ibid* s 87 (as amended) (see the text and notes 24-32 *infra*).

4 'Election material' is material which can reasonably be regarded as intended to:

- 49 (1) promote or procure electoral success at any relevant election for one or more particular registered parties, one or more registered parties who advocate (or do not advocate) particular policies or who otherwise fall within a particular category of such parties, or candidates who hold (or do not hold) particular opinions or who advocate (or do not advocate) particular policies or who otherwise fall within a particular category of candidates (*ibid* s 85(3)(a)); or
- 50 (2) otherwise enhance the standing of any such party or parties or of any such candidates with the electorate in connection with future relevant elections (whether imminent or otherwise) (s 85(3)(b)),

and any such material is election material even though it can reasonably be regarded as intended to achieve any other purpose as well (s 85(3)). For these purposes:

- 51 (a) the reference to electoral success at any relevant election is a reference, in relation to a registered party, to the return at any such election of candidates standing in the name of the party or included in a list of candidates submitted by the party in connection with the election and, in relation to candidates, to their return at any such election (s 85(4)(a)); and
- 52 (b) the reference to doing any of the things mentioned in head (1) *supra* or (as the case may be) head (2) *supra* includes doing so by prejudicing the electoral prospects at the election of other parties or candidates or (as the case may be) by prejudicing the standing with the electorate of other parties or candidates (s 85(4)(b)),

and, for the purpose of determining whether any material is election material, it is immaterial that it does not expressly mention the name of any party or candidate (s 85(4)). For these purposes, 'candidates' includes future candidates, whether identifiable or not: s 85(10). For the meaning of 'candidate' generally see *PARA* 237 *ante*. As to references to persons standing for election in the name of a registered party see *PARA* 260 note 8 *ante*.

In connection with the application of s 85(2) in relation to expenses incurred by or on behalf of a third party which is a registered party, any reference in s 85(3) to a registered party or registered parties or to any candidates does not include the party itself or any candidates standing in the name of the party at any relevant election or included in any list submitted by the party in connection with any such election, as the case may be: s 85(9).

5 Ibid s 85(1), (2).

6 Ibid s 86(1)(a)(i). Any property given or transferred to any officer, member, trustee or agent of a third party in his capacity as such (and not for his own use or benefit) is to be regarded as given or transferred to the third party (and references to donations received by a recognised party accordingly include donations so given or transferred) (s 95, Sch 11 para 2(5); applied by s 86(9)); and any reference to property being given or transferred to a recognised third party includes a reference to its being given or transferred either directly or indirectly through any third person (Sch 11 para 2(6)(a); applied by s 86(9)). As to the meaning of 'property' for these purposes see PARA 31 note 8 ante.

7 Ibid s 86(1)(a)(ii).

8 Ibid s 86(1)(a)(i), (ii). The discount referred to in the text is a discount of more than 10% of: (1) the market value of the property, in the case of head (1) in the text; or (2) the commercial rate for the use of the property or for the provision of the services or facilities, in the case of head (2) in the text. For the meaning of 'market value' see PARA 304 note 26 ante. Where the services of an employee are made available by his employer for the use or benefit of a third party, then for the purposes of determining controlled expenditure, the amount which is to be taken as constituting the commercial rate for the provision of those services is the amount of the remuneration or allowances payable to the employee by his employer in respect of the period for which his services are so made available (but do not include any amount in respect of any contributions or other payments for which the employer is liable in respect of the employee): s 86(5).

9 Ibid s 86(1)(b).

10 Ibid s 86(2). This provision has effect subject to s 87 (as amended) (see the text and notes 24-32 *infra*). The text refers to the use made of the property or goods as mentioned in s 86(1)(b) (see the text and note 9 *supra*).

11 *Ie* as defined by *ibid* s 94(10)(a) (as amended) (see PARA 324 note 17 *post*).

12 *Ie* such proportion of the appropriate amount determined in accordance with *ibid* s 86(3), (4) (see the text and notes 18-23 *infra*).

13 Ibid s 86(6)(a), (7).

14 *Ie* under *ibid* s 96 (see PARA 326 *post*).

15 In relation to a recognised third party, 'responsible person', means: (1) if the third party is an individual, that individual (*ibid* s 85(7)(a)); or (2) if the third party is a registered party, the treasurer of the party or, in the case of a minor party, the person for the time being notified to the Electoral Commission by the party in accordance with s 88(3)(b)(iii) (see PARA 319 *post*) (s 85(7)(b)); and (3) otherwise, the person or officer for the time being notified to the Electoral Commission by the third party in accordance with s 88(3)(c)(ii) (see PARA 319 *post*) (ss 85(7)(c), 160(1)). 'Recognised third party' means a third party for the time being recognised under s 88 (as amended) (see PARA 319 *post*) for the purposes of Pt VI (as amended): s 85(5). For the meaning of 'minor party' see PARA 260 note 8 *ante*. As to the Electoral Commission see PARA 31 *et seq ante*; and as to the treasurer of a registered party see PARA 260 *ante*.

16 Ibid s 86(6)(b). A person commits an offence if he knowingly or recklessly makes such a declaration which is false: see s 86(8); and PARA 754 *post*.

17 Ibid s 86(6). The Secretary of State may by order vary the sum for the time being specified in s 86(2): see s 155; and PARA 304 note 36 *ante*. At the date at which this volume states the law no such order had been made. As to the Secretary of State see PARA 2 *ante*.

18 Ibid s 86(3)(a).

19 Ibid s 86(3)(b).

20 Ibid s 86(3). The text refers to the use made of the property as mentioned in s 86(1)(b) (see the text and note 9 *supra*).

21 Ibid s 86(4)(a).

22 Ibid s 86(4)(b).

23 Ibid s 86(4). The text refers to the use made of the property as mentioned in s 86(1)(b) (see the text and note 9 *supra*).

24 As to the combined region see PARA 76 ante.

25 Political Parties, Elections and Referendums Act 2000 s 87(1)(a), (2)(a) (s 87(2)(a) amended by the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, art 4(2), Schedule paras 1, 22). The text refers to a service licensed under the Broadcasting Act 1990 Pt I (ss 3-71) (as amended) (independent television services: see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 328 et seq) or Pt III (ss 85-126) (as amended) (independent radio services: see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 439 et seq) or under the Broadcasting Act 1996 Pt I (ss 1-39) (as amended) (digital terrestrial television broadcasting: see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 415 et seq) or Pt II (ss 40-72) (as amended) (digital terrestrial sound broadcasting: see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 478 et seq). As to the BBC see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 306 et seq; and as to Sianel Pedwar Cymru see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 396.

26 Political Parties, Elections and Referendums Act 2000 s 87(1)(a), (2)(b).

27 Ibid s 87(1)(a), (2)(c).

28 Ibid s 87(1)(b)(i). The text refers to the purposes of Pt V (ss 72-84) (as amended) (see PARA 304 et seq ante).

29 As to the meaning of 'enactment' see PARA 48 note 2 ante.

30 For the meaning of 'return as to election expenses' see PARA 286 note 1 ante.

31 Political Parties, Elections and Referendums Act 2000 s 87(1)(b)(ii).

32 Ibid s 87(1)(b).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/ (vi) Financial Controls on Recognised Third Parties at National Election Campaigns/A. CONTROLS AFFECTING EXPENDITURE BY RECOGNISED THIRD PARTIES IN NATIONAL PARLIAMENTARY ELECTION CAMPAIGNS/(A) In general/319. Recognised third parties.

319. Recognised third parties.

For the purposes of controlling the expenditure incurred by third parties in national parliamentary election campaigns¹, a third party² is recognised if the third party has given the Electoral Commission³ a notification⁴ which complies with the statutory requirements⁵ and if that notification is for the time being in force⁶. A third party may only give such a notification if the third party is:

- 391 (1) an individual resident in the United Kingdom⁷ or registered in an electoral register⁸;
 - 392 (2) a registered party⁹; or
 - 393 (3) a body¹⁰ falling within any of the following:
- 15
- 26. (a) a company registered under the Companies Act 1985 and incorporated within the United Kingdom or another member state which carries on business in the United Kingdom¹¹;
 - 27. (b) a trade union entered in the list kept under the Trade Union and Labour Relations (Consolidation) Act 1992¹²;
 - 28. (c) a building society¹³;
 - 29. (d) a limited liability partnership registered under the Limited Liability Partnerships Act 2000 which carries on business in the United Kingdom¹⁴;
 - 30. (e) a friendly society registered under the Friendly Societies Act 1974¹⁵ or a society registered (or deemed to be registered) under the Industrial and Provident Societies Act 1965¹⁶; and
 - 31. (f) any unincorporated association of two or more persons which does not fall within any of heads (a) to (e) above but which carries on business or other activities wholly or mainly in the United Kingdom and whose main office is there¹⁷.

16

Such a notification: (i) if given by an individual, must state his full name¹⁸ and his home address in the United Kingdom, or (if he has no such address in the United Kingdom) his home address elsewhere¹⁹, and must be signed by him²⁰; (ii) if given by a registered party, must state the party's registered name²¹, the address of its registered headquarters²², and (in the case of a minor party²³) the name of the person who will be responsible for compliance on the part of the party with the financial controls relating to third parties²⁴, and must be signed by the responsible officers of the party²⁵; and (iii) if given by a body falling within any of heads (a) to (f) above²⁶, must state all such details in respect of the body as are required²⁷ to be given in respect of such a body as the donor of a recordable donation²⁸ and the name of the person or officer who will be responsible for compliance on the part of the body with the financial controls relating to third parties²⁹, and must be signed by the body's secretary or a person who acts in a similar capacity in relation to the body³⁰.

The original notification³¹ is in force as from the date on which it is received by the Commission³² but lapses at the end of the period of three months beginning with any anniversary of that date unless the third party notifies the Commission that the third party

wishes the original notification to continue in force³³. Where the original notification would otherwise lapse in this way at the end of any such period of three months³⁴ but the end of that period falls within any regulated period at the end of which a return will fall to be prepared³⁵ in respect of controlled expenditure³⁶ incurred by or on behalf of the third party during the regulated period³⁷, the original notification is treated, for all purposes connected with controlled expenditure so incurred during the regulated period, as lapsing at the end of that period instead³⁸. A renewal notification³⁹ must either confirm that all the statements contained in the original notification, as it has effect for the time being, are accurate⁴⁰ or indicate that any statement contained in that notification, as it so has effect, is replaced by some other statement conforming with the statutory requirements⁴¹; and it must be received by the Commission during the period beginning one month before the relevant anniversary⁴² and ending three months after it⁴³.

A third party may, at any time after giving the original notification, give the Commission a notification (a 'notification of alteration') indicating that any statement contained in the original notification, as it has effect for the time being, is replaced by some other statement contained in the notification of alteration⁴⁴ and conforming with the statutory requirements⁴⁵.

The Commission must maintain a register of all notifications given to it by third parties⁴⁶ which are for the time being in force⁴⁷. The register must be maintained by the Commission in such form as it may determine and must contain, in the case of each such notification, all the information contained in the notification as it has effect for the time being⁴⁸. Where any notification is given to the Commission⁴⁹, it must cause all the information contained in the notification, or (as the case may be) any new information contained in it, to be entered in the register as soon as is reasonably practicable⁵⁰; but the information to be so entered in the register in respect of a third party who is an individual must not include his home address⁵¹. The Commission must make a copy of the register so kept by it⁵² available for public inspection during ordinary office hours, either at the Commission's offices or at some convenient place appointed by it⁵³, although the Commission may make other arrangements for members of the public to have access to the register's contents⁵⁴. If requested to do so by any person, the Commission must supply him with a copy of the register or any part of it⁵⁵; and the Commission may charge such reasonable fee as it may determine in respect of any inspection or access so allowed or any copy so supplied⁵⁶. Where any such register is held by the Commission in electronic form, any copy so made available for public inspection or so supplied must be made available, or (as the case may be) supplied, in a legible form⁵⁷.

1 Ie for the purposes of the Political Parties, Elections and Referendums Act 2000 Pt VI (ss 85-100) (as amended).

2 For the meaning of 'third party' for these purposes see PARA 318 note 2 ante.

3 As to the Electoral Commission see PARA 31 et seq ante.

4 Ie a notification under the Political Parties, Elections and Referendums Act 2000 s 88 (as amended).

5 Ibid s 88(1)(a). The text refers to the requirement that such a notification is to comply with s 88(3) (as amended) (see the text and notes 18-30 infra). Any notification required to be given under the Political Parties, Elections and Referendums Act 2000 must be in writing: s 157(1).

6 Ibid s 88(1)(b).

7 For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

8 Political Parties, Elections and Referendums Act 2000 s 88(2)(a). The text refers to an electoral register as defined by s 54(8) (as amended) (see PARA 293 note 9 ante).

9 Ibid s 88(2)(b). For the meaning of 'registered party' for these purposes see PARA 32 note 3 ante. The text refers to a registered party other than a Gibraltar party whose entry in the register includes a statement that it intends to contest one or more elections to the European Parliament in the combined region: see s 88(2)(b) (amended by the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United

Kingdom and Gibraltar) Order 2004, SI 2004/366, art 4(2), Schedule paras 1, 23(a)(i)). As to elections to the European Parliament in the combined region see further the Political Parties, Elections and Referendums Act 2000 s 88(2)(d), (e) (added by the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, Schedule paras 1, 23(a)(ii)). As to the establishment of electoral regions (including the combined region) for the purpose of elections to the European Parliament see PARA 76 ante.

10 For the meaning of 'body' see PARA 53 note 2 ante.

11 Political Parties, Elections and Referendums Act 2000 ss 54(2)(b), 88(2)(c). As to the registration and incorporation of companies see COMPANIES vol 14 (2009) PARA 24 et seq. As to the control of contributions and other donations made by companies generally to registered parties and other European Union political organisations and European Union political expenditure incurred by companies see the Companies Act 1985 Pt XA (ss 347A-347K) (as added); and COMPANIES vol 14 (2009) PARA 688 et seq.

12 Political Parties, Elections and Referendums Act 2000 ss 54(2)(d), 88(2)(c). As to the list referred to in the text see EMPLOYMENT vol 40 (2009) PARA 855. Unless certain conditions are met, the funds of a trade union may not be applied in the furtherance of certain political objects which include the expenditure of money in connection with the registration of electors, the candidature of any person, the selection of any candidate or the holding of any ballot by the union in connection with any election to a political office, or on the production, publication or distribution of any literature, document, film, sound recording or advertisement the main purpose of which is to persuade people to vote for a political party or candidate or to persuade them not to vote for a political party or candidate: see the Trade Union and Labour Relations (Consolidation) Act 1992 Pt I Ch VI (ss 71-96) (as amended); and EMPLOYMENT vol 40 (2009) PARA 924 et seq.

13 Political Parties, Elections and Referendums Act 2000 ss 54(2)(e), 88(2)(c). The text refers to a building society within the meaning of the Building Societies Act 1986 (see FINANCIAL SERVICES AND INSTITUTIONS vol 50 (2008) PARA 1856).

14 Political Parties, Elections and Referendums Act 2000 ss 54(2)(f), 88(2)(c). As to a limited liability partnership registered under the Limited Liability Partnerships Act 2000 see PARTNERSHIP vol 79 (2008) PARA 234 et seq.

15 As to friendly societies registered under the Friendly Societies Act 1974 see FINANCIAL SERVICES AND INSTITUTIONS vol 50 (2008) PARA 2084 et seq.

16 Political Parties, Elections and Referendums Act 2000 ss 54(2)(g), 88(2)(c). As to societies registered under the Industrial and Provident Societies Act 1965 see FINANCIAL SERVICES AND INSTITUTIONS vol 50 (2008) PARAS 2394, 2410 et seq.

17 Political Parties, Elections and Referendums Act 2000 ss 54(2)(h), 88(2)(c).

18 Ibid s 88(3)(a)(i).

19 Ibid s 88(3)(a)(ii). As to a Gibraltar elector who is not resident in Gibraltar see s 88(3)(a)(iii) (added by the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, Schedule paras 1, 23(b)(i)).

20 Political Parties, Elections and Referendums Act 2000 s 88(3)(a).

21 Ibid s 88(3)(b)(i). As to the party's registered name see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

22 Ibid s 88(3)(b)(ii). As to the party's registered headquarters see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

23 For the meaning of 'minor party' see PARA 260 note 8 ante.

24 Political Parties, Elections and Referendums Act 2000 s 88(3)(b)(iii). The text refers to the provisions of Pt VI Ch II (ss 90-100) (as amended) (see PARA 320 et seq post).

25 Ibid s 88(3)(b). The text refers to the responsible officers of the party within the meaning of s 64 (see PARA 316 note 26 ante).

26 Ibid s 88(3)(c). As to the bodies giving notification for the purposes of elections to the European Parliament in the combined region see further s 88(2)(c) (amended by the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, Schedule paras 1, 23(b)(ii)).

- 27 le by virtue of any of the Political Parties, Elections and Referendums Act 2000 s 62(13), Sch 6 para 2(4), (6)-(10) (as amended) (quarterly donation reports: see CONSTITUTIONAL LAW AND HUMAN RIGHTS).
- 28 Ibid s 88(3)(c)(i). As to the returns required in respect of controlled expenditure by third parties see PARA 326 post.
- 29 Ibid s 88(3)(c)(ii). The text refers to the provisions of Pt VI Ch II (as amended) (see PARA 320 et seq post).
- 30 Ibid s 88(3)(c).
- 31 le a notification under ibid s 88(1) (see the text and notes 1-6 supra).
- 32 Ibid ss 88(4)(a), 160(1).
- 33 Ibid s 88(4)(b).
- 34 Ibid s 88(5)(a).
- 35 le under ibid s 96 (see PARA 326 post). As to the regulated period see PARA 324 note 17 post.
- 36 For the meaning of 'controlled expenditure' in relation to third parties see PARA 318 ante.
- 37 Political Parties, Elections and Referendums Act 2000 s 88(5)(b).
- 38 Ibid s 88(5).
- 39 le a notification under ibid s 88(4)(b) (see the text and note 33 supra).
- 40 Ibid s 88(6)(a).
- 41 Ibid s 88(6)(b). The text refers to the requirement that the statement must conform with s 88(3) (as amended) (see the text and notes 18-30 supra).
- 42 le for the purposes of ibid s 88(4)(b) (see the text and note 33 supra).
- 43 Ibid s 88(7).
- 44 Ibid s 88(8)(a).
- 45 Ibid s 88(8)(b). The text refers to the requirement that the statement must conform with s 88(3) (as amended) (see the text and notes 18-30 supra).
- 46 le notifications under ibid s 88(1) (see the text and notes 1-6 supra).
- 47 Ibid ss 89(1), 160(1).
- 48 Ibid s 89(2). The text refers to the notification as it has effect for the time being in accordance with s 88 (as amended) (see the text and notes 1-45 supra).
- 49 le under ibid s 88(1) (see the text and notes 1-6 supra).
- 50 Ibid s 89(3).
- 51 Ibid s 89(4).
- 52 le under ibid s 89 (see the text and notes 46-51 supra).
- 53 Ibid s 149(1)(c), (2).
- 54 Ibid s 149(1)(c), (3).
- 55 Ibid s 149(1)(c), (4).
- 56 Ibid s 149(1)(c), (5).
- 57 Ibid s 149(1)(c), (7).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/ (vi) Financial Controls on Recognised Third Parties at National Election Campaigns/A. CONTROLS AFFECTING EXPENDITURE BY RECOGNISED THIRD PARTIES IN NATIONAL PARLIAMENTARY ELECTION CAMPAIGNS/(B) General Restrictions on Controlled Expenditure by Third Parties/320. Restriction on incurring controlled expenditure without authority.

(B) GENERAL RESTRICTIONS ON CONTROLLED EXPENDITURE BY THIRD PARTIES

320. Restriction on incurring controlled expenditure without authority.

For the purposes of controlling the expenditure incurred by third parties in national parliamentary election campaigns¹, no amount of controlled expenditure² may be incurred by or on behalf of a recognised third party³ unless it is incurred with the authority of⁴: (1) the responsible person⁵; or (2) a person authorised in writing by the responsible person⁶. Where, in the case of a recognised third party that is a registered party⁷, any expenses are incurred in contravention of this restriction, the expenses do not count as controlled expenditure incurred by or on behalf of the recognised third party either for the purposes of the statutory provisions which impose financial limits on such expenditure⁸ or for the purposes of the statutory provisions which require returns as to such expenditure⁹.

A person commits an offence if, without reasonable excuse, he incurs any expenses in contravention of the restriction on incurring controlled expenditure by or on behalf of a recognised third party¹⁰.

1 Ie for the purposes of the Political Parties, Elections and Referendums Act 2000 Pt VI (ss 85-100) (as amended). However, s 90 (as amended) does not apply in relation to a recognised Gibraltar third party except in relation to controlled expenditure incurred by or on behalf of that party during the period of four months ending with the date of the poll for a general election to the European Parliament: see s 90(4) (added by the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, art 4(2), Schedule paras 1, 24). As to date of the poll at a European parliamentary election see PARA 229 ante.

2 For the meaning of 'controlled expenditure' in relation to third parties see PARA 318 ante.

3 For the meaning of 'recognised third party' see PARA 318 note 15 ante.

4 Political Parties, Elections and Referendums Act 2000 s 90(1).

5 Ibid s 90(1)(a). For the meaning of 'responsible person' for these purposes see PARA 318 note 15 ante.

6 Ibid s 90(1)(b).

7 For the meaning of 'registered party' for these purposes see PARA 32 note 3 ante.

8 Ie the Political Parties, Elections and Referendums Act 2000 s 94, Sch 10 (as amended) (see PARAS 324-325 post).

9 Ibid s 90(3). The text refers to the provisions in ss 96-99 (see PARA 326 et seq post).

10 See ibid s 90(2); and PARA 754 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/ (vi) Financial Controls on Recognised Third Parties at National Election Campaigns/A. CONTROLS AFFECTING EXPENDITURE BY RECOGNISED THIRD PARTIES IN NATIONAL PARLIAMENTARY ELECTION CAMPAIGNS/(B) General Restrictions on Controlled Expenditure by Third Parties/321. Restriction on payments in respect of controlled expenditure incurred by third parties.

321. Restriction on payments in respect of controlled expenditure incurred by third parties.

For the purposes of controlling the expenditure incurred by third parties in national parliamentary election campaigns¹, no payment (of whatever nature), may be made in respect of any controlled expenditure² incurred or to be incurred by or on behalf of a recognised third party³ unless it is made by⁴: (1) the responsible person⁵; or (2) a person authorised in writing by the responsible person⁶. Any payment made in respect of any such expenditure by a person within head (1) or head (2) above must be supported by an invoice or a receipt unless it is not more than £200⁷; and where any such payment is made by a person within head (2) above, he must deliver to the responsible person both notification that he has made the payment⁸ and the supporting invoice or receipt⁹, as soon as possible after making the payment¹⁰.

A person commits an offence if, without reasonable excuse, he makes any payment in contravention of the restriction on payments made in respect of controlled expenditure or if he is a person within head (2) above who contravenes the requirements imposed on such a person regarding the delivery of notification and evidence¹¹.

1 Ie for the purposes of the Political Parties, Elections and Referendums Act 2000 Pt VI (ss 85-100) (as amended). However, s 91 (as amended) does not apply in relation to a recognised Gibraltar third party except in relation to controlled expenditure incurred or to be incurred by or on behalf of that party during the period of four months ending with the date of the poll for a general election to the European Parliament: see s 91(5) (added by the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, art 4(2), Schedule paras 1, 25). As to the date of the poll at a European parliamentary election see PARA 229 ante.

2 For the meaning of 'controlled expenditure' in relation to third parties see PARA 318 ante.

3 For the meaning of 'recognised third party' see PARA 318 note 15 ante.

4 Political Parties, Elections and Referendums Act 2000 s 91(1).

5 Ibid s 91(1)(a). For the meaning of 'responsible person' for these purposes see PARA 318 note 15 ante.

6 Ibid s 91(1)(b).

7 Ibid s 91(2). The Secretary of State may by order vary the sum for the time being specified in s 91(2): see s 155; and PARA 304 note 36 ante. At the date at which this volume states the law no such order had been made. As to the Secretary of State see PARA 2 ante.

8 Ibid s 91(3)(a). Any notification required to be given under the Political Parties, Elections and Referendums Act 2000 must be in writing: s 157(1).

9 Ibid s 91(3)(b).

10 Ibid s 91(3).

11 See ibid s 91(4); and PARA 754 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/ (vi) Financial Controls on Recognised Third Parties at National Election Campaigns/A. CONTROLS AFFECTING EXPENDITURE BY RECOGNISED THIRD PARTIES IN NATIONAL PARLIAMENTARY ELECTION CAMPAIGNS/(B) General Restrictions on Controlled Expenditure by Third Parties/322. Claims against third party in respect of controlled expenditure.

322. Claims against third party in respect of controlled expenditure.

For the purposes of controlling the expenditure incurred by third parties in national parliamentary election campaigns¹, a claim for payment in respect of controlled expenditure² incurred by or on behalf of a recognised third party³ during any period which is a regulated period⁴ is not payable unless the claim is sent⁵ to the responsible person⁶, or any other person authorised⁷ to incur the expenditure⁸, not later than 30⁹ days after the end of the regulated period¹⁰. Any claim so sent must be paid not later than 60 days after the end of the regulated period¹¹; but this is without prejudice to any rights of a creditor of a recognised third party to obtain payment before the end of the period so allowed¹².

A person commits an offence if, without reasonable excuse, he pays any claim for payment in respect of controlled expenditure which by virtue of being statute-barred¹³ is not payable or if he makes any payment in respect of a claim after the end of the period allowed for the payment of claims¹⁴.

If the responsible person or other person to whom a claim for payment in respect of controlled expenditure incurred by or on behalf of a recognised third party is sent fails or refuses to pay the claim within the period allowed¹⁵, where the claim is sent to either the responsible person¹⁶ or to any other person with whose authority it is alleged that the expenditure was incurred¹⁷, within the period allowed before such claims are barred¹⁸, the claim is deemed to be a disputed claim¹⁹. The person by whom the disputed claim is made may bring an action for a disputed claim, and any sum paid in pursuance of a court's judgment or order made in the proceedings is not deemed to be in contravention of the statutory provision forbidding payment of controlled expenditure later than 42 days after the end of the regulated period²⁰.

1 Ie for the purposes of the Political Parties, Elections and Referendums Act 2000 Pt VI (ss 85-100) (as amended).

2 For the meaning of 'controlled expenditure' in relation to third parties see PARA 318 ante.

3 For the meaning of 'recognised third party' see PARA 318 note 15 ante.

4 Ie as defined by the Political Parties, Elections and Referendums Act 2000 s 94(10)(a) (as amended) (see PARA 324 note 17 post).

5 Ibid s 92(1).

6 Ibid s 92(1)(a). For the meaning of 'responsible person' for these purposes see PARA 318 note 15 ante.

7 Ie a person authorised in writing by the responsible person under ibid s 90 (as amended) (see PARA 320 ante).

8 Ibid s 92(1)(b).

9 Where, in the case of any controlled expenditure, the period allowed under ibid s 92(1) (as amended) or s 92(2) (as amended) (see the text and note 11 infra) would end on:

- 53 (1) a Saturday or Sunday or Christmas Eve, Christmas Day or Good Friday (s 77(9)(a) (amended by the Electoral Administration Act 2006 ss 20, 74(2), Sch 1 paras 49, 54, Sch 2); applied by the Political Parties, Elections and Referendums Act 2000 s 92(7) (amended by the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, art 4(2), Schedule paras 1, 26(a)));
- 54 (2) a bank holiday (Political Parties, Elections and Referendums Act 2000 s 77(9)(b); applied by s 92(7) (as so amended)); or
- 55 (3) a day appointed for public thanksgiving or mourning (s 77(9)(c); applied by s 92(7) (as so amended)),

the period instead ends on the first day following that day which is not one of those days (s 77(9); applied by s 92(7) (as so amended)). For the purposes of head (2) *supra*, 'bank holiday' means a day which is a bank holiday under the Banking and Financial Dealings Act 1971 (see *TIME* vol 97 (2010) PARA 321) in any part of the United Kingdom: (a) in which is situated the office of the responsible person in relation to the recognised third party or (as the case may be) other authorised person to whom the claim is sent pursuant to the Political Parties, Elections and Referendums Act 2000 s 92(1) (as amended) (s 77(10)(a); applied by s 92(7) (as so amended)); or (b) in which the person providing the property, services or facilities to which the expenditure relates conducts his business (s 77(10)(b); applied by s 92(7) (as so amended)); or (c) (if he conducts his business in more than one part of the United Kingdom) in which is situated the office from which dealings relating to the expenditure were conducted (s 77(10)(c); applied by s 92(7) (as so amended)). For the meaning of 'United Kingdom' see PARA 13 note 1 *ante*. As to the meaning of 'property' for these purposes see PARA 31 note 8 *ante*; and as to the meaning of 'business' see PARA 308 note 9 *ante*.

Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 49, 54 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. Accordingly, until that date, Maundy Thursday appears in the list of days excluded under head (1) *supra*.

10 Political Parties, Elections and Referendums Act 2000 s 92(1) (amended by the Electoral Administration Act 2006 s 65(2)(a)).

11 Political Parties, Elections and Referendums Act 2000 s 92(2) (amended by the Electoral Administration Act 2006 s 65(2)(b)).

12 Political Parties, Elections and Referendums Act 2000 s 92(6).

13 *Ie* by virtue of *ibid* s 92(1) (as amended) (see the text and notes 1-10 *supra*).

14 See *ibid* s 92(3); and PARA 754 *post*. The text refers to payment in respect of a claim after the end of the period allowed under s 92(2) (as amended) (see the text and note 11 *supra*).

15 *Ibid* s 93(1)(b). The text refers to the period allowed under s 92(2) (as amended) (see the text and note 11 *supra*).

16 *Ibid* s 93(1)(a)(i).

17 *Ibid* s 93(1)(a)(ii).

18 *Ibid* s 93(1)(a). The text refers to the period allowed under s 92(1) (as amended) (see the text and notes 1-10 *supra*).

19 *Ibid* s 93(1). As to the power to apply to the court for leave to pay a disputed claim see PARA 323 *post*; and as to the returns required in relation to disputed claims see PARA 326 *post*.

20 *Ibid* s 93(2). The text refers to the restriction otherwise contained in s 92(2) (as amended) (see the text and note 11 *supra*).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/ (vi) Financial Controls on Recognised Third Parties at National Election Campaigns/A. CONTROLS AFFECTING EXPENDITURE BY RECOGNISED THIRD PARTIES IN NATIONAL PARLIAMENTARY ELECTION CAMPAIGNS/(B) General Restrictions on Controlled Expenditure by Third Parties/323. Application for leave to pay claims in respect of controlled expenditure.

323. Application for leave to pay claims in respect of controlled expenditure.

For the purposes of controlling the expenditure incurred by third parties in national parliamentary election campaigns¹, the person making a claim for payment in respect of controlled expenditure² incurred by or on behalf of a recognised third party³, or the person with whose authority the expenditure in question was incurred⁴, may apply to the High Court or to the county court for leave to pay such a claim (even if it is sent in after the statutory period allowed of 21 days⁵) or may apply to the High Court or to the county court for leave to pay a disputed claim⁶. The court, if satisfied that for any special reason it is appropriate to do so, may by order grant the leave⁷. Any sum paid in pursuance of such leave is not deemed to be a contravention of the provisions forbidding the making or payment of claims relating to controlled expenditure later than the statutory period allowed⁸.

1 le for the purposes of the Political Parties, Elections and Referendums Act 2000 Pt VI (ss 85-100) (as amended).

2 For the meaning of 'controlled expenditure' in relation to third parties see PARA 318 ante.

3 Political Parties, Elections and Referendums Act 2000 s 92(4)(a). The text refers to a claim to which s 92(1) (as amended) applies (see PARA 322 ante). For the meaning of 'recognised third party' see PARA 318 note 15 ante.

4 Ibid s 92(4)(b). As to persons authorised to incur expenditure as mentioned in the text see s 90 (as amended); and PARA 320 ante.

5 le the period mentioned in ibid s 92(1) (as amended) (see PARA 322 ante).

6 Ibid ss 92(4), 93(3)(a). As to court proceedings for the purposes of claims made in relation to a recognised Gibraltar third party see s 92(8) (added by the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, art 4(2), Schedule paras 1, 26(b)).

7 Political Parties, Elections and Referendums Act 2000 ss 92(4), 93(3)(a).

8 Ibid ss 92(5), 93(3)(a). The text refers to the period of 30 days within which a claim otherwise must be made under s 92(1) (as amended) or the period of 60 days within which a claim otherwise must be paid under s 92(2) (as amended) (see PARA 322 ante). As to the returns required in respect of sums paid in pursuance of the leave see PARA 326 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/ (vi) Financial Controls on Recognised Third Parties at National Election Campaigns/A. CONTROLS AFFECTING EXPENDITURE BY RECOGNISED THIRD PARTIES IN NATIONAL PARLIAMENTARY ELECTION CAMPAIGNS/(C) Financial Limits on Controlled Expenditure by Third Parties/324. Limitation of controlled expenditure incurred by third parties.

(C) FINANCIAL LIMITS ON CONTROLLED EXPENDITURE BY THIRD PARTIES

324. Limitation of controlled expenditure incurred by third parties.

For the purposes of controlling expenditure incurred by third parties in national parliamentary election campaigns¹, the limit which applies in relation to controlled expenditure² incurred by or on behalf of a recognised third party³:

- 394 (1) in relation to a parliamentary general election⁴ in the relevant period⁵ in England or Wales (as the case may be) is⁶, in relation to England, £793,500⁷ and, in relation to Wales, £60,000⁸;
- 395 (2) in relation to an ordinary election to the Welsh Assembly⁹ in the relevant period¹⁰ in Wales is £30,000¹¹;
- 396 (3) in relation to a general election to the European parliament¹² in the relevant period¹³ in each of England or Wales (as the case may be) is¹⁴, in relation to England, £159,750¹⁵ and, in relation to Wales, £11,259¹⁶.

Where: (a) during a regulated period¹⁷, any controlled expenditure is incurred in a particular part of the United Kingdom¹⁸ by or on behalf of a third party¹⁹ (whether or not any of the third parties in question is a recognised third party)²⁰; and (b) the expenditure is so incurred in pursuance of a plan or other arrangement whereby controlled expenditure is to be incurred by or on behalf of²¹ that third party²² and one or more other third parties²³, in connection with the production or publication of election material which can reasonably be regarded as intended to achieve a common purpose falling within the definition of 'election material' for these purposes²⁴, the expenditure mentioned in head (a) above is treated for the purposes of the statutory provisions which impose financial limits on controlled expenditure²⁵ as having also been incurred, during the period and in the part of the United Kingdom concerned, by or on behalf of the other third party (or, as the case may be, each of the other third parties) mentioned in head (b) above²⁶.

Where: (i) at any time before the beginning of any regulated period, any expenses falling within the definition of 'controlled expenditure'²⁷ are incurred by or on behalf of a third party in respect of any property²⁸, services or facilities²⁹; but (ii) the property, services or facilities is or are made use of by or on behalf of the third party during the regulated period in circumstances such that, had any expenses been incurred in respect of that use during that period, they would have constituted³⁰ controlled expenditure incurred by or on behalf of the third party during that period³¹, the appropriate proportion of the expenses mentioned in head (i) above³² is treated for the purposes of the statutory provisions which impose financial limits on controlled expenditure³³ or for the purposes of the statutory provisions which require returns as to such expenditure³⁴, as controlled expenditure incurred by or on behalf of the third party during that period³⁵.

Special provision is made for limiting controlled expenditure where, in special circumstances, elections are combined³⁶.

Where, during a regulated period in relation to which any limitation of controlled expenditure applies in relation to a third party (whether or not a recognised third party), any controlled expenditure is incurred in the United Kingdom by or on behalf of the third party in excess of the limit that applies, the individual concerned (or the responsible person, if the third party is not an individual) is guilty of an offence if he knew or ought reasonably to have known that the expenditure would be incurred in excess of that limit; and, where the third party is not an individual, the third party is also guilty of an offence³⁷.

1 le for the purposes of the Political Parties, Elections and Referendums Act 2000 Pt VI (ss 85-100) (as amended).

2 For the meaning of 'controlled expenditure' in relation to third parties see PARA 318 ante.

3 For the meaning of 'recognised third party' see PARA 318 note 15 ante.

For these purposes, controlled expenditure incurred by or on behalf of any recognised third party is attributed to each of England and Wales in proportion to the number of parliamentary constituencies for the time being situated in that part of United Kingdom (Political Parties, Elections and Referendums Act 2000 s 94(1), Sch 10 para 2(1)); and controlled expenditure whose effects are wholly or substantially confined to any particular parts or part of the United Kingdom are attributed to those parts in proportion to the number of parliamentary constituencies for the time being situated in those parts or are attributed solely to that part, as the case may be (Sch 10 para 2(2)). For this purpose, the effects of controlled expenditure are wholly or substantially confined to any particular parts or part of the United Kingdom if they have no significant effects in any other part or parts (so that, for example, expenditure on an advertisement in a newspaper circulating in Wales is to be attributed solely to Wales if the newspaper does not circulate to any significant extent in any other part of the United Kingdom): Sch 10 para 2(3). As respects controlled expenditure incurred in the period of four months ending with the date of the poll for an election to the European Parliament in the combined region, that region is to be regarded as part of England for the purposes of the references to a part or parts of the United Kingdom: see Sch 10 para 2(3A) (added by the European Parliamentary Elections (Combined Region and Controlled Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, art 4(2), Schedule paras 1, 36(b)). References in the Political Parties, Elections and Referendums Act 2000 Sch 10 (as amended) to controlled expenditure 'in' a particular part of the United Kingdom are accordingly to controlled expenditure which is to be attributed to that part in accordance with Sch 10 para 2 (as amended): Sch 10 para 2(3). For the meaning of 'constituency' for the purposes of parliamentary elections see PARA 9 ante; and for the meanings of 'England', 'United Kingdom' and 'Wales' see PARA 13 note 1 ante. As to the combined region see PARA 76 ante; and as to the date of the poll at a European parliamentary election see PARA 229 ante.

4 As to parliamentary general elections see PARA 196 et seq ante. For the meaning of 'parliamentary election' see PARA 9 ante.

5 For these purposes, the relevant period is: (1) the period of 365 days ending with the date of the poll for the election (Political Parties, Elections and Referendums Act 2000 Sch 10 para 3(3)(a)); or (2) where the election (the 'election in question') follows another parliamentary general election held less than 365 days previously, the period beginning with the day after the date of the poll for the earlier election and ending with the date of the poll for the election in question (Sch 10 para 3(3)(b)). As to the date of the poll at a parliamentary general election see PARA 202 ante.

6 Ibid Sch 10 para 3(1), (2).

7 Ibid Sch 10 para 3(2)(a).

8 Ibid Sch 10 para 3(2)(c).

9 For these purposes, an 'ordinary election to the Welsh Assembly' means an election held under the Government of Wales Act 1998 s 3 (see PARA 220 ante): Political Parties, Elections and Referendums Act 2000 Sch 10 para 1(1)(c). The provisions of the Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies to the holding of ordinary elections after that date see the Government of Wales Act 2006 s 3; and PARA 220 ante.

10 For these purposes, the relevant period is the period beginning with the appropriate date and ending with the date of the poll: Political Parties, Elections and Referendums Act 2000 Sch 10 para 6(3). The 'appropriate date' is the date which falls four months before the date of the poll where:

- 56 (1) the date of the poll is that determined by the Government of Wales Act 1998 s 3(2) (see PARA 220 ante) (Political Parties, Elections and Referendums Act 2000 Sch 10 para 6(4)(a));
- 57 (2) no less than five months before the day on which the poll would have taken place under the Government of Wales Act 1998 s 3(2), the date of the poll is brought forward under s 3(3) (see PARA 220 ante) (Political Parties, Elections and Referendums Act 2000 Sch 10 para 6(4)(b)); or
- 58 (3) no less than four months before the day on which the poll would have taken place under the Government of Wales Act 1998 s 3(2), the date of the poll is postponed under s 3(3) (Political Parties, Elections and Referendums Act 2000 Sch 10 para 6(4)(c)),

but where the date of the poll is brought forward or postponed otherwise than as mentioned in head (2) or head (3) supra, the 'appropriate date' means the date which falls four months before the date when the poll would have taken place under the Government of Wales Act 1998 s 3(2) (Political Parties, Elections and Referendums Act 2000 Sch 10 para 6(4)). As to the date of the poll at ordinary elections to the National Assembly for Wales see PARA 220 ante. The provisions of the Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies to the holding of ordinary elections after that date see the Government of Wales Act 2006 s 3; and PARA 220 ante.

11 Political Parties, Elections and Referendums Act 2000 Sch 10 para 6(1), (2).

12 As to European parliamentary general elections see PARA 224 et seq ante.

13 For these purposes, the relevant period is the period of four months ending with the date of the poll for the election: Political Parties, Elections and Referendums Act 2000 Sch 10 para 4(3). As to the date of the poll at a European parliamentary election see PARA 229 ante.

14 Ibid Sch 10 para 4(1), (2). As respects a recognised Gibraltar third party, Sch 10 para 4(2) has effect as if the limits were, in relation to England, £16,000 and, in relation to Wales, £5,000: see Sch 10 para 4(2A) (added by the European Parliamentary Elections (Combined Region and Controlled Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, Schedule paras 1, 36(c)).

15 Political Parties, Elections and Referendums Act 2000 Sch 10 para 4(2)(a).

16 Ibid Sch 10 para 4(2)(c).

17 For these purposes, a regulated period is a period in relation to which any limit is imposed by Sch 10 (as amended): ibid s 94(10)(a). This is subject to s 94(11) (added by the European Parliamentary Elections (Combined Region and Controlled Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, Schedule paras 1, 27(c)), which relates to a recognised Gibraltar third party: see the Political Parties, Elections and Referendums Act 2000 s 94(10)(a) (amended by the European Parliamentary Elections (Combined Region and Controlled Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, Schedule paras 1, 27(b)).

18 For these purposes, any reference to controlled expenditure being incurred in a part of the United Kingdom must be construed in accordance with the Political Parties, Elections and Referendums Act 2000 Sch 10 para 2 (as amended) (see note 3 supra): s 94(10)(d).

19 Ibid s 94(6)(a). For these purposes, any reference to controlled expenditure incurred by or on behalf of a recognised third party during a regulated period includes any controlled expenditure so incurred during that period at any time before the third party became a recognised third party: s 94(10)(b). As to when third parties become recognised third parties see PARA 319 ante. For the meaning of 'third party' for these purposes see PARA 318 note 2 ante.

20 Ibid s 94(7).

21 Ibid s 94(6)(b).

22 Ibid s 94(6)(b)(i).

23 Ibid s 94(6)(b)(ii).

24 Ibid s 94(6)(b). The text refers to election material which falls within s 85(3) (see PARA 318 note 4 ante).

25 Ie ibid s 94 (as amended) and Sch 10 (as amended).

26 Ibid s 94(6).

27 le expenses within ibid s 85(2) (see PARA 318 ante).

28 As to the meaning of 'property' for these purposes see PARA 31 note 8 ante.

29 Political Parties, Elections and Referendums Act 2000 s 94(8)(a).

30 le by virtue of ibid s 85(2) (see PARA 318 ante).

31 Ibid s 94(8)(b).

32 For these purposes, the appropriate proportion of the expenses mentioned in ibid s 94(8)(a) is such proportion of those expenses as is reasonably attributable to the use made of the property, services or facilities as mentioned in s 94(8)(b) (see the text and notes 30-31 supra): s 94(9).

33 le for the purposes of ibid s 94 (as amended) and Sch 10 (as amended).

34 le for the purposes of ibid ss 96-99 (see PARAS 326-328 post).

35 Ibid s 94(8).

36 As to such provision see PARA 325 post.

37 See the Political Parties, Elections and Referendums Act 2000 s 94(2)-(5); and PARA 754 post.

UPDATE

324 Limitation of controlled expenditure incurred by third parties

TEXT AND NOTES 9-11--2000 Act Sch 10 para 6 amended: SI 2007/1388.

NOTE 9--2000 Act Sch 10 para 1(1)(c), (ca) substituted for Sch 10 para 1(1)(c): SI 2007/1388.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/ (vi) Financial Controls on Recognised Third Parties at National Election Campaigns/A. CONTROLS AFFECTING EXPENDITURE BY RECOGNISED THIRD PARTIES IN NATIONAL PARLIAMENTARY ELECTION CAMPAIGNS/(C) Financial Limits on Controlled Expenditure by Third Parties/325. Limitation of controlled expenditure incurred by third parties where elections are combined.

325. Limitation of controlled expenditure incurred by third parties where elections are combined.

For the purposes of controlling expenditure incurred by third parties in national parliamentary election campaigns¹, special limits apply to controlled expenditure² incurred by or on behalf of a recognised third party³ in England⁴ or Wales⁵ at combined polls⁶ in circumstances where:

- 397 (1) separate limits would apply in relation to a general election to the European Parliament⁷ and in relation to an ordinary election to the Welsh Assembly⁸ and any part of the period which would be the relevant period⁹ for the purposes of the general election to the European Parliament falls within any part of the period which would be the relevant period¹⁰ for the purposes of the ordinary election to the Welsh Assembly¹¹;
- 398 (2) separate limits would apply in relation to a parliamentary general election¹², and in relation to a general election to the European Parliament¹³ or an ordinary election to the Welsh Assembly¹⁴ and one or more parliamentary general elections is or are pending¹⁵ during any part of the period in relation to which the limit imposed in relation to the European Parliament or an ordinary election to the Welsh Assembly would apply¹⁶;
- 399 (3) a limit under head (2) above would apply in relation to a relevant period for those purposes¹⁷ and another limit in relation to a general election to the European Parliament¹⁸ or an ordinary election to the Welsh Assembly¹⁹ applies in relation to a period which is not a period during which the parliamentary general election is pending but which either falls wholly within or ends at any time falling within the relevant period for the purposes of head (2) above²⁰;
- 400 (4) a period which is the relevant period for the purposes of a general election to the European Parliament²¹ or an ordinary election to the Welsh Assembly²² either falls wholly within, or ends at any time falling within, the period which would be the relevant period in relation to the parliamentary general election²³, and where head (2) above does not apply in connection with the those elections²⁴.

1 le for the purposes of the Political Parties, Elections and Referendums Act 2000 Pt VI (ss 85-100) (as amended).

2 For the meaning of 'controlled expenditure' in relation to third parties see PARA 318 ante.

3 For the meaning of 'recognised third party' see PARA 318 note 15 ante.

4 For the meaning of 'England' see PARA 13 note 1 ante.

5 For the meaning of 'Wales' see PARA 13 note 1 ante.

6 As to the combination of polls at a parliamentary general election and a European parliamentary general election see PARA 21 ante; and as to the combination of polls at elections for related areas see PARA 29 ante.

7 Ie under the Political Parties, Elections and Referendums Act 2000 s 94(1), Sch 10 para 4 (as amended) (see PARA 324 ante). As to European parliamentary general elections see PARA 224 ante.

8 Ie under *ibid* Sch 10 para 6 (as amended) (see PARA 324 ante). For the meaning of 'ordinary election to the Welsh Assembly' for these purposes see PARA 324 note 9 ante.

9 For the meaning of 'relevant period' for these purposes see PARA 324 note 13 ante.

10 For the meaning of 'relevant period' for these purposes see PARA 324 note 10 ante.

11 See the Political Parties, Elections and Referendums Act 2000 Sch 10 para 8.

12 Ie under *ibid* Sch 10 para 3 (see PARA 324 ante). As to parliamentary general elections see PARA 196 et seq ante. For the meaning of 'parliamentary election' see PARA 9 ante.

13 See note 7 *supra*.

14 See note 8 *supra*.

15 For these purposes, a parliamentary general election is pending during the period: (1) beginning with the date on which Her Majesty's intention to dissolve Parliament is announced in connection with a forthcoming parliamentary general election (Political Parties, Elections and Referendums Act 2000 Sch 10 para 1(2)(a)); and (2) ending with the date of the poll for that election (Sch 10 para 1(2)(b)). As to proclamations summoning a new Parliament see PARA 196 ante; and as to the date of the poll at a parliamentary general election or by-election see PARA 202 ante.

16 See *ibid* Sch 10 para 9.

17 Ie a relevant period for the purposes of *ibid* Sch 10 para 9(3) or a first relevant period for the purposes of Sch 10 para 9(5).

18 See note 7 *supra*.

19 See note 8 *supra*.

20 See the Political Parties, Elections and Referendums Act 2000 Sch 10 para 10.

21 See note 7 *supra*.

22 See note 8 *supra*.

23 See note 12 *supra*.

24 See the Political Parties, Elections and Referendums Act 2000 Sch 10 para 11.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/ (vi) Financial Controls on Recognised Third Parties at National Election Campaigns/A. CONTROLS AFFECTING EXPENDITURE BY RECOGNISED THIRD PARTIES IN NATIONAL PARLIAMENTARY ELECTION CAMPAIGNS/(D) Required Returns in respect of Controlled Expenditure by Third Parties/326. Returns in respect of controlled expenditure.

(D) REQUIRED RETURNS IN RESPECT OF CONTROLLED EXPENDITURE BY THIRD PARTIES

326. Returns in respect of controlled expenditure.

For the purposes of controlling expenditure incurred by third parties in national parliamentary election campaigns¹, where, during any regulated period², any controlled expenditure³ is incurred by or on behalf of a recognised third party⁴ in any relevant part or parts of the United Kingdom⁵ and that period ends⁶, the responsible person⁷ must prepare a return in respect of the controlled expenditure incurred by or on behalf of the third party during that period in that part or those parts of the United Kingdom⁸.

Such a return must specify the poll for the relevant election⁹ (or, as the case may be, the polls for the relevant elections) that took place during the regulated period in question, and must contain¹⁰:

- 401 (1) a statement of all payments made in respect of controlled expenditure incurred by or on behalf of the third party during that period in the relevant part or parts of the United Kingdom¹¹;
- 402 (2) a statement of all disputed claims¹² of which the responsible person is aware¹³;
- 403 (3) a statement of all the unpaid claims (if any) of which the responsible person is aware in respect of which an application has been made, or is about to be made, to a court for leave to pay the claim¹⁴;
- 404 (4) in a case where the third party either is not a registered party¹⁵ or is a minor party¹⁶, a statement of relevant donations¹⁷ received by the third party in respect of the relevant election or elections which complies with the requirement to report any donations received from persons who are permissible donors as well as those received from persons who are not permissible donors¹⁸.

Such a return must be accompanied by:

- 405 (a) all invoices or receipts relating to the payments mentioned in head (1) above¹⁹; and
- 406 (b) in the case of any controlled expenditure treated as incurred by the third party²⁰, any declaration falling to be made with respect to that expenditure²¹.

Where, however, any payments or claims falling to be dealt with in such a return have already been dealt with in an earlier return²², it is sufficient for the later return to deal with those payments or claims by specifying overall amounts in respect of them²³ and the requirement imposed by heads (a) and (b) above does not apply to any invoices, receipts or declarations which accompanied the earlier return and are specified as such in the later return²⁴.

The requirements as to what must be specified in such a return and what must accompany such a return²⁵ do not apply to any controlled expenditure incurred at any time before the third party became a recognised third party, but the return must be accompanied by a declaration made by the responsible person of the total amount of such expenditure incurred at any such time²⁶.

A report must be prepared by a qualified auditor²⁷ on such a return in respect of controlled expenditure where, during any regulated period, the controlled expenditure incurred by or on behalf of a recognised third party in the relevant part or parts of the United Kingdom exceeds £250,000²⁸.

1 le for the purposes of the Political Parties, Elections and Referendums Act 2000 Pt VI (ss 85-100) (as amended).

2 For the meaning of 'regulated period' see PARA 324 note 17 ante.

3 For the meaning of 'controlled expenditure' in relation to third parties see PARA 318 ante.

4 As to references to controlled expenditure incurred by or on behalf of a recognised third party during a regulated period see PARA 324 note 19 ante. For the meaning of 'recognised third party' see PARA 318 note 15 ante.

5 Political Parties, Elections and Referendums Act 2000 s 96(1)(a). For these purposes, a part of the United Kingdom is a relevant part if any limit imposed by s 94(1), Sch 10 (as amended) (see PARAS 324-325 ante) applies to controlled expenditure which is incurred in that part: s 94(10)(c). As to references to controlled expenditure being incurred in a part of the United Kingdom see PARA 324 note 3 ante. For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

6 Ibid s 96(1)(b).

7 For the meaning of 'responsible person' for these purposes see PARA 318 note 15 ante.

8 Political Parties, Elections and Referendums Act 2000 s 96(1).

Where s 96(1)(a) (see the text and notes 1-5 supra) applies in relation to a recognised third party and any regulated period: (1) the requirements as to the preparation of a return in respect of controlled expenditure falling within s 96(1)(a) has effect in relation to the third party despite the third party ceasing to be a recognised third party at or after the end of the regulated period by virtue of the lapse of the third party's notification under s 88(1) (see PARA 319 ante) (s 96(7)(a)); and (2) for the purposes of, or in connection with, the discharge of obligations of the responsible person under s 96, s 98 (delivery of returns in respect of controlled expenditure to the Electoral Commission: see PARA 327 post) and s 99 (declaration as to returns in respect of controlled expenditure: see PARA 328 post) in relation to any such return, references to the responsible person must be read as references to the person who was the responsible person in relation to the third party immediately before that notification lapsed (s 96(7)(b)).

9 For the meaning of 'relevant election' for these purposes see PARA 318 note 2 ante.

10 Political Parties, Elections and Referendums Act 2000 s 96(2). The Electoral Commission may by regulations prescribe a form of return which may be used for these purposes: ss 96(6), 160(1). Regulations made by the Commission are not statutory instruments and are not recorded in this work: see further PARA 42 ante. As to the Electoral Commission see PARA 31 et seq ante.

11 Ibid s 96(2)(a).

12 le within the meaning of ibid s 93 (see PARA 322 ante).

13 Ibid s 96(2)(b).

14 Ibid s 96(2)(c). The text refers to an application for leave to pay claims in respect of controlled expenditure made under s 92(4) (see PARA 323 ante).

15 For the meaning of 'registered party' for these purposes see PARA 32 note 3 ante.

16 For the meaning of 'minor party' see PARA 260 note 8 ante.

17 For these purposes, 'relevant donation' has the same meaning as in the Political Parties, Elections and Referendums Act 2000 s 95, Sch 11 (as amended) (see PARA 330 note 9 post): s 96(8).

18 Ibid s 96(2)(d). The text refers to the requirements of Sch 11 paras 10-11 (as amended) (see PARA 334 post).

19 Ibid s 96(3)(a).

20 Ie by virtue of ibid s 86 (as amended) (see PARA 318 ante).

21 Ibid s 96(3)(b). The text refers to a declaration falling to be made under s 86(6) (see PARA 318 ante).

22 Ibid s 96(4).

23 Ibid s 96(4)(a).

24 Ibid s 96(4)(b).

25 Ie ibid s 96(2)-(4) (see the text and notes 9-24 supra).

26 Ibid s 96(5).

27 In relation to the appointment of an auditor to prepare a report under ibid s 97(1) (or, as the case may be, an auditor so appointed), s 43(6), (7) (regulations made by the Electoral Commission with respect to the appointment of auditors: see CONSTITUTIONAL LAW AND HUMAN RIGHTS) and s 44 (as amended) (supplementary provisions about auditors: see CONSTITUTIONAL LAW AND HUMAN RIGHTS) apply as they apply in relation to the appointment of an auditor to carry out an audit under s 43 (annual audits: see CONSTITUTIONAL LAW AND HUMAN RIGHTS) (or, as the case may be, an auditor so appointed): s 97(2). For the meaning of 'qualified auditor' see PARA 303 note 5 ante. As to the general accounting requirements for registered parties see PARA 303 ante.

28 Ibid s 97(1).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/ (vi) Financial Controls on Recognised Third Parties at National Election Campaigns/A. CONTROLS AFFECTING EXPENDITURE BY RECOGNISED THIRD PARTIES IN NATIONAL PARLIAMENTARY ELECTION CAMPAIGNS/(D) Required Returns in respect of Controlled Expenditure by Third Parties/327. Delivery of returns in respect of controlled expenditure to the Electoral Commission.

327. Delivery of returns in respect of controlled expenditure to the Electoral Commission.

For the purposes of controlling expenditure incurred by third parties in national parliamentary election campaigns¹, where any return falls to be prepared² in respect of controlled expenditure³ incurred by or on behalf of a recognised third party⁴ during a regulated period⁵, and an auditor's report on it also falls to be prepared⁶, the responsible person⁷ must deliver the return to the Electoral Commission⁸, together with a copy of the auditor's report, within six months of the end of the regulated period⁹. In the case of any other such return which falls to be prepared¹⁰, the responsible person must deliver the return to the Commission within three months of the end of the regulated period¹¹.

Where, after the date on which a return is so delivered to the Commission, leave is given by a court for any claim to be paid¹², the responsible person must, within seven days after the payment, deliver to the Commission a return of any sums paid in pursuance of the leave accompanied by a copy of the order of the court giving the leave¹³.

The responsible person in the case of a recognised third party commits an offence if, without reasonable excuse, he fails to comply with the requirements as to any return or auditor's report¹⁴; and, notwithstanding any criminal liability of any person, the recognised third party is liable to a civil penalty¹⁵.

1 Ie for the purposes of the Political Parties, Elections and Referendums Act 2000 Pt VI (ss 85-100) (as amended).

2 Ie under *ibid* s 96 (see PARA 326 ante).

3 For the meaning of 'controlled expenditure' in relation to third parties see PARA 318 ante.

4 For the meaning of 'recognised third party' see PARA 318 note 15 ante.

5 Political Parties, Elections and Referendums Act 2000 s 98(1)(a). For the meaning of 'regulated period' see PARA 324 note 17 ante. As to references to controlled expenditure incurred by or on behalf of a recognised third party during a regulated period see PARA 324 note 19 ante.

6 *Ibid* s 98(1)(b). The text refers to an auditor's report on a return as to controlled expenditure which falls to be prepared under s 97(1) (see PARA 326 ante).

7 For the meaning of 'responsible person' for these purposes see PARA 318 note 15 ante.

8 As to the Electoral Commission see PARA 31 et seq ante.

9 Political Parties, Elections and Referendums Act 2000 s 98(1).

10 Ie under *ibid* s 96 (see PARA 326 ante).

11 *Ibid* s 98(2).

12 Ie leave to pay claims in respect of controlled expenditure made under *ibid* s 92(4) (see PARA 323 ante).

- 13 Ibid s 98(3).
- 14 See ibid s 98(4); and PARA 754 post.
- 15 See ibid s 147(1)(f), (2); and PARA 757 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/ (vi) Financial Controls on Recognised Third Parties at National Election Campaigns/A. CONTROLS AFFECTING EXPENDITURE BY RECOGNISED THIRD PARTIES IN NATIONAL PARLIAMENTARY ELECTION CAMPAIGNS/(D) Required Returns in respect of Controlled Expenditure by Third Parties/328. Declaration in respect of controlled expenditure.

328. Declaration in respect of controlled expenditure.

For the purposes of controlling expenditure incurred by third parties in national parliamentary election campaigns¹, each return in respect of controlled expenditure² incurred by or on behalf of a recognised third party³ during a regulated period⁴ must, when delivered to the Electoral Commission⁵, be accompanied by a declaration which is signed by the responsible person⁶ and which must state that the responsible person has examined the return in question⁷ and that, to the best of his knowledge and belief⁸, it is a complete and correct return as required by law⁹ and all expenses shown in it as paid have been paid by him or by a person authorised by him¹⁰. The declaration must also state, in a case where the third party either is not a registered party¹¹ or is a minor party¹², that all relevant donations¹³ recorded in the return as having been accepted by the third party are from permissible donors¹⁴, and that no other relevant donations have been accepted by the third party in respect of the relevant election or elections¹⁵ which took place during the regulated period¹⁶.

A person commits an offence if he knowingly or recklessly makes such a declaration falsely or if the requirements as to such a declaration are contravened at a time when he is the responsible person in the case of the recognised third party to which the return relates¹⁷.

1 For the purposes of the Political Parties, Elections and Referendums Act 2000 Pt VI (ss 85-100) (as amended).

2 For each return as to controlled expenditure which falls to be prepared under *ibid* s 96 (see PARA 326 ante). For the meaning of 'controlled expenditure' in relation to third parties see PARA 318 ante.

3 For the meaning of 'recognised third party' see PARA 318 note 15 ante.

4 For the meaning of 'regulated period' see PARA 324 note 17 ante. As to references to controlled expenditure incurred by or on behalf of a recognised third party during a regulated period see PARA 324 note 19 ante.

5 As to the Electoral Commission see PARA 31 et seq ante; and as to the delivery of returns to the Commission see PARA 327 ante.

6 Political Parties, Elections and Referendums Act 2000 ss 99(1), 160(1). For the meaning of 'responsible person' for these purposes see PARA 318 note 15 ante.

7 *Ibid* s 99(2)(a).

8 *Ibid* s 99(2)(b).

9 *Ibid* s 99(2)(b)(i).

10 *Ibid* s 99(2)(b)(ii). The text refers to a person authorised in writing by the responsible person under s 90 (as amended) (see PARA 320 ante).

11 For the meaning of 'registered party' for these purposes see PARA 32 note 3 ante.

12 For the meaning of 'minor party' see PARA 260 note 8 ante.

13 For these purposes, 'relevant donation' has the same meaning as in the Political Parties, Elections and Referendums Act 2000 s 95, Sch 11 (as amended) (see PARA 330 note 9 post): s 99(5).

14 Ibid s 99(3)(a).

15 For the meaning of 'relevant election' for these purposes see PARA 318 note 2 ante.

16 Political Parties, Elections and Referendums Act 2000 s 99(3)(b).

17 See ibid s 99(4); and PARA 754 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/ (vi) Financial Controls on Recognised Third Parties at National Election Campaigns/A. CONTROLS AFFECTING EXPENDITURE BY RECOGNISED THIRD PARTIES IN NATIONAL PARLIAMENTARY ELECTION CAMPAIGNS/(D) Required Returns in respect of Controlled Expenditure by Third Parties/329. Public inspection of returns in respect of controlled expenditure.

329. Public inspection of returns in respect of controlled expenditure.

For the purposes of controlling expenditure incurred by third parties in national parliamentary election campaigns¹, where the Electoral Commission² receives any return in respect of controlled expenditure³, it must⁴, as soon as reasonably practicable after receiving the return, make a copy of the return, and of any documents accompanying it, available for public inspection⁵ and keep any such copy available for public inspection for the period for which the return or other document is kept by it⁶. Where the Commission is for the time being required to make available for public inspection a copy of any document in this way, it must make the copy available for public inspection during ordinary office hours, either at the Commission's offices or at some convenient place appointed by it⁷, although the Commission may make other arrangements for members of the public to have access to the document's contents⁸. If requested to do so by any person, the Commission must supply him with a copy of the document or any part of it⁹; and the Commission may charge such reasonable fee as it may determine in respect of any inspection or access so allowed or any copy so supplied¹⁰. Where any such document is held by the Commission in electronic form, any copy so made available for public inspection or so supplied must be made available, or (as the case may be) supplied, in a legible form¹¹.

At the end of the period of two years beginning with the date when any such return or other document is received by the Commission¹², it may cause the return or other document to be destroyed¹³; but, if requested to do so by the responsible person¹⁴ in the case of the recognised third party¹⁵ concerned, it must arrange for the return or other document to be returned to that person¹⁶.

1 Ie for the purposes of the Political Parties, Elections and Referendums Act 2000 Pt VI (ss 85-100) (as amended).

2 As to the Electoral Commission see PARA 31 et seq ante.

3 Ie any return in respect of controlled expenditure which falls to be prepared under the Political Parties, Elections and Referendums Act 2000 s 96 (see PARA 326 ante). For the meaning of 'controlled expenditure' in relation to third parties see PARA 318 ante. As to the delivery of returns in respect of controlled expenditure to the Commission see PARA 327 ante.

4 Ibid ss 100(1), 160(1).

5 Ibid s 100(1)(a). However, if the return contains a statement of relevant donations in accordance with s 96(2)(d) (see PARA 326 ante), the Commission must secure that the copy of the statement made available for public inspection does not include, in the case of any donation by an individual, the donor's address: s 100(2). For the meaning of 'relevant donation' for these purposes see PARA 328 note 13 ante.

6 Ibid s 100(1)(b).

7 Ibid s 149(2), (6)(c).

8 Ibid s 149(3), (6)(c).

9 Ibid s 149(4), (6)(c).

- 10 Ibid s 149(5), (6)(c).
- 11 Ibid s 149(7).
- 12 Ibid s 100(3).
- 13 Ibid s 100(3)(a).
- 14 For the meaning of 'responsible person' for these purposes see PARA 318 note 15 ante.
- 15 For the meaning of 'recognised third party' see PARA 318 note 15 ante.
- 16 Political Parties, Elections and Referendums Act 2000 s 100(3)(b).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/ (vi) Financial Controls on Recognised Third Parties at National Election Campaigns/B. CONTROLS AFFECTING DONATIONS MADE TO RECOGNISED THIRD PARTIES IN NATIONAL PARLIAMENTARY ELECTION CAMPAIGNS/330. Meaning of 'donation' in relation to a recognised third party.

B. CONTROLS AFFECTING DONATIONS MADE TO RECOGNISED THIRD PARTIES IN NATIONAL PARLIAMENTARY ELECTION CAMPAIGNS

330. Meaning of 'donation' in relation to a recognised third party.

For the purposes of controlling donations to recognised third parties¹ which either are not registered parties² or are minor parties³, 'donation', in relation to such a recognised third party, means⁴: (1) any gift⁵ to the recognised third party of money or other property⁶; (2) any sponsorship provided in relation to the recognised third party⁷; (3) any money spent (otherwise than by or on behalf of the recognised third party) in paying any controlled expenditure⁸ incurred by or on behalf of the recognised third party⁹; (4) any money lent to the recognised third party otherwise than on commercial terms¹⁰; (5) the provision otherwise than on commercial terms of any property, services or facilities for the use or benefit of the recognised third party (including the services of any person)¹¹; (6) in the case of a recognised third party, other than an individual, any subscription or other fee paid for affiliation to, or membership of, the third party¹².

Where anything would be a donation both by virtue of head (2) above and by virtue of any other provision mentioned in head (1) or heads (3) to (6) above, head (2) above applies in relation to that donation to the exclusion of the other provision¹³. Any donation whose value is not more than £200 is disregarded¹⁴; and none of the following is to be regarded as a donation: (a) the provision by an individual of his own services which he provides voluntarily in his own time and free of charge¹⁵; (b) any interest accruing to a recognised third party in respect of any donation which is sent back by the responsible person¹⁶ in relation to the recognised third party¹⁷.

For these purposes, 'sponsorship' is provided in relation to a recognised third party if any money or other property is transferred to the recognised third party or to any person for the benefit of the recognised third party¹⁸ and the purpose (or one of the purposes) of the transfer is (or must, having regard to all the circumstances, reasonably be assumed to be)¹⁹ either to help the recognised third party with meeting, or to meet, to any extent any defined expenses²⁰ incurred or to be incurred by or on behalf of the recognised third party²¹ or to secure that to any extent any such expenses are not so incurred²². However, for these purposes: (i) the making of any payment in respect of any charge for admission to any conference, meeting or other event²³ or in respect of the purchase price of, or any other charge for access to, any publication²⁴; or (ii) the making of any payment in respect of the inclusion of an advertisement in any publication where the payment is made at the commercial rate payable for the inclusion of such an advertisement in any such publication²⁵, do not constitute sponsorship for these purposes²⁶.

1 For the meaning of 'recognised third party' see PARA 318 note 15 ante.

2 For the meaning of 'registered party' for these purposes see PARA 32 note 3 ante.

3 Political Parties, Elections and Referendums Act 2000 s 95, Sch 11 para 1(1), (2). Accordingly, for the purposes of Sch 11 (as amended), 'recognised third party' does not include a recognised third party which is a

registered party other than a minor party (Sch 11 para 1(3)); and 'donation' is to be construed in accordance with Sch 11 paras 2-4 (see the text and notes 4-26 *infra*): Sch 11 para 1(5). For the meaning of 'minor party' see PARA 260 note 8 *ante*.

4 Ibid Sch 11 para 2(1). This provision is subject to Sch 11 para 4 (see the text and notes 14-17 *infra*).

5 For these purposes, 'gift' includes bequest (and thus any form of testamentary disposition): *ibid* s 160(1), Sch 11 para 2(6)(b). For these purposes, any reference to anything being given or transferred to a recognised third party includes a reference to its being given or transferred either directly or indirectly through any third person: Sch 11 para 2(6)(a). Any property given or transferred to any officer, member, trustee or agent of a third party in his capacity as such (and not for his own use or benefit) is to be regarded as given or transferred to the third party (and references to donations received by a recognised party accordingly include donations so given or transferred): Sch 11 para 2(5). As to the meaning of 'property' for these purposes see PARA 31 note 8 *ante*.

6 Ibid Sch 11 para 2(1)(a). Where: (1) any money or other property is transferred to a recognised third party pursuant to any transaction or arrangement involving the provision by or on behalf of the recognised third party of any property, services or facilities or other consideration of monetary value (Sch 11 para 2(2)(a)); and (2) the total value in monetary terms of the consideration so provided by or on behalf of the recognised third party is less than the value of the money or (as the case may be) the market value of the property transferred (Sch 11 para 2(2)(b)), the transfer of the money or property constitute a gift to the recognised third party for the purposes of Sch 11 para 2(1)(a), but subject to Sch 11 para 2(4) (see the text and note 13 *infra*) (Sch 11 para 2(2)). The value of any donation falling within Sch 11 para 2(1)(a), other than money, must be taken to be the market value of the property in question: Sch 11 para 5(1). However, where Sch 11 para 2(1)(a) applies by virtue of Sch 11 para 2(2), the value of the donation must be taken to be the difference between: (a) the value of the money (or the market value of the property) in question (Sch 11 para 5(2)(a)); and (b) the total value in monetary terms of the consideration provided by or on behalf of the recognised third party (Sch 11 para 5(2)(b)). For the meaning of 'market value' see PARA 304 note 26 *ante*.

7 Ibid Sch 11 para 2(1)(b). For these purposes, sponsorship provided in relation to the recognised third party is defined by Sch 11 para 3 (see the text and notes 18-26 *infra*): Sch 11 para 2(1)(b). The value of any donation falling within Sch 11 para 2(1)(b) is taken to be the value of the money or (as the case may be) the market value of the property, transferred as mentioned in Sch 11 para 3(1) (see the text and notes 18-22 *infra*); and accordingly any value in monetary terms of any benefit conferred on the person providing the sponsorship in question must be disregarded: Sch 11 para 5(3).

8 For the meaning of 'controlled expenditure' in relation to third parties see PARA 318 *ante*.

9 Political Parties, Elections and Referendums Act 2000 Sch 11 para 2(1)(c). A donation to a recognised third party for the purpose of meeting controlled expenditure incurred by or on behalf of the recognised third party is referred to as a 'relevant donation': Sch 11 para 1(4).

10 Ibid Sch 11 para 2(1)(d). In determining, for these purposes, whether any money lent to a recognised third party is so lent otherwise than on commercial terms (Sch 11 para 2(3)(a)), regard must be had to the total value in monetary terms of the consideration provided by or on behalf of the recognised third party in respect of the loan or the provision of the property, services or facilities (Sch 11 para 2(3)). The value of any donation falling within Sch 11 para 2(1)(d) or Sch 11 para 2(1)(e) (see head (5) in the text) is taken to be the amount representing the difference between: (1) the total value in monetary terms of the consideration that would have had to be provided by or on behalf of the recognised third party in respect of the loan or the provision of the property, services or facilities if the loan had been made or the property, services or facilities had been provided, on commercial terms (Sch 11 para 5(4)(a)); and (2) the total value in monetary terms of the consideration, if any, actually so provided by or on behalf of the recognised third party (Sch 11 para 5(4)(b)). Where such a donation confers an enduring benefit on the donee over a particular period, the value of the donation is determined at the time when it is made, but must be so determined by reference to the total benefit accruing to the donee over that period: Sch 11 para 5(5).

11 Ibid Sch 11 para 2(1)(e). In determining, for these purposes, whether any property, services or facilities provided for the use or benefit of a recognised third party is or are so provided otherwise than on commercial terms (Sch 11 para 2(3)(b)), regard must be had to the total value in monetary terms of the consideration provided by or on behalf of the recognised third party in respect of the loan or the provision of the property, services or facilities (Sch 11 para 2(3)).

12 Ibid Sch 11 para 2(1)(f).

13 Ibid Sch 11 para 2(4). In the circumstances mentioned in the text, the general provisions as to sponsorship (see the text and notes 18-26 *infra*) apply as well as the provision mentioned in head (2) in the text: Sch 11 para 2(4).

14 Ibid Sch 11 para 4(2). The value is determined in accordance with Sch 11 para 5 (see notes 6-7, 10 supra). The Secretary of State may by order vary the sum for the time being specified in Sch 11 (as amended): see s 155; and PARA 304 note 36 ante. At the date at which this volume states the law no such order had been made. As to the Secretary of State see PARA 2 ante.

15 Ibid Sch 11 para 4(1)(a).

16 For the meaning of 'responsible person' for these purposes see PARA 318 note 15 ante.

17 Political Parties, Elections and Referendums Act 2000 Sch 11 para 4(1)(b). The text refers to a donation which is dealt with in accordance with s 56(2)(a), (b), as applied by Sch 11 para 7 (see PARA 332 post).

18 Ibid Sch 11 para 3(1)(a).

19 Ibid Sch 11 para 3(1)(b).

20 For this purpose, 'defined expenses' means expenses in connection with: (1) any conference, meeting or other event organised by or on behalf of the recognised third party (ibid Sch 11 para 3(2)(a)); (2) the preparation, production or dissemination of any publication by or on behalf of the recognised third party (Sch 11 para 3(2)(b)); or (3) any study or research organised by or on behalf of the recognised third party (Sch 11 para 3(2)(c)). The Secretary of State may by order made on the recommendation of the Electoral Commission amend Sch 11 para 3(2) or Sch 11 para 3(3) (see the text and notes 23-26 infra): s 160(1), Sch 11 para 3(4). For this purpose, 'publication' means a publication made available in whatever form and by whatever means, whether or not to the public at large or any section of the public: Sch 11 para 3(5). As to the Electoral Commission see PARA 31 et seq ante.

21 Ibid Sch 11 para 3(1)(b)(i).

22 Ibid Sch 11 para 3(1)(b)(ii).

23 Ibid Sch 11 para 3(3)(a)(i). See note 20 supra.

24 Ibid Sch 11 para 3(3)(a)(ii). See note 20 supra.

25 Ibid Sch 11 para 3(3)(b). See note 20 supra.

26 Ibid Sch 11 para 3(3). See note 20 supra.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/ (vi) Financial Controls on Recognised Third Parties at National Election Campaigns/B. CONTROLS AFFECTING DONATIONS MADE TO RECOGNISED THIRD PARTIES IN NATIONAL PARLIAMENTARY ELECTION CAMPAIGNS/331. Restrictions on recognised third parties accepting certain donations.

331. Restrictions on recognised third parties accepting certain donations.

For the purposes of controlling donations to recognised third parties¹ which either are not registered parties² or are minor parties³, a relevant donation⁴ received by a recognised third party must not be accepted if: (1) the person by whom the donation would be made is not, at the time of its receipt by the recognised third party, a permissible donor⁶; or (2) the recognised third party is, whether because the donation is given anonymously or by reason of any deception or concealment or otherwise, unable to ascertain the identity of the person offering the donation⁷.

For these purposes, where any person (the 'principal donor') causes an amount (the 'principal donation') to be received by a recognised third party by way of a relevant donation either on behalf of himself and one or more other persons⁸ or on behalf of two or more other persons⁹, then for the purposes of the provisions relating to the controls on donations received by third parties¹⁰, each individual contribution by such person of more than £200 is treated as if it were a separate donation received from that person¹¹. Also, where any person (the 'agent') causes an amount to be received by a recognised third party by way of a donation on behalf of another person (the 'donor')¹², and the amount of the donation is more than £200¹³, the agent must ensure that, at the time when the donation is received by the recognised third party, the responsible person is given all such details in respect of the donor as are required to be included in donation reports in respect of a donation from a permissible donor¹⁴. A person commits an offence if, without reasonable excuse, he fails to comply with the provisions which impose controls on donations to recognised third parties made through other persons or through agents¹⁵.

1 For the meaning of 'recognised third party' see PARA 318 note 15 ante; and see PARA 330 note 3 ante.

2 For the meaning of 'registered party' for these purposes see PARA 32 note 3 ante.

3 Political Parties, Elections and Referendums Act 2000 s 95, Sch 11 para 1(1), (2). For the meaning of 'minor party' see PARA 260 note 8 ante.

4 For the meaning of 'relevant donation' in respect of meeting controlled expenditure incurred by or on behalf of a recognised third party see PARA 330 note 9 ante. In the case of relevant donations received by a recognised Gibraltar third party for the purposes of European parliamentary elections taking place in the combined region see *ibid* Sch 11 para 6(1A), (2A), (3A) (added by the European Parliamentary Elections (Combined Region and Controlled Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, Schedule paras 1, 37(a)-(c)). As to the combined region see PARA 76 ante.

5 Political Parties, Elections and Referendums Act 2000 Sch 11 para 6(1).

6 *Ibid* Sch 11 para 6(1)(a). The text refers to a permissible donor falling within s 54(2) (as amended) (see PARA 293 ante). For these purposes, any relevant donation received by a recognised third party which is an exempt trust donation is regarded as a relevant donation received by the recognised third party from such a permissible donor: Sch 11 para 6(2). However, any relevant donation received by a recognised third party from a trustee of any property (in his capacity as such) is regarded as being from a person who is not such a permissible donor if that donation is not: (1) an exempt trust donation (Sch 11 para 6(3)(a)); or (2) a relevant donation transmitted by the trustee to the recognised third party on behalf of beneficiaries under the trust who are either persons who, at the time of its receipt by the recognised third party, are such permissible donors or

the members of an unincorporated association which at that time is such a permissible donor (Sch 11 para 6(3)(b)). For the meaning of 'exempt trust donation' see PARA 293 note 7 ante.

7 Ibid Sch 11 para 6(1)(b).

8 Ibid Sch 11 para 6(4)(a).

9 Ibid Sch 11 para 6(4)(b).

10 Ie for the purposes of ibid Sch 11 (as amended).

11 Ibid Sch 11 para 6(4). In relation to each such separate donation, the principal donor must ensure that, at the time when the principal donation is received by the recognised third party, the responsible person in relation to the third party concerned is given: (1) except in the case of a donation which the principal donor is treated as making, all such details in respect of the person treated as making the donation as are required by virtue of Sch 11 para 10(1)(c) (see PARA 334 post) to be given in respect of the donor of a donation from a permissible donor (Sch 11 para 6(5)(a)); and (2) in any case, all such details in respect of the donation as are required by virtue of Sch 11 para 10(1)(a) (see PARA 334 post) (Sch 11 para 6(5)(b)). For the meaning of 'responsible person' for these purposes see PARA 318 note 15 ante. The Secretary of State may by order vary the sum for the time being specified in Sch 11 (as amended): see s 155; and PARA 304 note 36 ante. At the date at which this volume states the law no such order had been made. As to the Secretary of State see PARA 2 ante.

12 Ibid Sch 11 para 6(6)(a).

13 Ibid Sch 11 para 6(6)(b).

14 Ibid Sch 11 para 6(6). The text refers to the details in respect of the donor that are required to be reported by virtue of Sch 11 para 10(1)(c) (see PARA 334 post).

15 See ibid Sch 11 para 6(7); and PARA 755 post. The text refers to failure to comply with Sch 11 para 6(5), (6) (see the text and notes 11-14 supra).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/ (vi) Financial Controls on Recognised Third Parties at National Election Campaigns/B. CONTROLS AFFECTING DONATIONS MADE TO RECOGNISED THIRD PARTIES IN NATIONAL PARLIAMENTARY ELECTION CAMPAIGNS/332. Acceptance or return of donations made to a recognised third party.

332. Acceptance or return of donations made to a recognised third party.

The provisions which require a registered party¹ to: (1) take all reasonable steps to identify a donor in order to ascertain whether he is a permissible donor²; and (2) where a donor is unidentifiable or impermissible, to return the donation to its source or to send it to the Electoral Commission³ or subject it to forfeiture on the application of the Commission⁴, apply, subject to minor modification, for the purposes of controlling donations to recognised third parties⁵ in relation to any relevant donation⁶ received by a recognised third party and in relation to the recognised third party, as they apply in relation to any donation received by a registered party and in relation to the registered party⁷.

Accordingly, where a donation is received by a recognised third party⁸ and it is not immediately decided that the recognised third party should (for whatever reason) refuse the donation⁹, all reasonable steps must be taken forthwith by or on behalf of the third party to verify (or, so far as any of the following is not apparent, ascertain) the identity of the donor, whether he is a permissible donor, and (if that appears to be the case) all such details in respect of the donor as are required to be included in donation reports¹⁰. If a recognised third party receives a donation which it is prohibited from accepting¹¹, or which it is decided that the recognised third party should for any other reason refuse¹², then the donation, or a payment of an equivalent amount, must be sent back to the person who made the donation or any person appearing to be acting on his behalf¹³ (unless the third party is unable to ascertain the identity of the person by whom the donation would be made¹⁴, in which case the required steps¹⁵ must be taken in relation to the donation)¹⁶, within the period of 30 days beginning with the date when the donation is received by the party¹⁷. Unless the donation is so returned (or such steps are taken in relation to the donation) within the period of 30 days so mentioned¹⁸, and unless a record can be produced of the receipt of the donation and of the return of the donation or the equivalent amount (or of the required steps being taken in relation to the donation, as the case may be)¹⁹ then, for these purposes, a donation received by a recognised third party is taken to have been accepted by that third party²⁰.

In England and Wales²¹, a magistrates' court may, on an application made by the Electoral Commission, order the forfeiture by the recognised third party of an amount equal to the value of any donation²² received by a recognised third party which²³ the third party is prohibited from accepting²⁴ but which has been accepted by that third party²⁵. The standard of proof in proceedings on such an application is that applicable to civil proceedings²⁶; and such an order may be made whether or not proceedings are brought against any person for an offence connected with the donation²⁷. Where such an order (a 'forfeiture order') is made by a magistrates' court²⁸, the recognised third party may, before the end of the period of 30 days beginning with the date on which any forfeiture order is made, appeal to the Crown Court²⁹. Such an appeal is by way of a rehearing; and the court hearing such an appeal may make such order as it considers appropriate³⁰. The standard of proof in relation to a rehearing on such an appeal remains that applicable to civil proceedings³¹; and an appropriate order may be made whether or not proceedings are brought against any person for an offence connected with the donation³². Any amount forfeited by an order made either on application or on appeal³³ must be paid into the Consolidated Fund³⁴, although this does not apply: (a) where an appeal is made³⁵, before the appeal is determined or otherwise disposed of³⁶; and (b) in any other case, before

the end of the period of 30 days beginning with the date on which any forfeiture order is made³⁷.

1 For the meaning of 'registered party' for these purposes see PARA 32 note 3 ante.

2 Ie the Political Parties, Elections and Referendums Act 2000 s 56 (see the text and notes 8-20 infra). Nothing in Pt IV (ss 50-71) (as amended) affects minor parties (as to which see PARA 260 note 8 ante). For the meaning of 'permissible donor' for these purposes see PARA 331 note 6 ante.

3 Ie *ibid* s 57 (see note 15 infra). See also note 2 supra. As to the Electoral Commission see PARA 31 et seq ante.

4 Ie *ibid* s 58 (as amended) (see the text and notes 21-27 infra). The registered party may appeal against a forfeiture order (see s 59 (as amended); and the text and notes 28-32 infra); and rules of court under s 60 (as amended) (see note 25 and the text and notes 33-37 infra) may provide for the procedure on application or appeal under ss 58, 59 (as amended). See also note 2 supra.

5 Ie for the purposes of *ibid* s 95, Sch 11 (as amended) (see PARA 330 et seq ante). For the meaning of 'recognised third party' see PARA 318 note 15 ante; and see PARA 330 note 3 ante.

6 For the meaning of 'relevant donation' in respect of meeting controlled expenditure incurred by or on behalf of a recognised third party see PARA 330 note 9 ante.

7 Political Parties, Elections and Referendums Act 2000 Sch 11 para 7(1).

Accordingly, in the application of ss 56-60 (as amended) for these purposes: (1) s 56(1) has effect as if the reference to the particulars relating to a donor which would be required to be included in a donation report by virtue of ss 62, 63, Sch 6 para 2 (as amended) (identity of donors (quarterly reports): see CONSTITUTIONAL LAW AND HUMAN RIGHTS), if the donation were a recordable donation within the meaning of Sch 6 (as amended), were construed as a reference to the particulars which are required to be included in a return by virtue of Sch 11 para 10(1)(c) (see PARA 334 post); and (2) s 56(3), (4) has effect as if any reference to the treasurer of the party were construed as a reference to the responsible person: Sch 11 para 7(2). For the meaning of 'responsible person' for these purposes see PARA 318 note 15 ante.

8 *Ibid* s 56(1)(a) (as applied: see the text and notes 1-7 supra).

9 *Ibid* s 56(1)(b) (as applied: see the text and notes 1-7 supra). Where a donation is received by a recognised third party in the form of an amount paid into any account held by that third party with a financial institution, it is taken for these purposes to have been received by that third party at the time when the third party is notified in the usual way of the payment into the account: s 56(6) (as so applied).

10 *Ibid* s 56(1) (as applied and modified: see the text and notes 1-7 supra). The text refers to the details in respect of the donor as are required to be reported by virtue of Sch 11 para 10(1)(c) (see PARA 334 post).

11 Ie by virtue of *ibid* s 54(1), which is in similar terms to Sch 11 para 6(1) (see PARA 331 ante).

12 *Ibid* s 56(2) (as applied: see the text and notes 1-7 supra).

13 *Ibid* s 56(2)(a) (as applied: see the text and notes 1-7 supra). Where this provision applies in relation to a donation and the donation is not dealt with accordingly, the responsible person is guilty of an offence: see s 56(3) (as applied and modified); and PARA 755 post.

14 Ie unless the donation falls within *ibid* s 54(1)(b) (as applied), which is in similar terms to Sch 11 para 6(1) (b) (see PARA 331 ante).

15 For these purpose, the required steps are as follows: (1) if the donation was transmitted by a person other than the donor, and the identity of that person is apparent, to return the donation to that person (*ibid* s 57(1)(a) (as applied: see the text and notes 1-7 supra)); (2) if head (1) supra does not apply but it is apparent that the donor has, in connection with the donation, used any facility provided by an identifiable financial institution, to return the donation to that institution (s 57(1)(b) (as so applied)); and (3) in any other case, to send the donation to the Electoral Commission (s 57(1)(c) (as so applied), s 160(1)). Any reference to returning or sending a donation to any person or body includes a reference to sending a payment of an equivalent amount to that person or body (s 57(2) (as so applied)); and any amount sent to the Electoral Commission in pursuance of head (3) supra must be paid by it into the Consolidated Fund (s 57(3) (as so applied), s 160(1)). As to the Consolidated Fund see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 711 et seq; PARLIAMENT vol 78 (2010) PARAS 1028-1031.

16 Ibid s 56(2)(b) (as applied: see the text and notes 1-7 supra). Where this provision applies in relation to a donation and the donation is not dealt with accordingly, the responsible person is guilty of an offence: see s 56(4) (as applied and modified); and PARA 755 post.

17 Ibid s 56(2) (as applied: see the text and notes 1-7 supra).

18 Ibid s 56(5)(a) (as applied: see the text and notes 1-7 supra).

19 Ibid s 56(5)(b) (as applied: see the text and notes 1-7 supra).

20 Ibid s 56(5) (as applied: see the text and notes 1-7 supra).

21 For the meanings of 'England' and 'Wales' see PARA 13 note 1 ante.

22 Political Parties, Elections and Referendums Act 2000 s 58(2), (5)(a) (as applied: see the text and notes 1-7 supra), s 160(1).

23 Ie by virtue of ibid s 54(1)(a), (b) (as applied), which is in similar terms to Sch 11 para 6(1)(a), (b) (see PARA 331 ante).

24 Ibid s 58(1)(a) (as applied: see the text and notes 1-7 supra).

25 Ibid s 58(1)(b) (as applied: see the text and notes 1-7 supra).

In relation to courts in any part of the United Kingdom, and without prejudice to the generality of any existing power to make rules, provision may be made by rules of court with respect to applications or appeals to any court under s 58 (as applied) or s 59 (as applied) (see the text and notes 28-32 infra), for the giving of notice of such applications or appeals to persons affected, and generally with respect to the procedure under those statutory provisions before any court: s 60(1), (2) (as so applied). In the case of a registered party which is not a body corporate: (1) proceedings under s 58 (as applied) or s 59 (as applied) must be brought against or by the party in its own name (and not in that of any of its members) (s 60(5)(a) (as so applied)); for the purposes of any such proceedings any rules of court relating to the service of documents apply as if the party were a body corporate (s 60(5)(b) (as so applied)); and (3) any amount forfeited by an order under s 58 (as applied) or s 59 (as applied) must be paid out of the funds of the party (s 60(5)(c) (as so applied)). In Acts passed after 1889, in relation to any court, 'rules of court' means rules made by the authority having power to make rules or orders regulating the practice of that court: see the Interpretation Act 1978 Sch 1, Sch 2 para 4(1)(a); and STATUTES vol 44(1) (Reissue) PARA 1386.

26 Political Parties, Elections and Referendums Act 2000 s 58(3) (as applied: see the text and notes 1-7 supra). See note 25 supra.

27 Ibid s 58(4) (as applied: see the text and notes 1-7 supra). See note 25 supra.

28 Ibid s 59(1) (as applied: see the text and notes 1-7 supra). See note 25 supra.

29 Ibid s 59(2) (as applied: see the text and notes 1-7 supra). See note 25 supra.

30 Ibid s 59(3) (as applied: see the text and notes 1-7 supra). See note 25 supra.

31 Ibid s 58(3) (as applied: see the text and notes 1-7 supra), applied by s 59(4) (as so applied). See note 25 supra.

32 Ibid s 58(4) (as applied: see the text and notes 1-7 supra); applied by s 59(4) (as so applied). See note 25 supra.

33 Ie an order under ibid s 58 (as applied) (see the text and notes 21-27 supra) or s 59 (as applied) (see the text and notes 28-32 supra).

34 Ibid s 60(3) (as applied: see the text and notes 1-7 supra).

35 Ie under ibid s 59(2) (as applied) (see the text and note 29 supra).

36 Ibid s 60(4)(a) (as applied: see the text and notes 1-7 supra).

37 Ibid ss 59(2), 60(4)(b) (as applied: see the text and notes 1-7 supra).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/ (vi) Financial Controls on Recognised Third Parties at National Election Campaigns/B. CONTROLS AFFECTING DONATIONS MADE TO RECOGNISED THIRD PARTIES IN NATIONAL PARLIAMENTARY ELECTION CAMPAIGNS/333. Evasion of restrictions on donations made to a recognised third party.

333. Evasion of restrictions on donations made to a recognised third party.

The provisions which create offences concerned with the evasion of restrictions on donations to a registered party¹ apply for the purposes of controlling donations to a recognised third party², subject to minor modification³.

1 Ie the Political Parties, Elections and Referendums Act 2000 s 61 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS). For the meaning of 'registered party' for these purposes see PARA 32 note 3 ante.

2 Ie for the purposes of *ibid* s 95, Sch 11 (as amended) (see PARA 330 et seq ante). For the meaning of 'recognised third party' see PARA 318 note 15 ante; and see PARA 330 note 3 ante.

3 See *ibid* Sch 11 para 8; and PARA 755 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/ (vi) Financial Controls on Recognised Third Parties at National Election Campaigns/B. CONTROLS AFFECTING DONATIONS MADE TO RECOGNISED THIRD PARTIES IN NATIONAL PARLIAMENTARY ELECTION CAMPAIGNS/334. Statement of relevant donations received by a recognised third party.

334. Statement of relevant donations received by a recognised third party.

For the purposes of controlling donations to recognised third parties¹ which are not registered parties² or are minor parties³, the recognised third party must include, in any return required to be prepared in respect of controlled expenditure⁴, a statement of relevant donations⁵ received in respect of the relevant election or elections⁶ which complies with the requirement to report any donations received from persons who are permissible donors as well as those received from persons who are not permissible donors⁷.

Accordingly, in relation to each relevant donation accepted by the recognised third party where the value of the donation: (1) is more than £5,000⁸; or (2) when added to the value of any other donation or donations made by the same donor (whether or not falling within head (1) above), is more than that amount⁹, the statement must record¹⁰: (a) the amount of the donation (if a donation of money, in cash or otherwise) or (in any other case) the nature of the donation and its value¹¹; (b) the date when the donation was accepted by the recognised third party¹²; (c) the information about the donor which is, in connection with recordable donations to registered parties, required to be recorded in donation reports¹³; (d) the total value of any relevant donations, other than those falling within head (1) or head (2) above, which are accepted by the recognised third party¹⁴; and (e) such other information as may be required by regulations made by the Electoral Commission¹⁵.

Where a relevant donation has been received from a person who is not a permissible donor (an 'impermissible donor')¹⁶, the statement must record: (i) the name and address of the donor¹⁷; (ii) the amount of the donation (if a donation of money, in cash or otherwise) or (in any other case) the nature of the donation and its value¹⁸; (iii) the date when the donation was received, and the date when, and the manner in which, it was dealt with in accordance with the provisions which regulate the handling of relevant donations made by impermissible donors¹⁹; (iv) such other information as is required by regulations made by the Electoral Commission²⁰. Where a relevant donation has been received from a person whose identity cannot be ascertained²¹, the statement must record: (A) details of the manner in which the donation was made²²; (B) the amount of the donation (if a donation of money, in cash or otherwise) or (in any other case) the nature of the donation and its value²³; (C) the date when the donation was received, and the date when and the manner in which it was dealt with in accordance with the provisions which regulate the handling of relevant donations made by persons whose identity cannot be ascertained²⁴; and (D) such other information as is required by regulations made by the Electoral Commission²⁵.

1 For the meaning of 'recognised third party' see PARA 318 note 15 ante; and see PARA 330 note 3 ante.

2 For the meaning of 'registered party' for these purposes see PARA 32 note 3 ante.

3 Political Parties, Elections and Referendums Act 2000 s 95, Sch 11 para 1(1), (2). For the meaning of 'minor party' see PARA 260 note 8 ante.

4 Ie any return required to be prepared under *ibid* s 96 (see PARA 326 ante).

5 For the meaning of 'relevant donation' in respect of controlled expenditure incurred by or on behalf of a recognised third party see PARA 330 note 9 ante.

6 le within the meaning of the Political Parties, Elections and Referendums Act 2000 s 96 (see PARA 326 ante).

7 Ibid Sch 11 para 9. The text refers to the requirement for a statement of relevant donations to comply with Sch 11 paras 10-11 (as amended) (see the text and notes 8-25 infra). For the meaning of 'permissible donor' for these purposes see PARA 331 note 6 ante.

8 Ibid Sch 11 para 10(1), (2)(a). The Secretary of State may by order vary the sum for the time being specified in Sch 11 (as amended): see s 155; and PARA 304 note 36 ante. At the date at which this volume states the law no such order had been made. As to the Secretary of State see PARA 2 ante.

9 Ibid Sch 11 para 10(1), (2)(b).

10 Ibid Sch 11 para 10(1).

11 Ibid Sch 11 para 10(1)(a). The value of the donation is determined in accordance with Sch 11 para 5 (see PARA 330 notes 6-7, 10 ante).

12 Ibid Sch 11 para 10(1)(b). As to the acceptance of donations made to a recognised third party see PARA 332 ante.

13 Ibid Sch 11 para 10(1)(c). The text refers to information about the donor which is required to be recorded in donation reports by virtue of ss 62, 63, Sch 6 para 2 (as amended) (identity of donors (quarterly reports): see CONSTITUTIONAL LAW AND HUMAN RIGHTS). In the case of a donation made by an individual who has an anonymous entry in an electoral register (within the meaning of the Representation of the People Act 1983: see PARA 174 ante), if the statement of relevant donations states that the recognised third party has seen evidence, of such description as is prescribed by the Secretary of State in regulations, that an individual donor has such an anonymous entry, the statement must be accompanied by a copy of the evidence: Political Parties, Elections and Referendums Act 2000 Sch 11 para 10(4) (added by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 24, 29). Accordingly, the evidence prescribed for the purposes of the Political Parties, Elections and Referendums Act 2000 Sch 11 para 10(4) (as added) is a certificate of anonymous registration issued pursuant to the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 45G (as added) (as to which see PARA 160 ante): Political Donations and Regulated Transactions (Anonymous Electors) (England and Wales) Regulations 2006, SI 2006/2974, reg 3. Although the Queen's Printers copy refers to 'a certificate of anonymous registration issued pursuant to the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 45E', that regulation provides for the supply of the record of anonymous entries to the security services (see PARA 182 ante) and reg 45G (as added) provides for the issue of a certificate of anonymous registration. Accordingly, a reference to reg 45G (as added) is preferred here. As to the Secretary of State see PARA 2 ante; and as to the making of regulations under the Political Parties, Elections and Referendums Act 2000 generally see PARA 31 note 2 ante.

14 Political Parties, Elections and Referendums Act 2000 Sch 11 para 10(3)(a).

15 Ibid s 160(1), Sch 11 para 10(3)(b). Regulations made by the Electoral Commission are not statutory instruments and are not recorded in this work: see further PARA 42 ante. As to the Electoral Commission see PARA 31 et seq ante.

16 Ibid Sch 11 para 11(1), (2). The text refers to the circumstance where Sch 11 para 6(1)(a) applies (see PARA 331 ante).

17 Ibid Sch 11 para 11(2)(a).

18 Ibid Sch 11 para 11(2)(b). As to the ascertainment of value for these purposes see note 11 supra.

19 Ibid Sch 11 para 11(2)(c), (3). The text refers to dealing with the donation in accordance with s 56(2)(a), as it is applied for the purposes of controlling donations to recognised third parties (see PARA 332 ante).

20 Ibid s 160(1), Sch 11 para 11(2)(d). See note 15 supra.

21 Ibid Sch 11 para 11(3). The text refers to the circumstance where Sch 11 para 6(1)(b) applies (see PARA 331 ante).

22 Ibid Sch 11 para 11(3)(a).

23 Ibid Sch 11 para 11(3)(b). As to the ascertainment of value for these purposes see note 11 supra.

24 Ibid Sch 11 para 11(3)(c). The text refers to dealing with the donation in accordance with s 56(2)(b), as it is applied for the purposes of controlling donations to recognised third parties (see PARA 332 ante).

25 Ibid Sch 11 para 11(3)(d). See note 15 supra.

UPDATE

334 Statement of relevant donations received by a recognised third party

NOTE 13--SI 2006/2974 replaced: Political Donations and Regulated Transactions (Anonymous Electors) Regulations 2008, SI 2008/2869.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(vii) Publicity at Elections/335. Right of candidates at election to send election address post free.

(vii) Publicity at Elections

335. Right of candidates at election to send election address post free.

Subject to such reasonable terms and conditions as the universal service provider¹ concerned may specify², a candidate³ at a parliamentary election⁴, an election to the National Assembly for Wales⁵ or a European parliamentary election⁶ is entitled to send free of any charge for postage which would otherwise be made by a universal service provider⁷ either: (1) one unaddressed postal communication, containing matter relating to the election only and not exceeding 60 grammes in weight, to each place⁸ which, in accordance with those terms and conditions, constitutes a delivery point for these purposes⁹; or (2) one such postal communication addressed to each elector¹⁰. He is also, subject as mentioned above, entitled to send free of any such charge for postage as mentioned above to each person entered in the list of proxies¹¹ for the election one such communication as mentioned above for each appointment in respect of which that person is so entered¹². A person is not deemed to be a candidate for this purpose unless he is shown as standing nominated in the statement of persons nominated¹³, but until the publication of that statement any person who declares himself to be a candidate¹⁴ is entitled to exercise this right of free postage if he gives such security as may be required by the universal service provider concerned for the payment of postage should he not be shown as standing nominated¹⁵.

Each candidate at a Greater London Authority ordinary election¹⁶ or at a local authority mayoral election¹⁷ is entitled to have an election address prepared on behalf of the candidate included in a booklet of election addresses prepared by the appropriate returning officer and delivered by that officer to each person entitled to vote at that election either at the expense of the Greater London Authority (in the case of an Authority election) or (otherwise) at the expense of the authority for whose electoral area the election is held¹⁸.

A defamatory statement published by or on behalf of a candidate in any election to a local government authority¹⁹ or to Parliament will not be deemed to be published on a privileged occasion on the ground that it is material to a question in issue in the election, whether or not the person by whom it is published is qualified to vote at the election²⁰.

1 For these purposes, 'universal service provider' has the same meaning as in the Postal Services Act 2000 (see POST OFFICE): Representation of the People Act 1983 s 91(5) (added by the Postal Services Act 2000 s 127(4), Sch 8 para 17(1), (5)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 2(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 63(6).

2 As to schemes as to terms and conditions for the provision of a universal postal service see the Postal Services Act 2000 s 89; and POST OFFICE.

3 For the meaning of 'candidate' generally see PARA 237 ante; and see further notes 5-6 infra.

4 For the meaning of 'parliamentary election' see PARA 9 ante. As to parish and community elections see PARA 207 et seq ante. As to elections in the City of London see PARA 30 ante.

5 Ie at an ordinary election or at an Assembly election other than at an ordinary election: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 64(1). For the meaning of 'Assembly election' see PARA 3 note 1 ante. As to ordinary elections to the Welsh Assembly see PARA 220 ante.

In the case of a Welsh Assembly election, the reference to a candidate is to each individual candidate or group of party list candidates: art 64(1). As to references to a group of party list candidates, and for the meaning of 'individual candidate' at a Welsh Assembly regional election, see PARA 237 note 23 ante.

6 As to European parliamentary elections see PARA 224 et seq ante. In the case of such an election, this reference is to an individual candidate and the nominating officer of a registered party which is included in the statement of parties and individual candidates nominated for the election or a person authorised in writing by that officer: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 63(1). For the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante. As to the nominating officer of a registered party see PARA 260 ante.

7 Representation of the People Act 1983 s 91(1) (substituted by the Representation of the People Act 1985 s 24, Sch 4 para 34; and amended by the Postal Services Act 2000 Sch 8 para 17(1), (2)(a)-(c)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 64(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 63(1).

Where any postal services are provided without charge by a universal service provider in pursuance of the Representation of the People Act 1983 or the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 64 or the European Parliamentary Elections Regulations 2004, SI 2004/293, the universal service provider is entitled to be remunerated for having provided the services at the rate fixed in relation to them by virtue of a scheme under the Postal Services Act 2000 s 89 (schemes as to terms and conditions for provision of a universal postal service: see POST OFFICE): Representation of the People Act 1983 s 200A(1), (2) (s 200A added by the Postal Services Act 2000 Sch 8 para 18); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 64(8); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 124(1), (2). A sum which a universal service provider is entitled to receive in this way is charged on and issued out of the Consolidated Fund in the case of a parliamentary or European parliamentary election or paid by the National Assembly for Wales in the case of an election to that Assembly: Representation of the People Act 1983 s 200A(3) (as so added); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 64(8); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 124(4). For these purposes, 'postal services' and 'universal service provider' have the same meanings as in the Postal Services Act 2000 (see POST OFFICE): Representation of the People Act 1983 s 200A(4) (as so added); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 124(5). See also note 1 supra. As to the Consolidated Fund see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 711 et seq; PARLIAMENT vol 78 (2010) PARAS 1028-1031. In relation to a European parliamentary election held in the combined region see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 124(2)(b), (3). As to the combined region and Gibraltar see PARA 76 ante.

In the case of a Welsh Assembly election, the regional returning officer is entitled to treat any purported exercise by a group of party list candidates of the right of free postage through their election agent as a valid exercise of that right: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 64(6). If, at a regional election, the area of the returning officer is situated in the area of more than one official designated by a universal postal service provider, the controlling designated official is determined by the regional returning officer: art 64(7). For the meaning of 'regional returning officer' for the purposes of elections to the National Assembly for Wales see PARA 18 note 2 ante.

8 In the case of a parliamentary election, the place referred to must be in the constituency: Representation of the People Act 1983 s 91(1)(a) (as substituted: see note 7 supra). For the meaning of 'constituency' for the purposes of a parliamentary election see PARA 9 ante.

In the case of a Welsh Assembly election, the place referred to must be in the Assembly constituency or electoral region for which the election is being held at which the candidate or candidates in question are a candidate or candidates: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 64(1)(a). For the meanings of 'Assembly constituency' and 'Assembly electoral region' see PARA 3 note 1 ante.

In the case of a European parliamentary election, the place referred to must be in the electoral region: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 63(1)(a). As to electoral regions constituted for the purposes of European parliamentary elections see PARA 76 ante.

9 Representation of the People Act 1983 s 91(1)(a) (as substituted (see note 7 supra); and amended by the Postal Services Act 2000 Sch 8 para 17(1), (2)(d)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 64(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 63(1)(a).

10 Representation of the People Act 1983 s 91(1)(b) (as substituted: see note 7 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 64(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 63(1)(b). The candidate at a parliamentary election may require the returning officer to make arrangements with the universal service provider for communications under the Representation of the People Act 1983 s 91(1)(b) (as substituted) to be sent to persons who have anonymous entries in the register; and such arrangements must be such as to ensure that it is not disclosed to any other

person that the addressee of such a communication has an anonymous entry: s 91(2A), (2B) (added by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 2, 10(1), (2)). For the meaning of 'anonymous entry' in relation to a register of electors see PARA 174 ante. As to returning officers for elections generally see PARA 355 et seq post.

For the purposes of a parliamentary election, 'elector': (1) means a person who is registered in the register of parliamentary electors for the constituency on the last day for publication of notice of the election (Representation of the People Act 1983 s 91(4)(a) (s 91(4) substituted by the Representation of the People Act 2000 s 8, Sch 1 paras 1, 19)); and (2) includes a person then shown in that register (or, in the case of a person who has an anonymous entry in the register, in the record of anonymous entries) as below voting age if (but only if) it appears from the register (or from the record) that he will be of voting age on the day fixed for the poll (Representation of the People Act 1983 s 91(4)(b) (as so substituted; and amended by the Electoral Administration Act 2006 Sch 1 paras 2, 10(1), (3)(a), (b))).

For the purposes of a Welsh Assembly election, 'elector': (a) means a person who is registered in the register of local government electors for the Assembly constituency or electoral region on the last day for publication of notice of the election (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 64(5(a))); and (b) includes a person then shown in that register as below voting age if (but only if) it appears from the register that he will be of voting age on the day fixed for the poll (art 64(5)(b)).

For the purposes of a European parliamentary election, 'elector' means a person: (i) who is registered in the register of electors to be used at the election in the electoral region on the last day for publication of notice of the election (European Parliamentary Elections Regulations 2004, SI 2004/293, reg 63(5)(a)); and (ii) includes a person who is registered in such a register as below voting age if (but only if) it appears from the register that he will be of voting age on the day fixed for the poll (reg 63(5)(b)).

'Voting age' is currently 18 years for all purposes: see PARAS 110 note 2, 112 note 14, 117 note 9 ante. As to entitlement to registration as an elector see PARA 128 et seq ante; and as to the registers of electors see PARA 160 et seq ante. As to publication of the notice of election, in relation to a parliamentary election, see PARA 203 ante; in relation to a local government election, see PARA 218 ante; in relation to a Welsh Assembly election, see PARA 223 ante; and, in relation to a European parliamentary election, see PARA 230 ante.

11 For the meaning of 'list of proxies' see PARA 378 note 14 post.

12 Representation of the People Act 1983 s 91(2) (amended by the Postal Services Act 2000 Sch 8 para 17(1), (3)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 64(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 63(2).

13 Representation of the People Act 1983 s 91(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 64(3), (4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 63(3). As to the statement of persons nominated see PARA 272 ante.

In the case of a Welsh Assembly election, the person referred in the text to is a candidate at a constituency election or an individual candidate at a regional election (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 64(3)); but, in relation to a group of party list candidates at a regional election, the reference must be understood as being to those persons not being deemed to be candidates unless they are all shown as standing nominated in the statement of persons nominated (art 63(4)). For the meanings of 'constituency election' and 'regional election' see PARA 3 note 1 ante.

In the case of a European parliamentary election, the nomination referred to in the text is that of an individual candidate: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 63(3).

14 In the case of a Welsh Assembly election, this reference is to persons who declare themselves to be, and comprise all, such candidates: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 64(3).

In the case of a European parliamentary election, until the publication of the statement of parties and individual candidates nominated for the election in an electoral region, the nominating officer of a registered party or a person authorised in writing by him is entitled to exercise in that region the right of free postage if he gives such security as may be required by the universal service provider concerned for the payment of postage should that party not be included in that statement as standing nominated: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 63(4).

15 Representation of the People Act 1983 s 91(3) (amended by the Postal Services Act 2000 Sch 8 para 17(1), (4)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 64(3), (4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 63(3).

16 For the meaning of 'Authority election' see PARA 10 ante. As to ordinary Greater London Authority elections see PARA 206 et seq ante.

17 As to elections for the return of an elected mayor for a local authority see PARA 205 et seq ante.

18 See the Greater London Authority Act s 17A (added by the Representation of the People Act 2000 s 14(1), (2); and amended by the Electoral Administration Act 2006 Sch 1 para 18; and the Postal Services Act 2000 (Consequential Modifications to Local Enactments No 1) Order 2001, SI 2001/648, art 4(1), Sch 1 para 14); and the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 7.

At an ordinary London Authority election, the Greater London returning officer ('GLRO') may, in addition to a statement by him in an election booklet, include in the booklet information for voters that has been agreed by him with the Electoral Commission: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), Sch 1 r 23A(1) (Sch 1 r 23A added by SI 2004/227); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 2 r 24A(1) (Sch 2 r 24A added by SI 2004/227); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 24A(1) (Sch 3 r 24A added by SI 2004/227). The information for voters may be about the office of the Mayor of London and the London Assembly; the system of voting at each Greater London Authority election, or how to vote in a manner that will ensure a vote is regarded as validly cast: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 23A(2), Sch 2 r 24A(2), Sch 3 r 24A(2) (all as so added). However, the information for voters must not contain any advertising material, any material referring to a candidate or a registered party (other than by reproduction of a ballot paper which refers equally to all candidates and parties at the ordinary election), or any material referring to the holder at any time of the office of Mayor of London or London Assembly member (other than by reproduction of a ballot paper which refers equally to all candidates and parties at the ordinary election): Sch 1 r 23A(3), Sch 2 r 24A(3), Sch 3 r 24A(3) (all as so added). Information so published in an election booklet must be printed on not more than two sides of A5 paper: Sch 1 r 23A(4), Sch 2 r 24A(4), Sch 3 r 24A(4) (all as so added). As to the content and delivery of the election addresses of mayoral candidates at an ordinary election of the Greater London Authority, where an election for the return of the Mayor of London is held with elections for London members and constituency members to the London Assembly, see further the Greater London Authority Elections (Election Addresses) Order 2003, SI 2003/1907. As to elections for the Mayor of London see further LONDON GOVERNMENT vol 29(2) (Reissue) PARA 89. For the meaning of the 'Greater London returning officer' see PARA 218 note 7 ante. As to the Electoral Commission see PARA 31 et seq ante.

For the purposes of a local authority mayoral election, the election booklet is a document prepared by the returning officer which contains the election addresses of all candidates who desire their election addresses to be included in the booklet, and have submitted to the returning officer by such date as he may determine those addresses accompanied, where the address is to contain a photograph of the candidate, by two identical copies of the photograph, of which one is signed on the back by the candidate and, in any case, by such copies of anything contained in the address as the returning officer may reasonably require in connection with the reproduction of the address: Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 7, Sch 4 paras 4(4), 5(1). If it appears to the returning officer that any of the requirements has not been complied with in relation to an election address, or that a candidate fails to make the payment required in respect of an election address, the returning officer must decline to include the address in the election booklet: Sch 4 para 5(2). The election booklet may include, in addition to candidates' election addresses, a statement by the returning officer explaining the nature and purpose of the election booklet, listing, in alphabetical order, the names of all the candidates at the election (whether or not their election addresses are included in the booklet) and giving the date of the election and such other information about it as the returning officer may determine: Sch 4 para 6(2). The election booklet must contain a statement that it has been published by the returning officer and give the name and address of the returning officer and those of the printer of the booklet: Sch 4 para 6(3). Subject to these conditions (and subject to the candidates' election addresses appearing in the election booklet in an order determined by lot: see Sch 4 para 6(1)), the form of the election booklet must be determined by the returning officer: Sch 4 para 6(4). Copies of the election booklet must be delivered by the returning officer, in envelopes addressed to individual electors, at such time and by such means as the returning officer may determine (Sch 4 para 7(1)), although he may disseminate the contents of the election booklet by such other means as he may determine (Sch 4 para 7(2)). As to the form and content of the election address see further the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 4 paras 2-4. As to distribution of the election booklet and contributions towards charges see the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 4 paras 8-9.

19 As to local government authorities see LOCAL GOVERNMENT vol 69 (2009) PARA 22 et seq.

20 Defamation Act 1952 s 10. The words of the Defamation Act 1952 s 10, given their natural meaning, do not preclude an election candidate from relying on the defence of qualified privilege if, like any other citizen, he might be able to establish that the ingredients of that defence, as recognised at common law, are present on the facts of the case; such a reading allows the provision to be read so as to comply with the rights of candidates under the Convention for the Protection of Human Rights and Fundamental Freedoms (Rome, 4 November 1950; TS 71 (1953); Cmd 8969; Council of Europe, ETS no 5) arts 6, 10 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 134 et seq, 158-159), as required by the Human Rights Act 1998 s 3 (interpretation of legislation: see CONSTITUTIONAL LAW AND HUMAN RIGHTS): *Culnane v Morris* [2005] EWHC 2438 (QB), [2006] 2 All ER 149. This decision does not follow *Plummer v Charman* [1962] 3 All ER 823, [1962] 1 WLR 1469, CA, in which the Defamation Act 1952 s 10 was given a narrow reading, imposing restrictions upon a candidate's scope for pleading privilege in respect of words published during an election period: see at 825-826

and 1472 per Lord Denning MR (in the ordinary way, the only defences open to a person who makes an election address and puts it out to the electors is either that the words were true or that they were fair comment on a matter of public interest) and at 827 and 1474 per Diplock LJ. However, in *Culnane v Morris* supra at [21]-[26], Eady J held: (1) that the Court of Appeal had been mistaken in its 'clear' opinion that the purpose of the legislature had been to reverse the effect of the decision in *Braddock v Bevins* [1948] 1 KB 580, [1948] 1 All ER 450, CA, in which it was held that statements contained in the election address of a candidate concerning an opposing candidate are entitled to qualified privilege if they are relevant to the matters which the electors will have to consider in deciding which way they will cast their votes; and (2) that an investigation of the legislative background to the Defamation Act 1952 s 10, within the terms of *Pepper (Inspector of Taxes) v Hart* [1993] AC 593, [1993] 1 All ER 42, HL, showed no intention by Parliament to deprive a candidate or agent of a privilege which would be available to other citizens, but rather only to ensure that such persons were not accorded a special privilege of their own. These findings, together with the requirements of the Human Rights Act 1998 s 3, explain the failure of Eady J in the (first instance) case of *Culnane v Morris* supra to follow the appellate authority of *Plummer v Charman* supra. See also *Donnelly v Young* (5 November 2001, unreported) (defendants wishing to rely upon form of privilege generally categorised as 'reply to an attack'); *Reynolds v Times Newspapers Ltd* [2001] 2 AC 127 at 197, [1999] 4 All ER 609 at 618, HL, per Lord Nicholls of Birkenhead (obiter) (whether the defence of comment on a matter of public interest can provide sufficient protection for election addresses when read with the Human Rights Act 1998). Certain old cases on qualified privilege may be relevant in the context of elections: see eg *Dickeson v Hilliard* (1874) LR 9 Exch 79; *Duncombe v Daniell* (1837) 8 C & P 222; *Wilson v Reed* (1860) 2 F & F 149. Immediately after the ordinary election under the Government of Wales Act 1998 s 3 (see PARA 220 ante) held in 2007, the Defamation Act 1952 s 10 is amended so that it refers also to elections to the National Assembly for Wales: see s 10 (prospectively amended by the Government of Wales Act 2006 s 160(1), Sch 10 para 5). As to the commencement of this amendment see further s 161(1), (4), (5).

UPDATE

335 Right of candidates at election to send election address post free

TEXT AND NOTES 1-15--The individual candidate and the nominating officer of a registered party which are included in the statement of parties and individual candidates nominated for the election or a person authorised in writing by that officer may also require the local returning officer to make arrangements with the universal postal service provider for communications under SI 2004/293 reg 63(1)(b) to be sent to persons who have anonymous entries in the register: SI 2004/293 reg 63(2A) (reg 63(2A), (2B) added by SI 2009/186). Arrangements under SI 2004/293 reg 63(2A) must be such as to ensure that it is not disclosed to any other person that the addressee of such a communication has an anonymous entry: SI 2004/293 reg 63(2B).

NOTE 10--SI 2004/293 reg 63(5)(b) amended: SI 2009/186.

NOTE 18--SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541. SI 2002/185 reg 7, Sch 4 now the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 8, Sch 4. SI 2003/1907 amended: SI 2008/507.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(vii) Publicity at Elections/336. Broadcasting from outside United Kingdom with intent to influence elections.

336. Broadcasting from outside United Kingdom with intent to influence elections.

No person may, with intent to influence persons to give or refrain from giving their votes at a parliamentary¹ or local government election², a Welsh Assembly election³ or a European parliamentary election⁴, include, or aid, abet, counsel or procure the inclusion of, any matter relating to the election in any programmes service⁵ provided from a place outside the United Kingdom⁶ otherwise than in pursuance of arrangements made with⁷: (1) the British Broadcasting Corporation ('the BBC')⁸; (2) Sianel Pedwar Cymru⁹; or (3) the holder of any licence granted by the Office of Communications ('Ofcom')¹⁰, for the reception and re-transmission of that matter by that body or the holder of that licence¹¹. A contravention of this prohibition is an offence and an illegal practice¹².

1 For the meaning of 'parliamentary election' see PARA 9 ante.

2 For the meaning of 'local government election' see PARA 10 ante. As to parish and community elections see PARA 207 et seq ante. As to elections in the City of London see PARA 30 ante.

3 For the meaning of 'Assembly election' see PARA 3 note 1 ante. As to elections to the National Assembly for Wales generally see PARA 220 et seq ante.

4 As to European parliamentary elections see PARA 224 et seq ante.

5 le within the meaning of the Broadcasting Act 1990 (see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 328).

6 For the meaning of 'United Kingdom' see PARA 13 note 1 ante. For these purposes, in relation to a European parliamentary election held in the combined region, Gibraltar is treated as if it were part of the United Kingdom: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 64(1), (1)(b). As to the combined region and Gibraltar see PARA 76 ante.

7 Representation of the People Act 1983 s 92(1) (substituted by the Broadcasting Act 1990 s 203(1), Sch 20 para 35(3), (5)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 65(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 64(1).

8 Representation of the People Act 1983 s 92(1)(a) (as substituted: see note 7 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 65(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 64(1)(a)(i). As to the BBC see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 306 et seq.

9 Representation of the People Act 1983 s 92(1)(b) (as substituted: see note 7 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 65(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 64(1)(a)(ii). As to Sianel Pedwar Cymru see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 396.

10 Representation of the People Act 1983 s 92(1)(c) (as substituted (see note 7 supra); and amended by the Communications Act 2003 s 406(1), Sch 17 para 61); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 65(1)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 64(1)(a)(iii). As to Ofcom see TELECOMMUNICATIONS vol 97 (2010) PARA 2 et seq; and as to licences granted by Ofcom see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 447 et seq.

11 Representation of the People Act 1983 s 92(1) (as substituted: see note 7 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 65(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 64(1).

12 See the Representation of the People Act 1983 s 92(2); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 65(2); the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 64(2); and PARA 704 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(vii) Publicity at Elections/337. Broadcasting of local items during parliamentary or local government election period.

337. Broadcasting of local items during parliamentary or local government election period.

Each broadcasting authority¹ must adopt a code of practice with respect to the participation of candidates² at a parliamentary³ or local government election⁴, a Welsh Assembly election⁵ or a European parliamentary election⁶ in items about the constituency⁷ or electoral area⁸ or electoral region⁹ in question which are included in relevant services¹⁰ during the election period¹¹. The code for the time being adopted by a broadcasting authority under these provisions must be either¹²: (1) a code drawn up by that authority, whether on its own or jointly with one or more other broadcasting authorities¹³; or (2) a code drawn up by one or more other such authorities¹⁴, and a broadcasting authority must from time to time consider whether the code for the time being so adopted by it should be replaced by a further code falling within head (1) or head (2) above¹⁵. Before drawing up such a code, a broadcasting authority must have regard to any views expressed by the Electoral Commission¹⁶; and any such code may make different provision for different cases¹⁷. The Office of Communications ('OFCOM') must do all that it can to secure that the code for the time being adopted by a broadcasting authority is observed in the provision of relevant services; and the British Broadcasting Corporation and Sianel Pedwar Cymru must each observe in the provision of relevant services the code so adopted by it¹⁸.

A broadcaster is prohibited from including in its broadcasting services any party political broadcast made on behalf of a party which is not a registered party under the Political Parties, Elections and Referendums Act 2000¹⁹.

1 For these purposes, 'broadcasting authority' means the British Broadcasting Corporation (the 'BBC'), the Office of Communications ('OFCOM') or Sianel Pedwar Cymru: Representation of the People Act 1983 s 93(6) (s 93 substituted by the Political Parties, Elections and Referendums Act 2000 s 144; and the Representation of the People Act 1983 s 93(6) amended by the Communications Act 2003 s 406(1), Sch 17 para 62(1), (3)(a)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 66(6) (by virtue of the Communications Act 2003 s 31(4)(b)); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 65(6). As to OFCOM see TELECOMMUNICATIONS vol 97 (2010) PARA 2 et seq; as to the BBC see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 306 et seq; and as to Sianel Pedwar Cymru see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 396. For these purposes, in relation to a European parliamentary election held in the combined region, the Gibraltar Regulatory Authority is also cited: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 65(6). As to the combined region and Gibraltar see PARA 76 ante.

2 For these purposes, 'candidate', in relation to an election, means a candidate standing nominated at the election or included in a list of candidates submitted in connection with it: Representation of the People Act 1983 s 93(6) (as substituted: see note 1 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 66(6); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 65(6). For the meaning of 'candidate' generally see PARA 237 ante.

There is case authority regarding the 'participation' of a candidate from the time when undue participation could constitute an offence: see *Marshall v BBC* [1979] 3 All ER 80 at 81-82, [1979] 1 WLR 1071 at 1073, CA, per Lord Denning MR ('A candidate who merely acquiesces in a film being taken or in a speech being taped does not participate. Nor does a candidate who co-operates by being filmed walking around the constituency'). See also *R v Elections Court Commissioner, ex p Loveridge* (14 January 1997, unreported) (candidate interviewed by the BBC in his electoral area on an environmental issue of local importance); *revsd sub nom Re Local Government Election for Aberaman, County Borough of Rhondda Cynon Taff* (24 April 1997, unreported), CA.

3 For the meaning of 'parliamentary election' see PARA 9 ante.

4 For the meaning of 'local government election' see PARA 10 ante. As to parish and community elections see PARA 207 et seq ante. As to elections in the City of London see PARA 30 ante.

5 For the meaning of 'Assembly election' see PARA 3 note 1 ante. As to elections to the National Assembly for Wales generally see PARA 220 et seq ante.

6 As to European parliamentary elections see PARA 224 et seq ante.

7 For the meaning of 'constituency', for the purposes of a parliamentary election, see PARA 9 ante; and for the meaning of 'Assembly constituency', for the purposes of a Welsh Assembly election, see PARA 3 note 1 ante.

8 For the meaning of 'electoral area' see PARA 10 ante.

9 For the meaning of 'Assembly electoral region', for the purposes of a Welsh Assembly election, see PARA 3 note 1 ante. As to electoral regions constituted for the purposes of European parliamentary elections see PARA 76 ante.

10 'Relevant services', in relation to the BBC or Sianel Pedwar Cymru, means services broadcast by that body; and, in relation to OFCOM, means services licensed under the Broadcasting Act 1990 Pt I (ss 3-71) (as amended) (independent television services: see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 328 et seq) or Pt III (ss 85-126) (as amended) (independent radio services: see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 439 et seq) or under the Broadcasting Act 1996 Pt I (ss 1-39) (as amended) (digital terrestrial television broadcasting: see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 415 et seq) or Pt II (ss 40-72) (as amended) (digital terrestrial sound broadcasting: see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 478 et seq): Representation of the People Act 1983 s 93(6) (as substituted (see note 1 supra); and amended by the Communications Act 2003 Sch 17 para 62(3)(b)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 66(6) (by virtue of the Communications Act 2003 s 31(4)(b)); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 65(6). As to the combined region see also note 1 supra.

11 Representation of the People Act 1983 s 93(1) (as substituted: see note 1 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 66(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 65(1). In relation to a parliamentary or local government election, the 'election period', for this purpose, means the period beginning:

59 (1) (if a parliamentary general election) with the date of the dissolution of Parliament or any earlier time at which Her Majesty's intention to dissolve Parliament is announced;

60 (2) (if a parliamentary by-election) with the date of the issue of the writ for the election or any earlier date on which a certificate of the vacancy is notified in the London Gazette in accordance with the Recess Elections Act 1975 (see PARLIAMENT vol 78 (2010) PARA 1095); or

61 (3) (if a local government election) with the last date for publication of notice of the election,

and ending with the close of the poll: Representation of the People Act 1983 s 93(5) (as so substituted). As to the dissolution of Parliament see PARA 196 ante; as to parliamentary by-elections see PARA 198 ante; and as to publication of the notice for a local government election see PARA 218 ante. In relation to a Welsh Assembly election, the 'election period', for this purpose, means the period beginning with the last date for publication of notice of the election and ending with the close of the poll: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 66(5). As to publication of notice for a Welsh Assembly election see PARA 223 ante. In relation to a European parliamentary election, the 'election period', for this purpose, means the period beginning with the last date for publication of notice of the election and ending with the close of the poll: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 65(5). As to publication of notice of a European parliamentary election see PARA 230 ante.

Formerly, broadcasting authorities had the right freely to photograph or record the appearance or the words of candidates during an election (see *McAliskey v BBC* [1980] NI 44) but this freedom has been reduced (*Marshall v BBC* [1979] 3 All ER 80 at 82, [1979] 1 WLR 1071 at 1074, CA, per Cumming-Bruce LJ). The broadcasters duty of impartiality (see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 508) is achieved by even-handedness in providing airtime for party election broadcasts and, while a broadcaster may not deny such a broadcast to a qualifying party, it does have some discretion in determining the rules by which party election broadcasts are allocated: see *R v BBC, ex p Referendum Party* [1997] COD 459, 9 Admin LR 553, [1997] EMLR 605. See also *R v BBC, ex p Pro-Life Alliance Party* [1997] COD 457 (discretion entitled the BBC to require the removal of a sequence of shots of aborted fetuses from a party election broadcast); *R (on the application of ProLife Alliance) v BBC* [2003] UKHL 23, [2004] 1 AC 185, [2003] 2 All ER 977.

12 Representation of the People Act 1983 s 93(2) (as substituted: see note 1 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 66(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 65(2).

13 Representation of the People Act 1983 s 93(2)(a) (as substituted: see note 1 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 66(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 65(2)(a).

14 Representation of the People Act 1983 s 93(2)(b) (as substituted: see note 1 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 66(2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 65(2)(b).

15 Representation of the People Act 1983 s 93(2) (as substituted: see note 1 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 66(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 65(2).

16 As to the Electoral Commission see PARA 31 et seq ante; and as to views expressed by the Commission on political, election and referendum campaign broadcasts see PARA 54 ante.

17 Representation of the People Act 1983 s 93(3) (as substituted: see note 1 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 66(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 65(3).

18 Representation of the People Act 1983 s 93(4) (as substituted (see note 1 supra); and amended by the Communications Act 2003 Sch 17 para 62(1), (2)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 66(4) (by virtue of the Communications Act 2003 s 31(4)(b)); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 65(4).

19 See the Political Parties, Elections and Referendums Act 2000 s 37 (as amended); and CONSTITUTIONAL LAW AND HUMAN RIGHTS. As to the registration of parties as a condition precedent to participation in a relevant election see PARA 260 ante.

UPDATE

337 Broadcasting of local items during parliamentary or local government election period

TEXT AND NOTE 18--SI 2004/293 reg 65(4) amended: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(vii) Publicity at Elections/338. Control of advertisements.

338. Control of advertisements.

In general, the consent of the local planning authority or of the Secretary of State must be obtained before any advertisement may be displayed¹. However, an advertisement² relating specifically to a pending parliamentary, European parliamentary or local government election does not require³ either express consent or deemed consent⁴ provided that the advertisement is removed within 14 days after the close of the poll in the election to which it relates⁵. These provisions⁶ have effect in relation to the display on any site in Wales⁷ relating specifically to an Assembly election⁸ or Assembly elections as they have effect in relation to the display of an advertisement relating specifically to a parliamentary election⁹.

1 See the Town and Country Planning (Control of Advertisements) Regulations 1992, SI 1992/666; and TOWN AND COUNTRY PLANNING vol 46(2) (Reissue) PARA 769 et seq.

2 For the meaning of 'advertisement' see TOWN AND COUNTRY PLANNING vol 46(2) (Reissue) PARA 770.

3 It is provided that it complies with any conditions and limitations specified in the Town and Country Planning (Control of Advertisements) Regulations 1992, SI 1992/666, reg 3(2), Sch 2 (as amended) (see the text and notes 4-5 infra) and all the standard conditions. As to the standard conditions see TOWN AND COUNTRY PLANNING vol 46(2) (Reissue) PARA 775.

4 For the meanings of 'express consent' and 'deemed consent' see TOWN AND COUNTRY PLANNING vol 46(2) (Reissue) PARA 777.

5 See the Town and Country Planning (Control of Advertisements) Regulations 1992, SI 1992/666, Sch 2 Class F para 1 (as amended); and TOWN AND COUNTRY PLANNING vol 46(2) (Reissue) PARA 784.

6 It is the Town and Country Planning (Control of Advertisements) Regulations 1992, SI 1992/666.

7 For the meaning of 'Wales' see PARA 13 note 1 ante.

8 For the meaning of 'Assembly election' see PARA 3 note 1 ante.

9 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 138.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(viii) Election Meetings/339. Schools and rooms for meetings at parliamentary elections.

(viii) Election Meetings

339. Schools and rooms for meetings at parliamentary elections.

On reasonable notice, a candidate¹ at a parliamentary election² or a Welsh Assembly election³ or a European parliamentary election⁴ is entitled, for the purpose of holding public meetings⁵, to the use free of charge of certain rooms at reasonable times⁶ between: (1) in the case of a parliamentary election, the receipt of the writ and the day preceding the date of the poll; or (2) in the case of a Welsh Assembly or European parliamentary election, between the last date on which notice of election may be published and the day preceding the date of the poll⁷.

He is entitled to the use of a suitable room⁸ in the premises of a community, foundation or voluntary school⁹ situated in the constituency¹⁰ or an adjoining constituency¹¹. However, a candidate is not entitled to the use of a room in school premises outside the constituency if there is a suitable room in other premises in the constituency which are reasonably accessible from the same parts of it as those outside and are premises of such a school¹². In the case of a Welsh Assembly regional election¹³ or a European parliamentary election, the candidate is entitled to use of a suitable room in the premises of a community, foundation or voluntary school situated in the electoral region for which the election is held¹⁴.

For the purposes and at the times described above, such a candidate is also entitled on reasonable notice to the use free of charge of any meeting room¹⁵, the expense of maintaining which is payable wholly or mainly out of public funds, or out of any rate, or by a body whose expenses are so payable¹⁶. For the purposes of determining rateable occupation, a hereditament¹⁷ is to be treated as unoccupied if it would otherwise be treated as occupied by reason only of the use of it for the holding of public meetings in furtherance of a person's candidature at a parliamentary election, for promoting a particular result at a Welsh Assembly election or in furtherance of a person's or a registered party's candidature at a European parliamentary election¹⁸.

1 For the meaning of 'candidate' generally see PARA 237 ante; and see note 5 infra.

2 For the meaning of 'parliamentary election' see PARA 9 ante.

3 For the meaning of 'Assembly election' see PARA 3 note 1 ante. As to elections to the National Assembly for Wales generally see PARA 220 et seq ante.

4 As to European parliamentary elections see PARA 224 et seq ante.

5 In the case of a candidate at a parliamentary election, the purpose of holding public meetings is in furtherance of his candidature: see the Representation of the People Act 1983 s 95(1).

In the case of a Welsh Assembly election, the purpose of holding public meetings is to promote or procure the giving of votes at that election, in the case of an individual candidate, for himself or, in the case of a party list candidate, for the registered political party on whose list he is included: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 68(1). As to references to a group of party list candidates, and for the meaning of 'individual candidate', for the purposes of a Welsh Assembly regional election see PARA 237 note 23 ante.

In the case of a candidate at a European parliamentary election, the purpose of holding public meetings is in furtherance of his candidature or that of his party: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 67(1).

6 The candidate is not authorised to interfere with the normal hours of use of certain rooms: see PARA 340 post.

7 Representation of the People Act 1983 s 95(1), (5) (s 95(1) amended by the Representation of the People Act 1985 s 24, Sch 4 para 37(a)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 68(1), (5); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 67(1). As to the date of the poll at a parliamentary general election or by-election see PARA 202 ante; as to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see PARAS 220-221 ante; and as to the date of the poll at a European parliamentary election see PARA 229 ante. The right of a candidate to a suitable room is a private law right which can be enforced by action against the local education authority: see *Ettridge v Morrell* (1986) 85 LGR 100, CA (cited at para 342 text and note 14 post).

8 'Room' includes a hall, gallery or gymnasium: Representation of the People Act 1983 s 95(7)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 68(7)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 67(7)(b).

9 For this purpose, the premises of a school are not to be taken to include any private dwelling: Representation of the People Act 1983 s 95(7) (amended by the Representation of the People Act 2000 s 15, Sch 6 paras 3, 7, Sch 7 Pt II); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 68(7); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 67(7). As to the meaning of 'dwelling' see PARA 132 note 19 ante. As to community, foundation and voluntary schools see EDUCATION vol 15(1) (2006 Reissue) PARA 102 et seq.

10 For the meaning of 'constituency', for the purposes of a parliamentary election, see PARA 9 ante; and for the meaning of 'Assembly constituency', for the purposes of a Welsh Assembly election, see PARA 3 note 1 ante.

11 Representation of the People Act 1983 s 95(1)(a), (2)(a) (s 95(2)(a) amended by the School Standards and Framework Act 1998 s 140(1), Sch 30 paras 9, 10); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 68(1)(i), (2)(a).

12 Representation of the People Act 1983 s 95(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 68(2).

13 For the meaning of 'regional election' for the purposes of Welsh Assembly elections see PARA 3 note 1 ante.

14 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 68(1)(i), (2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 67(1)(a), (2)(a). For the meaning of 'Assembly electoral region' for the purposes of a Welsh Assembly election see PARA 3 note 1 ante. As to electoral regions constituted for the purposes of European parliamentary elections see PARA 76 ante. In relation to a European parliamentary election held in the combined region see reg 67(1)(a), (2)(c). As to the combined region and Gibraltar see PARA 76 ante.

15 'Meeting room' means any room which it is the practice to let for public meetings: Representation of the People Act 1983 s 95(7)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 68(7)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 67(7)(a).

In the case of a parliamentary election, the meeting room referred to must be situated in the constituency: Representation of the People Act 1983 s 95(3).

In the case of a Welsh Assembly election, the meeting room referred to must be situated, in the case of a constituency election, in the Assembly constituency for which the election is held or, in the case of a regional election, in the Assembly electoral region for which the election is held: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 68(3).

In the case of a European parliamentary election, the meeting room referred to must be situated in the electoral region: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 67(1)(b).

16 Representation of the People Act 1983 s 95(1)(b), (3), (5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 68(1)(ii), (3), (5); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 67(1)(b), (3), (5).

17 For the meaning of 'hereditament' in this context see RATING AND COUNCIL TAX vol 39(1B) (Reissue) PARA 33 et seq.

18 See the Local Government Finance Act 1988 s 65(6) (applied with modifications by the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 146; and the European Parliamentary

Elections Regulations 2004, SI 2004/293, reg 125). See further RATING AND COUNCIL TAX vol 39(1B) (Reissue) PARA 13.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(viii) Election Meetings/340. Arrangements for use of rooms for meetings at parliamentary elections.

340. Arrangements for use of rooms for meetings at parliamentary elections.

The person by whom, or on whose behalf, a public meeting is convened in a school room or meeting room¹ may be required to defray any expenses incurred in preparing, warming, lighting and cleaning the room and providing attendance for the meeting and restoring the room to its usual condition after the meeting². The person must also defray the cost of making good any damage done to the room or to the premises³ in which it is situated, or to the furniture, fittings or apparatus in the room or premises⁴.

A candidate is not entitled to exercise this right to use school rooms and meeting rooms for public meetings except on reasonable notice⁵; and the provisions entitling him to use such rooms do not authorise any interference with the hours during which a room in school premises is used for educational purposes or any interference with the use of a meeting room either for the purposes of the person maintaining it or under a prior agreement for its letting for any purpose⁶.

Arrangements for the use of a room in school premises must be made with the local education authority⁷ maintaining the school or, in the case of a room in the premises of a foundation or voluntary aided school⁸, with the governing body of the school⁹. Any question as to the rooms in school premises¹⁰ which a candidate is entitled to use, or as to the times at which he is entitled to use them, or as to the notice which is reasonable, is to be determined by the Secretary of State¹¹.

1 As to the meaning of 'room' for these purposes see PARA 339 note 8 ante; and for the meaning of 'meeting room' see PARA 339 note 15 ante. As to the entitlement to use such rooms see PARA 339 ante.

2 Representation of the People Act 1983 s 95(4)(a) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 37(b)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 68(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 67(4)(a).

3 For this particular purpose the premises of a school may include a private dwelling: Representation of the People Act 1983 s 95(7) (amended by the Representation of the People Act 2000 s 15, Sch 6 paras 3, 7, Sch 7 Pt II); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 68(7); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 67(7). Cf para 339 note 9 ante. As to the meaning of 'dwelling' see PARA 132 note 19 ante.

4 Representation of the People Act 1983 s 95(4)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 68(4)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 67(4)(b).

5 Representation of the People Act 1983 s 95(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 68(5); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 67(5).

6 Representation of the People Act 1983 s 95(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 68(5); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 67(5).

7 As to local education authorities see EDUCATION vol 15(1) (2006 Reissue) PARA 20 et seq.

8 As to foundation and voluntary schools see EDUCATION vol 15(1) (2006 Reissue) PARA 102 et seq.

9 Representation of the People Act 1983 s 95(6), Sch 5 para 1(1) (amended by the Education Reform Act 1988 s 237(1), Sch 12 para 32; and the School Standards and Framework Act 1998 s 140(1), Sch 30 para 12);

National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 68(6), Sch 8 para 1(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 67(6), Sch 8 para 1.

10 le in any constituency (in the case of a parliamentary or Welsh Assembly election) or in any Welsh Assembly electoral region or in any European parliamentary local counting area, as the case may be. For the meanings of 'Assembly constituency' and 'Assembly electoral region' for the purposes of a Welsh Assembly election see PARA 3 note 1 ante; for the meaning of 'constituency' for the purposes of a parliamentary election see PARA 9 ante; and for the meaning of 'local counting area' for the purposes of a European parliamentary election see PARA 230 note 11 ante.

11 Representation of the People Act 1983 Sch 5 para 1(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 8 para 1(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 8 para 2. As to the Secretary of State see PARA 2 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(viii) Election Meetings/341. Preparation of list of rooms for meetings at parliamentary elections.

341. Preparation of list of rooms for meetings at parliamentary elections.

Each local education authority¹ must prepare and revise for its area a list of the rooms in school premises² which candidates³ in any parliamentary or Welsh Assembly constituency⁴ or any Welsh Assembly electoral region⁵ are entitled to use⁶. With regard to any such constituency, the list must include the rooms in premises outside, as well as those in premises in, the constituency⁷. Every district and London borough council⁸ and every Welsh county and county borough council⁹ must prepare and revise for its area lists of the meeting rooms which candidates in any such constituency or electoral region (as the case may be) are entitled to use¹⁰. The list must indicate the person to whom applications for the use of the room are to be made in each case¹¹. The list must not include any room if the person maintaining it disputes the right of the candidates in the constituency or electoral region (as the case may be) to use it¹². The lists of rooms in school premises and of meeting rooms prepared for each such constituency or electoral region are to be kept by the registration officer¹³. Those lists and particulars of any change made on a revision of them must, where necessary, be forwarded to him accordingly¹⁴.

In the event of a dissolution of Parliament¹⁵, or of a vacancy occurring in the seat for the constituency¹⁶, any person stating himself to be, or to be authorised by, a candidate or his election agent¹⁷ is entitled at all reasonable hours to inspect the lists of rooms in school premises and of meeting rooms or a copy of them¹⁸. Those same lists (or a copy of them) may also be inspected at all reasonable hours by any person stating himself to be, or to be authorised by, a candidate at a European parliamentary election¹⁹ or the election agent of a registered party at such an election²⁰ or an individual candidate²¹ at such an election²². In the event of notice of a Welsh Assembly election being published²³, any person stating himself to be, or to be authorised by an individual candidate²⁴ or his election agent²⁵ or a party list candidate²⁶ or the election agent for a group of party list candidates²⁷, is entitled at all reasonable hours to inspect the lists of rooms in school premises and of meeting rooms prepared for each Assembly constituency and electoral region (or a copy of them)²⁸.

1 As to local education authorities see EDUCATION vol 15(1) (2006 Reissue) PARA 20 et seq.

2 As to the meaning of 'room' for these purposes see PARA 339 note 8 ante; and as to the meaning of 'school premises' for these purposes see PARA 339 note 9 ante.

3 For the meaning of 'candidate' generally see PARA 237 ante.

4 For the meaning of 'constituency' for the purposes of parliamentary elections see PARA 9 ante; and for the meaning of 'Assembly constituency' for the purposes of a Welsh Assembly election see PARA 3 note 1 ante.

5 For the meaning of 'Assembly electoral region' for the purposes of a Welsh Assembly election see PARA 3 note 1 ante.

6 Representation of the People Act 1983 s 95(6), Sch 5 para 2(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 68(6), Sch 8 para 2(1). As to the entitlement to use such rooms see PARA 339 ante.

7 Representation of the People Act 1983 Sch 5 para 2(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 8 para 2(2).

- 8 As to districts in England and their councils see LOCAL GOVERNMENT vol 69 (2009) PARA 24 et seq. As to London boroughs and their councils see LOCAL GOVERNMENT vol 69 (2009) PARA 35; LONDON GOVERNMENT vol 29(2) (Reissue) PARA 30 et seq.
- 9 As to the council of a county or county borough in Wales see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq.
- 10 Representation of the People Act 1983 Sch 5 para 3(1) (amended by the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 68(20)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 8 para 3(1). For the meaning of 'meeting room' for these purposes see PARA 339 note 15 ante.
- 11 Representation of the People Act 1983 Sch 5 para 3(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 8 para 3(2).
- 12 Representation of the People Act 1983 Sch 5 para 3(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 8 para 3(3).
- 13 Representation of the People Act 1983 Sch 5 para 4; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 8 para 4. As to electoral registration officers see PARA 154 et seq ante.
- 14 Representation of the People Act 1983 Sch 5 para 4; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 8 para 4.
- 15 As to the dissolution of Parliament see PARA 196 ante.
- 16 As to vacancies occurring in the seat for a parliamentary constituency see PARA 198 ante.
- 17 As to the appointment of election agents generally see PARA 238 et seq ante.
- 18 Representation of the People Act 1983 Sch 5 para 5.
- 19 As to European parliamentary elections see PARA 224 et seq ante.
- 20 For the meaning of 'registered party' for these purposes see PARA 237 note 30 ante. As to references for these purposes to an election agent of a registered party at a European parliamentary election see PARA 246 note 5 ante.
- 21 For the meaning of 'individual candidate' at a European parliamentary election see PARA 237 note 32 ante.
- 22 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 67(6), Sch 8 para 3.
- 23 As to publication of notice for a Welsh Assembly election see PARA 223 ante. For the meaning of 'Assembly election' see PARA 3 note 1 ante. As to elections to the National Assembly for Wales generally see PARA 220 et seq ante.
- 24 For the meaning of 'individual candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante.
- 25 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 8 para 5(a). As to the appointment of election agents at a Welsh Assembly election see PARA 242 et seq ante.
- 26 For the meaning of 'party list candidate' at a Welsh Assembly regional election see PARA 237 note 23 ante.
- 27 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 8 para 5(b). As to references to a group of party list candidates for the purposes of a Welsh Assembly regional election see PARA 237 note 23 ante.
- 28 Ibid Sch 8 para 5.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(viii) Election Meetings/342. Rooms for meetings at a local government election.

342. Rooms for meetings at a local government election.

A candidate¹ at a local government election² is entitled on reasonable notice, for the purpose of holding public meetings to promote or procure the giving of votes at that election³ for himself⁴ (or, if he is a candidate included in a list of candidates submitted by a registered political party at an election of the London members of the London Assembly at an ordinary election⁵, towards the return of candidates on that list⁶), to the use free of charge of certain rooms at reasonable times between the last day on which notice of the election may be published⁷ and the day preceding the day of election⁸. He is entitled to the use of a suitable room⁹ in the premises of a community, foundation or voluntary school¹⁰ situated in the electoral area¹¹ for which the candidate is standing (or, if there is no such school in the area, in any such school in an adjacent electoral area) or in a parish or community¹², as the case may be, in part comprised in that electoral area¹³. The right of a candidate to a suitable room is a private law right which can be enforced by action against the local education authority¹⁴. For the purposes and at the times described above, such a candidate is also entitled on reasonable notice to the use free of charge of any meeting room¹⁵ situated in the electoral area for which the candidate is standing or in a parish or community, as the case may be, in part comprised in that electoral area, the expense of maintaining which is payable wholly or mainly out of public funds or out of any rate, or by a body whose expenses are so payable¹⁶. For the purposes of determining rateable occupation, a hereditament¹⁷ is to be treated as unoccupied if it would otherwise be treated as occupied by reason only of the use of it for the holding of public meetings in furtherance of a person's candidature at a local government election¹⁸.

The statutory provisions relating to expenses, damage, notice and interference in respect of the use of rooms by candidates at parliamentary elections and the requirement as to the body with which arrangements must be made¹⁹ also apply for these purposes²⁰. Any person stating himself to be, or to be authorised by, a candidate at a local government election in respect of an electoral area which falls (or partly falls) within a constituency²¹, or his election agent²², is entitled to inspect the lists prepared²³ in relation to the constituency or a copy of them at all reasonable hours during the period beginning with the day on which notice of election is published and ending with the day preceding the day of election²⁴.

1 For the meaning of 'candidate' generally see PARA 237 ante.

2 For the meaning of 'local government election' see PARA 10 ante. As to parish and community elections see PARA 207 et seq ante. As to elections in the City of London see PARA 30 ante.

3 Representation of the People Act 1983 s 96(1) (s 96 substituted by the Representation of the People Act 1985 s 24, Sch 4 para 38; and the Representation of the People Act 1983 s 96(1) amended by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 29); Representation of the People Act 1983 s 95(5) (applied by s 96(4) (as so substituted)).

4 Ibid s 96(1)(i) (s 96 as substituted (see note 3 supra); s 96(1)(i) added by the Greater London Authority Act 1999 Sch 3 paras 1, 29).

5 As to references to a registered political party submitting a list of candidates to be London members of the London Assembly at an ordinary election see PARA 237 note 14 ante. As to London Assembly ordinary elections see PARA 206 ante; and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 88 et seq. For the meaning of 'London member', in relation to the London Assembly, see PARA 10 note 5 ante.

6 Representation of the People Act 1983 s 96(1)(ii) (s 96 as substituted (see note 3 supra); s 96(1)(ii) added by the Greater London Authority Act 1999 Sch 3 paras 1, 29).

7 Ie in accordance with rules made under the Representation of the People Act 1983 s 36 (as amended) (as to which see PARA 388 post). As to the last day on which notice of a local government election may be published see PARA 218 ante.

8 Ibid s 96(1) (as substituted: see note 3 supra). As to the application of this provision to a poll consequent on a parish meeting where the poll is on a question of appointment to an office see PARA 388 post. However, in that case, there is no notice of election at such a poll.

9 'Room' includes a hall, gallery or gymnasium: ibid s 95(7)(b); applied by s 96(4) (as substituted: see note 3 supra).

10 For this purpose, the premises of a school are not to be taken to include any private dwelling: ibid s 95(7) (amended by the Representation of the People Act 2000 s 15, Sch 6 paras 3, 7, Sch 7 Pt II); applied by the Representation of the People Act 1983 s 96(4) (as substituted: see note 3 supra). As to the meaning of 'dwelling' see PARA 132 note 19 ante. As to community, foundation and voluntary schools see EDUCATION vol 15(1) (2006 Reissue) PARA 102 et seq.

11 For the meaning of 'electoral area' see PARA 10 ante.

12 As to parishes generally see LOCAL GOVERNMENT vol 69 (2009) PARA 27 et seq; and as to communities generally see LOCAL GOVERNMENT vol 69 (2009) PARA 41 et seq.

13 Representation of the People Act 1983 s 96(1)(a), (2)(a) (s 96 as substituted (see note 3 supra); s 96(2)(a) amended by the School Standards and Framework Act 1998 s 140(1), Sch 30 paras 9, 11).

14 *Ettridge v Morrell* (1986) 85 LGR 100, CA.

15 'Meeting room' means any room which it is the practice to let for public meetings: Representation of the People Act 1983 s 95(7)(a); applied by s 96(4) (as substituted: see note 3 supra).

16 Ibid s 96(1)(b), (3)(a) (as substituted: see note 3 supra).

17 For the meaning of 'hereditament' in this context see RATING AND COUNCIL TAX vol 39(1B) (Reissue) PARA 33 et seq.

18 See the Local Government Finance Act 1988 s 65(6); and RATING AND COUNCIL TAX vol 39(1B) (Reissue) PARA 13.

19 Ie the Representation of the People Act 1983 s 95(4), (5), Sch 5 para 1(1) (as amended) (see PARA 340 ante).

20 Ibid s 96(4) (as substituted: see note 3 supra). Section 95(7) (as amended) is also applied: see notes 9, 10, 15 supra.

21 For the meaning of 'constituency' for the purposes of parliamentary elections see PARA 9 ante.

22 As to the appointment of election agents see PARA 238 et seq ante.

23 Ie prepared under the Representation of the People Act 1983 Sch 5 (as amended) (see PARA 341 ante).

24 Ibid s 96(4) (as substituted: see note 3 supra). As to the last day on which notice of election at a local government election is published see PARA 218 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(3) THE ELECTION CAMPAIGN/(viii) Election Meetings/343. Disturbances at election meetings.

343. Disturbances at election meetings.

Any person who at certain lawful public meetings¹ acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together is guilty of an illegal practice². The meetings to which this prohibition applies are:

- 407 (1) political meetings held in a parliamentary constituency³ between the date of the issue of a writ for the return of a member of Parliament⁴ for the constituency and the date at which a return to the writ is made⁵;
- 408 (2) meetings held with reference to a local government election⁶ in the electoral area⁷ for that election in the period beginning with the last date on which notice of the election may be published in accordance with rules made under the Representation of the People Act 1983⁸, and ending with the day of election⁹;
- 409 (3) a political meeting held, in relation to a Welsh Assembly constituency election¹⁰, in the Assembly constituency¹¹ for which the election is held¹² and, in relation to a Welsh Assembly regional election¹³, in the Assembly electoral region¹⁴ for which the election is held¹⁵, during the period beginning with the last day on which notice of election may be published¹⁶ and ending with the day of election¹⁷;
- 410 (4) a political meeting held in a European parliamentary electoral region¹⁸ in connection with a European parliamentary election¹⁹ between the last date on which notice of election may be published in accordance with the elections rules²⁰ and the date of the poll²¹.

If a constable reasonably suspects any person of committing an offence under this provision, he may, if requested so to do by the chairman of the meeting, require that person to declare to him immediately his name and address²². If that person refuses or fails so to declare his name and address or gives a false name and address, he is liable on summary conviction to a fine²³.

1 As to the right to free assembly see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 109.

2 See the Representation of the People Act 1983 s 97(1); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 69(1); the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 68(1); and PARA 682 post. As to disturbances at public meetings generally see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(1) (2006 Reissue) PARA 584; and as to disturbances at election meetings see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(1) (2006 Reissue) PARA 585. As to the punishment and consequences of illegal practices see PARA 886 et seq post.

3 For the meaning of 'constituency' for the purposes of parliamentary elections see PARA 9 ante.

4 As to the issue and conveyance of writs for parliamentary elections see PARA 199 ante.

5 Representation of the People Act 1983 s 97(2)(a). As to the return to the writ see PARA 479 post.

6 For the meaning of 'local government election' see PARA 10 ante. As to elections in the City of London see PARA 30 ante.

7 For the meaning of 'electoral area' see PARA 10 ante.

8 le under the Representation of the People Act 1983 s 36 (as amended) (as to which see PARA 388 post). As to the notice of a local government election see PARA 218 ante.

9 Ibid s 97(2)(b) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 39). As to the last date on which notice of election at a local government election may be given see PARA 218 ante. As to the application of this provision to a poll consequent on a parish meeting where the poll is on a question of appointment to an office see PARA 388 post. However, there is no notice of election at such a poll.

10 For the meaning of 'constituency election' for the purposes of a Welsh Assembly election see PARA 3 note 1 ante.

11 For the meaning of 'Assembly constituency' for the purposes of a Welsh Assembly election see PARA 3 note 1 ante.

12 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 69(2)(a).

13 For the meaning of 'regional election' for the purposes of Welsh Assembly elections see PARA 3 note 1 ante.

14 For the meaning of 'Assembly electoral region' for the purposes of a Welsh Assembly election see PARA 3 note 1 ante.

15 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 69(2)(b).

16 As to publication of notice of a Welsh Assembly election see PARA 223 ante.

17 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 69(2).

18 As to electoral regions constituted for the purposes of European parliamentary elections see PARA 76 ante.

19 As to European parliamentary elections see PARA 224 et seq ante.

20 As to publication of notice of European parliamentary elections see PARA 230 ante.

21 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 68(2). As to the date of the poll at a European parliamentary election see PARA 229 ante.

22 See the Representation of the People Act 1983 s 97(3); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 69(3); the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 68(3); and PARA 682 post.

23 See the Representation of the People Act 1983 s 97(3); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 69(3); the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 68(3); and PARA 682 post. The penalty is a fine not exceeding level 1 on the standard scale: see the Representation of the People Act 1983 s 97(3); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 69(3); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 68(3). As to the standard scale see PARA 736 note 3 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/ (i) The Voting Systems/344. Elections taking place in a constituency or electoral area.

(4) THE BALLOT

(i) The Voting Systems

344. Elections taking place in a constituency or electoral area.

Contested elections for the return of a member to represent a parliamentary constituency¹, a local government electoral area² (including a London Assembly constituency³) or a Welsh Assembly constituency⁴ take place under a voting system where the result is ascertained by counting the votes given to each candidate⁵ and the candidate to whom the majority of votes has been given is declared to have been elected⁶. Where, after the counting of the votes (including any recount) is completed, an equality of votes is found to exist between any candidates, and the addition of a vote would entitle any of those candidates to be declared elected, the returning officer must forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote⁷.

1 For the meaning of 'parliamentary election', and for the meaning of 'constituency' in the context of a parliamentary election, see PARA 9 ante.

2 For the meaning of 'local government election', and for the meaning of 'electoral area' in the context of a local government election, see PARA 10 ante.

3 For the meaning of 'Assembly constituency' in the context of elections to the London Assembly see PARA 10 ante. As to elections for the return of constituency members of the London Assembly see PARA 206 et seq ante.

4 For the meanings of 'constituency election' and 'Assembly constituency' in the context of a Welsh Assembly election see PARA 3 note 1 ante.

5 For the meaning of 'candidate' generally see PARA 237 ante. Note also the use of the term 'individual candidate' as it is used in the context of regional elections, where party lists operate, to indicate a person standing for election who is not included in the list of candidates of a registered party: see PARA 345 post.

In the case of a Welsh Assembly constituency election, the result is ascertained under the simple majority system in accordance with the Government of Wales Act 2006 s 6(2), (4) (see PARA 369 post); and, in the case of the election of an Assembly member for an Assembly constituency, the member is returned under the simple majority system in accordance with the Greater London Authority Act 1999 s 4(1)(b), (4) (see PARA 368 post). The provisions of the Government of Wales Act 2006 supersede those of the Government of Wales Act 1998 immediately after the ordinary election held in 2007 under s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes before that date see the Government of Wales Act 1998 s 4(2), (4); and PARA 369 post.

6 Representation of the People Act 1983 s 23(1), Sch 1 r 18; Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), Sch 1 r 14; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 22(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 15; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 15. In the case of a local government election, the candidate or candidates to whom more votes have been given than to the other candidates, up to the number of councillors to be elected, is or are declared to have been elected: see the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 15; and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 15.

This voting system is known variously as the 'simple majority', 'relative majority' or 'first past the post' system. In none of these terms is it to be implied that the successful candidate has to receive more than a certain number (or more than 50%) of the votes cast before he can be declared to be elected.

7 As to parliamentary elections see the Representation of the People Act 1983 s 23(1), Sch 1 r 49 (cited in PARA 441 post). As to local government elections see the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 49; and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 49 (cited in PARA 441 post). As to London Assembly constituency elections see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 44 (cited in PARA 447 post). As to Welsh Assembly constituency elections see the Government of Wales Act 2006 s 6(2), (4); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 55 (cited in PARA 466 post); and CONSTITUTIONAL LAW AND HUMAN RIGHTS. The provisions of the Government of Wales Act 2006 supersede those of the Government of Wales Act 1998 immediately after the ordinary election held in 2007 under s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes before that date see the Government of Wales Act 1998 s 4(2), (4); and PARA 369 post.

UPDATE

344 Elections taking place in a constituency or electoral area

NOTES 6, 7--SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/ (i) The Voting Systems/345. Elections taking place in an electoral region.

345. Elections taking place in an electoral region.

Where contested elections take place to return London members of the London Assembly¹, or members to represent Welsh Assembly electoral regions² or members to represent European parliamentary electoral regions³, votes are given for the candidates⁴ by ballot and the results are ascertained, after counting the votes given to each individual candidate or registered political party, using a 'corrective' system of calculation⁵ as follows:

- 411 (1) in the case of an 'additional member' system:
- 17
32. (a) a figure (the 'electoral region figure')⁶ for each registered political party⁷ is arrived at⁸ by adding together the number of electoral region votes⁹ given for the party in the constituencies included in the electoral region¹⁰ and dividing the number thereby arrived at by the aggregate of one plus the number of candidates of the party returned as constituency members for any of those constituencies¹¹; and
33. (b) the electoral region figure for each individual candidate is arrived at¹² by adding together the number of electoral region votes given for that candidate in the constituencies included in the electoral region¹³,
- 18
- 412 but, in the case of a 'regional list' system, the 'electoral region figure' is simply the number of votes cast for each registered party or candidate;
- 413 (2) the first of the seats for the electoral region is allocated to the party or individual candidate with the highest electoral region figure¹⁴;
- 414 (3) the second and subsequent seats for the electoral region are allocated to the party or individual candidate with the highest electoral region figure after any required recalculation¹⁵ has been carried out¹⁶.

An individual candidate already returned as a regional member (or, in the case of an election for the return of London members of the London Assembly, as the Mayor of London) is disregarded for the purposes of the allocation of seats to regional members¹⁷. Electoral region seats allocated to a party are filled by the persons on the party's list in the order in which they appear on the list¹⁸, and once a party's list has been exhausted¹⁹ the party is disregarded²⁰. However, in the case of the last seat to be allocated, where two or more registered parties or individual candidates have an equal number of votes, and that number is greater than the number of votes of any other party or candidate, one vote must be added to the votes of each party or individual candidate having such an equal number and the operation in head (3) above is reapplied²¹. If, after that, the highest electoral region figure is still the electoral region figure of two or more parties or individual candidates, the appropriate returning officer²² must forthwith decide between the parties and individual candidates having such an equal number by lot, and allocate the seat to the party or candidate on whom the lot falls²³.

1 For the meaning of 'London member' see PARA 10 note 5 ante. As to elections for the return of the London members of the London Assembly see PARA 206 et seq ante.

2 For the meanings of 'regional election' and 'Assembly electoral region' in the context of a Welsh Assembly election see PARA 3 note 1 ante.

3 As to electoral regions constituted for the purposes of European parliamentary elections see PARA 76 ante; and as to European parliamentary elections see PARA 224 et seq ante.

4 In an election of London members of the London Assembly, of Welsh Assembly regional members or of members of the European Parliament ('MEPs'), electors may give a vote for: (1) a registered party which has submitted a list of candidates; or (2) an individual who is named on the ballot paper as a candidate: see the Greater London Authority Act 1999 s 4(1)(c), (5) (cited in PARA 368 post; and see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 90); the Government of Wales Act 2006 s 6(3) (cited in PARA 369 post; and see CONSTITUTIONAL LAW AND HUMAN RIGHTS); and the European Parliamentary Elections Act 2002 s 2(3), (4) (cited in PARA 370 post). As to individual candidates and the submission of lists of candidates to be London members of the London Assembly see PARA 233 ante; and as to references to party lists in elections for the return of London members of the London Assembly see PARA 262 note 24 ante. For the meaning of 'registered political party' in this context see PARA 233 note 16 ante. As to individual candidates and the submission of lists of candidates to be members for a Welsh Assembly region see PARA 234 ante. For the meanings of 'individual candidate', 'party list candidate' and 'registered political party' in the context of a Welsh Assembly regional election see PARA 237 note 23 ante. As to individual candidates and the submission of lists of candidates to be members for a Welsh Assembly region see PARA 234 ante. As to the submission of lists of candidates to be MEPs see PARA 235 ante. For the meaning of 'list', in the context of a European parliamentary election, see PARA 237 note 30 ante; and for the meaning of 'individual candidate' see PARA 237 note 32 ante. The provisions of the Government of Wales Act 2006 supersede those of the Government of Wales Act 1998 immediately after the ordinary election held in 2007 under s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes before that date see the Government of Wales Act 1998 s 4(3).

5 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 1 r 15; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 22(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 20.

The system is known as the 'additional member' system of proportional representation for the election of Welsh Assembly regional members (see the Government of Wales Act 2006 s 6(5)) and as a 'regional list' system for the election of MEPs in a European parliamentary electoral region (see the European Parliamentary Elections Act 2002 s 2(1) (amended by the European Parliamentary Elections (Combined Region and Controlled Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, art 3(1), (3)(b))). The 'regional list' system is similar to the 'additional member' system but the members elected from a European parliamentary electoral region are not 'additional' to constituency members because that element is absent in such elections. A form of the 'additional member' system is used for the election of London members of the London Assembly. The aim of the 'corrective' system of calculation is to allocate seats in proportion to the overall share of the vote of each party or each candidate in the electoral region. The provisions of the Government of Wales Act 2006 supersede those of the Government of Wales Act 1998 immediately after the ordinary election held in 2007 under s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes before that date see the Government of Wales Act 1998 s 4(5).

6 See the Government of Wales Act 2006 s 8(5). As to the date at which this provision takes effect see note 5 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 6(3).

In the context of an election for the return of London members of the London Assembly, this figure is referred to as the 'London figure': see the Greater London Authority Act 1999 s 4(6), Sch 2 para 6(3). To apply the prevailing terminology, London constitutes the 'electoral region' for a regional election in which there is only one region, so it can be named specifically.

7 le each registered political party by which a list of candidates has been submitted (see note 4 supra).

8 Greater London Authority Act 1999 Sch 2 para 6(3)(a); Government of Wales Act 2006 s 8(5)(a). As to the date at which s 8 takes effect see note 5 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 6(3)(a).

9 In the context of an election for the return of London members of the London Assembly, these votes are referred to as 'London votes': see the Greater London Authority Act 1999 ss 4(1)(c), 29; and notes 4-5 supra.

10 Ibid Sch 2 para 6(1)(a); Government of Wales Act 2006 s 8(3)(a). As to the date at which s 8 takes effect see note 5 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 6(1)(a).

11 Greater London Authority Act 1999 Sch 2 para 6(1)(b); Government of Wales Act 2006 s 8(3)(b). Accordingly, the persons who are to be returned as the constituency members for each constituency included in the electoral region (and, in the case of an election for the return of London members of the London Assembly, the person who is returned as the Mayor of London) must be determined before it is determined who are to be returned as the regional members for the electoral region: Greater London Authority Act 1999 s 4(7);

Government of Wales Act 2006 s 8(2). As to the date at which s 8 takes effect see note 5 supra. As to the provision that applies until that date see the Government of Wales Act 1998 ss 4(6), 6(1)(b). As to elections for the return of a Mayor of London see PARA 206 ante.

However, in the context of an election for the return of London members of the London Assembly, if the poll at the election of an Assembly member for an Assembly constituency is countermanded or abandoned for any reason, the persons who are to be returned as the London members must be determined without regard to the determination of the Assembly member for that Assembly constituency: Greater London Authority Act 1999 s 4(8). If a person who is a candidate of a registered political party in a London Assembly constituency is returned as the Assembly member for the constituency and is also returned as the Mayor of London, that person counts for the purposes of calculating the aggregate number in head (1)(a) in the text as a candidate of the party returned as a constituency member, notwithstanding that a vacancy arises in the Assembly constituency by virtue of s 4(10) (person returned as Mayor of London also returned as Assembly constituency member: see PARA 346 post): see Sch 2 para 6(4). Also, if the number of London votes for each registered political party arrived at in head (1)(a) in the text is not more than 5% of the total number of London votes polled by all the registered political parties and all the individual candidates at the election, none of the seats for London members is allocated to that party (Sch 2 para 7(1)(a)), and that party is accordingly left out of account for the purposes of heads (2) and (3) in the text (Sch 2 para 7(1)(a), (2)).

12 Ibid Sch 2 para 6(3)(b); Government of Wales Act 2006 s 8(5)(b). As to the date at which s 8 takes effect see note 5 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 6(3)(b).

13 Greater London Authority Act 1999 Sch 2 para 6(2); Government of Wales Act 2006 s 8(4). As to the date at which s 8 takes effect see note 5 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 6(2).

In the context of an election for the return of London members of the London Assembly, if the number of London votes for an individual candidate arrived at under head (1)(b) in the text is not more than 5% of the total number of London votes polled by all the registered political parties and all the individual candidates at the election, none of the seats for London members is allocated to that individual candidate (Greater London Authority Act 1999 Sch 2 para 7(1)(b)), and that candidate is accordingly left out of account for the purposes of heads (2) and (3) in the text (Greater London Authority Act 1999 Sch 2 para 7(1)(b), (2)).

14 Ibid Sch 2 para 8(1); European Parliamentary Elections Act 2002 s 2(5); Government of Wales Act 2006 s 9(1). As to the date at which s 9(1) takes effect see note 5 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 7(1).

In the case of an 'additional member' system, where the application of head (2) in the text results in two or more registered parties or individual candidates having an equal number of votes, and that number is greater than the number of votes of any other party or candidate, head (2) in the text applies to each of them: Greater London Authority Act 1999 Sch 2 para 8(7); Government of Wales Act 2006 s 9(7). As to the date at which s 9(7) takes effect see note 5 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 7(7).

15 If the number of votes given to a party to which one or more seats have already been allocated are to be divided by the number of seats allocated plus one: Greater London Authority Act 1999 Sch 2 para 8(3); European Parliamentary Elections Act 2002 s 2(6); Government of Wales Act 2006 s 9(3). As to the date at which s 9(3) takes effect see note 5 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 7(3).

16 Greater London Authority Act 1999 Sch 2 para 8(2); European Parliamentary Elections Act 2002 s 2(6); Government of Wales Act 2006 s 9(2). As to the date at which s 9(2) takes effect see note 5 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 7(2). In the case of a European parliamentary election, it is specified that fractions are to be taken into account for this purpose: see the European Parliamentary Elections Act 2002 s 2(9).

In the case of an 'additional member' system, where the application of head (3) in the text results in two or more registered parties or individual candidates having an equal number of votes, and that number is greater than the number of votes of any other party or candidate, head (3) in the text applies to each of them: Greater London Authority Act 1999 Sch 2 para 8(7); Government of Wales Act 2006 s 9(7). As to the date at which s 9(7) takes effect see note 5 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 7(7).

17 Greater London Authority Act 1999 Sch 2 para 8(4); European Parliamentary Elections Act 2002 s 2(7)(b); Government of Wales Act 2006 s 9(4). As to the date at which s 9(4) takes effect see note 5 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 7(4).

18 Greater London Authority Act 1999 Sch 2 para 8(5); European Parliamentary Elections Act 2002 s 2(8); Government of Wales Act 2006 s 9(5). As to the date at which s 9(5) takes effect see note 5 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 7(5).

In the case of an election for the return of London members of the London Assembly (including for the purpose of filling a vacancy: see PARA 211 ante), a person included on a list submitted by a registered political party who is returned as the Mayor of London or as a London Assembly member is treated as ceasing to be on the list (even if his return is void): Greater London Authority Act 1999 Sch 2 para 8(10).

19 le by the return of persons included on it as constituency members or by the previous application of head (2) or head (3) in the text.

20 Greater London Authority Act 1999 Sch 2 para 8(6); European Parliamentary Elections Act 2002 s 2(7)(a); Government of Wales Act 2006 s 9(6). As to the date at which s 9(6) takes effect see note 5 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 7(6).

21 Greater London Authority Act 1999 Sch 2 para 8(8); Government of Wales Act 2006 s 9(8); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9, Sch 1 para 55(1). It is possible that the operation in head (2) in the text would result in more candidates having the same highest electoral region figure than there are seats to be allocated, in which case the same principle applies, with the operation in head (2) in the text being reapplied after a recalculation as mentioned in the text: see the Greater London Authority Act 1999 Sch 2 para 8(8); and the Government of Wales Act 2006 s 9(8). As to the date at which s 9(8) takes effect see note 5 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 7(8).

22 In the case of an election for the return of London members of the London Assembly, the reference is to the Greater London returning officer (for the meaning of which see PARA 218 note 7 ante). In relation to a Welsh Assembly regional election, the reference is to a regional returning officer (for the meaning of which see PARA 18 note 2 ante). As to returning officers for European parliamentary elections see PARA 365 et seq post.

23 Greater London Authority Act 1999 Sch 2 para 8(9); Government of Wales Act 2006 s 9(9); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 55(2). As to the date at which the Government of Wales Act 2006 s 9(9) takes effect see note 5 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 7(9). In the case of a European parliamentary election, it is specified that, where the lot falls on a party, the returning officer must allocate the seat according to the order in which the persons named on the party's list of candidates appear on that list: European Parliamentary Elections Act 2002 s 2(8); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 55(3).

UPDATE

345 Elections taking place in an electoral region

NOTES 5, 21, 23--SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

NOTE 5--SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/ (i) The Voting Systems/346. Elections to the office of mayor.

346. Elections to the office of mayor.

An elected local authority mayor¹ or the Mayor of London ('an elected mayor') is returned² under the simple majority system, unless there are three or more candidates³, in which case the mayor must be returned under the supplementary vote system⁴ and a voter's mayoral vote⁵ will be a vote capable of being given to indicate the voter's first and second preferences from among the candidates⁶.

Where the supplementary vote system is applied, if one of the candidates to be the elected mayor receives more than half of all the first preference votes⁷ given in the election⁸, that candidate is returned as the elected mayor⁹. If none of the candidates receives more than half of all the first preference votes given in the election¹⁰, the two candidates who received the greatest number of such votes remain in the contest¹¹ (the other candidates being eliminated¹²), and the number of second preference votes¹³ given in the election for each of the remaining candidates by voters who did not give their first preference vote to any of those candidates is ascertained¹⁴ and added to the number of first preference votes given for that candidate, to give his total number of preference votes¹⁵. The person who is to be returned as the elected mayor is that one of the remaining candidates who has the greatest total number of preference votes¹⁶. If the person who is returned at an election as the elected mayor of a local authority is also returned as (or was already) a councillor of the authority, a vacancy arises in the office of councillor¹⁷. If the person who is returned as the Mayor of London is also returned as (or was already) a London Assembly member for an Assembly constituency¹⁸, a vacancy arises in the Assembly constituency¹⁹.

1 As to an election for the return of an elected local authority mayor see PARA 205 ante. See also LOCAL GOVERNMENT vol 69 (2009) PARA 320 et seq.

2 As to elections for the return of a Mayor of London see PARA 206 ante. See also LONDON GOVERNMENT vol 29(2) (Reissue) PARA 90.

3 Greater London Authority Act 1999 s 4(2); Local Government Act 2000 s 42(2).

4 Ie in accordance with the Greater London Authority Act 1999 s 4(3)(a), Sch 2 paras 1-4 or the Local Government Act 2000 s 42(3), Sch 2 (see the text and notes 5-16 infra).

5 Ie the vote which each elector may give for a candidate to be an elected mayor: Greater London Authority Act 1999 s 4(1)(a); Local Government Act 2000 s 42(1). See further PARA 368 post.

6 Greater London Authority Act 1999 s 4(3)(b), Sch 2 para 1; Local Government Act 2000 s 42(3). In such circumstances a voter's mayoral vote is known as a 'supplementary vote'.

7 For these purposes, 'first preference vote' means a mayoral vote to the extent that it is given so as to indicate a voter's first preference from among the candidates to be the elected mayor: Greater London Authority Act 1999 Sch 2 para 2; Local Government Act 2000 s 42(1)(a).

8 In the case of an election for the return of a Mayor of London, the votes are given in the London Assembly constituencies. For the meaning of 'Assembly constituency' in the context of elections to the London Assembly see PARA 10 ante.

9 Greater London Authority Act 1999 Sch 2 para 3; Local Government Act 2000 Sch 2 para 2.

10 Greater London Authority Act 1999 Sch 2 para 4(1); Local Government Act 2000 Sch 2 para 3(1).

11 Greater London Authority Act 1999 Sch 2 para 4(2); Local Government Act 2000 Sch 2 para 3(2). If, by reason of an equality of first preference votes, three or more candidates are qualified to remain in the contest, all of them remain in the contest: Greater London Authority Act 1999 Sch 2 para 4(3); Local Government Act 2000 Sch 2 para 3(3).

12 Greater London Authority Act 1999 Sch 2 para 4(4); Local Government Act 2000 Sch 2 para 3(4).

13 For these purposes, 'second preference vote' means a mayoral vote to the extent that it is given so as to indicate a voter's second preference from among the candidates to be the elected mayor: Greater London Authority Act 1999 Sch 2 para 2; Local Government Act 2000 s 42(1)(b).

14 Greater London Authority Act 1999 Sch 2 para 4(5); Local Government Act 2000 Sch 2 para 3(5).

15 Greater London Authority Act 1999 Sch 2 para 4(6); Local Government Act 2000 Sch 2 para 3(6).

16 Greater London Authority Act 1999 Sch 2 para 4(7); Local Government Act 2000 Sch 2 para 3(7). If, by reason of an equality of total number of preference votes, two or more of the remaining candidates each have the greatest total number of preference votes, the returning officer must decide by lots which of them is returned as the elected mayor: Greater London Authority Act 1999 Sch 2 para 4(8); Local Government Act 2000 Sch 2 para 3(8). In the case of an election for the return of the Mayor of London, the reference is to the Greater London returning officer (for the meaning of which see PARA 218 note 7 ante). As to returning officers for the election of a local authority elected mayor see PARA 359 post.

17 See the Local Government Act 2000 s 40; and LOCAL GOVERNMENT vol 69 (2009) PARA 323.

18 See PARA 344 ante.

19 Greater London Authority Act 1999 s 4(10). See PARA 345 ante; and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 109.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/ (i) The Voting Systems/347. Polls consequent on a parish meeting taken on the question of appointment to any office.

347. Polls consequent on a parish meeting taken on the question of appointment to any office.

In the case of a contested poll consequent on a parish meeting taken on the question of appointment to any office¹, the candidate or candidates to whom more votes have been given than to other candidates, up to the number of appointments to be made, are declared to be elected². Where, after the counting of the votes (including any recount) is completed, an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected or would decide the question, the returning officer must forthwith decide between those candidates or that question by lot, and proceed as if the candidate on whom or answer in favour of or against the question on which the lot falls had received an additional vote³.

1 As to polls consequent on a parish meeting taken on the question of appointment to any office see PARA 207 et seq ante.

2 See the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 32(a); and PARA 482 post.

3 See ibid Schedule r 31; and PARA 441 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(ii) Polling Districts and Polling Places/348. Polling districts at parliamentary elections.

(ii) Polling Districts and Polling Places

348. Polling districts at parliamentary elections.

Every parliamentary constituency¹ is to be divided into polling districts². A relevant authority³ must divide its area into polling districts for the purpose of parliamentary elections for so much of any constituency as is situated in its area⁴, and keep the polling districts under review⁵. The authority must seek to ensure that all electors in a constituency in its area have such reasonable facilities for voting as are practicable in the circumstances⁶; and, unless there are special circumstances⁷, in England each parish is to be a separate polling district⁸ and in Wales each community is to be a separate polling district⁹. If an alteration of polling districts in an area is made: (1) the registration officer who acts for the area¹⁰ must make such adaptations of his register of parliamentary electors¹¹ as are necessary to take account of the alteration¹²; and (2) the alteration is effective on the date on which the registration officer publishes a notice stating that any such adaptations have been made by him¹³.

No election is to be questioned by reason of any non-compliance with the provisions relating to the designation of parliamentary polling districts (including provision made for their review¹⁴) or any informality relative to polling districts¹⁵.

1 For the meaning of 'constituency' in the context of a parliamentary election see PARA 9 ante.

2 Representation of the People Act 1983 s 18A(1) (ss 18A, 18E added by the Electoral Administration Act 2006 s 16(1)).

3 In relation to England, the council of a district or London borough is a relevant authority (Representation of the People Act 1983 s 18E(1), (3)(a) (as added: see note 2 supra)); and, in relation to Wales, the council of a county or county borough is a relevant authority (s 18E(1), (3)(c) (as so added)). For the meanings of 'England' and 'Wales' see PARA 13 note 1 ante. As to districts in England, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 24 et seq; as to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq; and as to London boroughs, and their councils, see LONDON GOVERNMENT vol 29(2) (Reissue) PARAS 30, 35-39, 59 et seq.

4 Ibid s 18A(2)(a) (as added: see note 2 supra).

5 Ibid s 18A(2)(b) (as added: see note 2 supra). As to the review of parliamentary polling districts see PARA 350 post.

6 Ibid s 18A(3)(a) (as added: see note 2 supra). For the meaning of 'elector', in relation to a parliamentary election, see PARA 110 note 2 ante.

7 Ibid s 18A(4) (as added: see note 2 supra).

8 Ibid s 18A(3)(b) (as added: see note 2 supra). As to parishes generally see LOCAL GOVERNMENT vol 69 (2009) PARA 27 et seq.

9 Ibid s 18A(3)(c) (as added: see note 2 supra). As to communities generally see LOCAL GOVERNMENT vol 69 (2009) PARA 41 et seq.

10 As to electoral registration officers and the areas for which they act see PARA 154 et seq ante.

11 As to the duty of each registration officer to maintain the registers of electors see PARA 156 et seq ante.

- 12 Representation of the People Act 1983 s 18A(5)(a) (as added: see note 2 supra).
- 13 Ibid s 18A(5)(b) (as added: see note 2 supra).
- 14 Ibid s 18E(1), (2)(a) (as added: see note 2 supra).
- 15 Ibid s 18E(1), (2)(b) (as added: see note 2 supra). As to the questioning of parliamentary elections see
PARA 759 et seq post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(ii) Polling Districts and Polling Places/349. Polling places at parliamentary elections.

349. Polling places at parliamentary elections.

A polling place is to be designated for each polling district in a constituency¹, unless the size or other circumstances of a polling district are such that the situation of the polling stations does not materially affect the convenience of the electors or any body of them². A relevant authority³ must designate the polling places for the polling districts in its area⁴ and keep the polling places in its area under review⁵, in relation to which the following rules apply⁶: (1) the authority must seek to ensure that all electors in a constituency in its area have such reasonable facilities for voting as are practicable in the circumstances⁷; (2) the authority must seek to ensure that so far as is reasonable and practicable every polling place for which it is responsible is accessible to electors who are disabled⁸; (3) the authority must have regard to the accessibility to disabled persons of potential polling stations in any place which it is considering designating as a polling place or the designation of which as a polling place it is reviewing⁹; (4) the polling place for a polling district must be an area in the district, unless special circumstances make it desirable to designate an area wholly or partly outside the district¹⁰; (5) the polling place for a polling district must be small enough to indicate to electors in different parts of the district how they will be able to reach the polling station¹¹. If no polling place is designated for a polling district, the polling district is to be taken to be the polling place¹².

No election is to be questioned by reason of any non-compliance with the provisions relating to the designation of parliamentary polling places (including provision made for their review¹³) or any informality relative to polling places¹⁴.

1 Representation of the People Act 1983 s 18B(1) (ss 18B, 18E added by the Electoral Administration Act 2006 s 16(1)). For the meaning of 'constituency' in the context of a parliamentary election see PARA 9 ante. As to the designation of polling districts at parliamentary elections see PARA 348 ante.

2 Representation of the People Act 1983 s 18B(2) (as added: see note 1 supra). For the meaning of 'elector', in relation to a parliamentary election, see PARA 110 note 2 ante.

3 As to the relevant authorities for these purposes see PARA 350 note 3 ante.

4 Representation of the People Act 1983 s 18B(3)(a) (as added: see note 1 supra).

5 Ibid s 18B(3)(b) (as added: see note 1 supra).

6 Ibid s 18B(4) (as added: see note 1 supra).

7 Ibid s 18B(4)(a) (as added: see note 1 supra).

8 Ibid s 18B(4)(b) (as added: see note 1 supra).

9 Ibid s 18B(4)(c) (as added: see note 1 supra).

10 Ibid s 18B(4)(d) (as added: see note 1 supra).

11 Ibid s 18B(4)(e) (as added: see note 1 supra).

12 Ibid s 18B(5) (as added: see note 1 supra).

13 Ibid s 18E(1), (2)(a) (as added: see note 1 supra).

14 Ibid s 18E(1), (2)(b) (as added: see note 1 supra). As to the questioning of parliamentary elections see PARA 759 et seq post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(ii) Polling Districts and Polling Places/350. Review of parliamentary polling districts and polling places.

350. Review of parliamentary polling districts and polling places.

Each relevant authority¹ must complete a review, under the provisions relating to parliamentary polling districts and polling places at parliamentary elections², of all the polling districts and polling places in its area before the end of the period of 12 months starting with 1 January 2007³. However, this requirement does not apply in the case of a polling district or polling place (as the case may be) which is designated for the first time during that period⁴. In such a case, the first review of the polling district or polling place must be completed before the end of the period of four years starting with the date on which that designation is made⁵. The authority must complete a further review of each polling district and polling place in its area before the end of the period of four years starting with the completion of the previous such review⁶. These provisions do not prevent a relevant authority carrying out at any time a review of a particular polling district or polling place⁷.

The relevant authority must publish notice of the holding of a review⁸. The authority must consult the returning officer for every parliamentary election⁹ held in a constituency¹⁰ that is wholly or partly in its area¹¹; and every such returning officer must make to the authority representations¹², which must include information as to the location of polling stations (existing or proposed) within polling places (existing or proposed)¹³, and which must be published in such manner as is prescribed¹⁴. The authority must also seek representations from such persons as it thinks have particular expertise in relation to access to premises or facilities for persons who have different forms of disability¹⁵; and such persons must have an opportunity both to make representations¹⁶ and to comment on the returning officer's representations¹⁷. Any elector in a constituency situated in whole or in part in the authority's area may also make representations¹⁸. Representations made by any person in connection with a review of polling places may include proposals for specified alternative polling places¹⁹. On completion of a review, the authority must give reasons for its decisions in the review²⁰ and it must publish such other information as is prescribed²¹.

No election is to be questioned by reason of any non-compliance with the provisions relating to the review of parliamentary polling districts and polling places²² or any informality relative to polling districts or polling places²³.

1 As to the relevant authorities for these purposes see PARA 350 note 3 ante.

2 Ie under the Representation of the People Act 1983 ss 18A-18B (as added) (see PARAS 348-349 ante).

3 Ibid s 18C(1) (ss 18C, 18E added by the Electoral Administration Act 2006 s 16(1)). The date mentioned in the text is the date on which the Electoral Administration Act 2006 s 16 came into force: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 3, Sch 1, PARA 14(c).

4 Representation of the People Act 1983 s 18C(2) (as added: see note 3 supra).

5 Ibid s 18C(3) (as added: see note 3 supra).

6 Ibid s 18C(4) (as added: see note 3 supra).

7 Ibid s 18C(5) (as added: see note 3 supra).

8 Ibid s 18C(6), Sch A1 para 1 (s 18C(6) as added (see note 3 supra); and Sch A1 added by the Electoral Administration Act 2006 s 16(2)).

9 As to returning officers for parliamentary elections see PARA 355 et seq post.

10 For the meaning of 'constituency' in the context of a parliamentary election see PARA 9 ante.

11 Representation of the People Act 1983 Sch A1 para 2 (as added: see note 8 supra).

12 Ibid Sch A1 para 3(1) (as added: see note 8 supra).

13 Ibid Sch A1 para 3(2) (as added: see note 8 supra).

14 Ibid Sch A1 para 3(3) (as added: see note 8 supra). 'Prescribed' means prescribed by regulations: s 202(1). Accordingly, a relevant authority must, within 30 days of receipt, publish representations made by a returning officer for the purposes of the review of polling districts or polling places by posting a copy of them at its office and in at least one conspicuous place in its area and, if the authority maintains a website, by placing a copy on the authority's website: Review of Polling Districts and Polling Places (Parliamentary Elections) Regulations 2006, SI 2006/2965, reg 3. As to the making of regulations under the Representation of the People Act 1983 generally see PARA 24 note 16 ante.

15 Ibid Sch A1 para 4(1) (as added: see note 8 supra).

16 Ibid Sch A1 para 4(2)(a) (as added: see note 8 supra).

17 Ibid Sch A1 para 4(2)(b) (as added: see note 8 supra).

18 Ibid Sch A1 para 5 (as added: see note 8 supra). For the meaning of 'elector', in relation to a parliamentary election, see PARA 110 note 2 ante.

19 Ibid Sch A1 para 6 (as added: see note 8 supra).

20 Ibid Sch A1 para 7(a) (as added: see note 8 supra).

21 Ibid Sch A1 para 7(b) (as added: see note 8 supra). 'Prescribed' means prescribed by regulations: s 202(1). Accordingly, on completion of a review the authority must publish the following: (1) all correspondence sent to a returning officer in connection with the review (Polling Districts and Polling Places (Parliamentary Elections) Regulations 2006, SI 2006/2965, reg 4(a)); (2) all correspondence sent to any person whom the authority thinks has particular expertise in relation to access to premises or facilities for persons who have different forms of disability (reg 4(b)); (3) all representations made by any person in connection with the review (reg 4(c)); (4) the minutes of any meeting held by the authority to consider any revision to the designation of polling districts or polling places within its area as a result of the review (reg 4(d)); (5) details of the designation of polling districts or polling places within its area as a result of the review (reg 4(e)); (6) details of the places where the results of the review have been published (reg 4(f)). See also note 14 supra.

22 Representation of the People Act 1983 s 18E(1), (2)(a) (as added: see note 3 supra).

23 Ibid s 18E(1), (2)(b) (as added: see note 3 supra). As to the questioning of parliamentary elections see PARA 759 et seq post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(ii) Polling Districts and Polling Places/351. Representations made to the Electoral Commission regarding review of parliamentary polling districts and places.

351. Representations made to the Electoral Commission regarding review of parliamentary polling districts and places.

If, in relation to a constituency¹ in the area of a relevant authority², a relevant representation³ is made to the Electoral Commission⁴ by: (1) an interested authority in England and Wales⁵; (2) not less than 30 electors in the constituency⁶; (3) a person (other than the returning officer) who has made representations in relation to a review of parliamentary polling districts and polling places⁷; (4) a person who is not an elector in a constituency in the authority's area but who the Commission thinks has sufficient interest in the accessibility of disabled persons to polling places in the area or has particular expertise in relation to the access to premises or facilities of disabled persons⁸, the Commission must consider such representations (including any observations on the representations which may be made by the returning officer for the constituency) and may, if it thinks fit⁹, direct the relevant authority to make any alterations to the polling places designated by the review which the Commission thinks necessary in the circumstances¹⁰. If the authority fails to make those alterations before the end of the period of two months starting on the day the direction is given, the Commission may itself make the alterations¹¹; and any alterations so made by the Commission have effect as if they had been made by the relevant authority¹².

No election is to be questioned by reason of any non-compliance with the provisions relating to the review of parliamentary polling districts and polling places¹³ or any informality relative to polling districts or polling places¹⁴.

1 For the meaning of 'constituency' in the context of a parliamentary election see PARA 9 ante.

2 As to the relevant authorities for these purposes see PARA 350 note 3 ante.

3 A relevant representation is a representation that a review under the Representation of the People Act 1983 ss 18A-18B (as added) (see PARAS 348-349 ante) has not been conducted by a relevant authority so as to meet the reasonable requirements of the electors in the constituency or any body of those electors (s 18D(2)(a) (ss 18D, 18E added by the Electoral Administration Act 2006 s 16(1))), or so as to take sufficient account of the accessibility to disabled persons of polling stations within a designated polling place (Representation of the People Act 1983 s 18D(2)(b) (as so added)).

4 Ibid s 18D(1) (as added: see note 3 supra). As to the Electoral Commission see PARA 31 et seq ante.

5 Ibid s 18D(1)(a) (as added: see note 3 supra). An interested authority, in relation to a constituency in England, means the council of a parish or, where there is no such council, the parish meeting of a parish which is wholly or partly situated within the constituency (s 18D(6)(a) (as so added)); and, in relation to a constituency in Wales, it means the council of a community which is wholly or partly situated within the constituency (s 18D(6)(b) (as so added)). For the meanings of 'England' and 'Wales' see PARA 13 note 1 ante. As to parishes generally see LOCAL GOVERNMENT vol 69 (2009) PARA 27 et seq; and as to communities generally see LOCAL GOVERNMENT vol 69 (2009) PARA 41 et seq.

6 Ibid s 18D(1)(b) (as added: see note 3 supra). The reference in s 18D(1)(b) (as added) to electors does not include persons who have an anonymous entry in the register of parliamentary electors or local government electors: s 18D(7) (as so added). For the meaning of 'elector', in relation to a parliamentary election, see PARA 110 note 2 ante; and for the meaning of 'anonymous entry', in relation to a register of electors, see PARA 174 ante.

7 Ibid s 18D(1)(c) (as added: see note 3 supra). The text refers to representations made under s 18C(6), Sch A1 (as added) (see PARA 350 ante).

- 8 Ibid s 18D(1)(d) (as added: see note 3 supra).
- 9 Ibid s 18D(3), (4) (as added: see note 3 supra).
- 10 Ibid s 18D(4)(a) (as added: see note 3 supra).
- 11 Ibid s 18D(4)(b) (as added: see note 3 supra).
- 12 Ibid s 18D(5) (as added: see note 3 supra).
- 13 Ibid s 18E(1), (2)(a) (as added: see note 3 supra).
- 14 Ibid s 18E(1), (2)(b) (as added: see note 3 supra). As to the questioning of parliamentary elections see
PARA 759 et seq post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(ii) Polling Districts and Polling Places/352. Polling districts and polling stations at local government elections.

352. Polling districts and polling stations at local government elections.

For elections of county councillors in England¹, and of county or county borough councillors in Wales², the appropriate county or county borough council may divide an electoral division³ into polling districts, and may alter any polling district⁴. For elections of London borough or district councillors⁵, the London borough or district council may divide the London borough or district or any ward thereof into polling districts, and may alter any polling district⁶. For any London Authority elections⁷, a London borough council or the Common Council of the City of London⁸ may divide its area into polling districts and may alter any polling district⁹.

Any power to constitute polling districts for the purpose of local government elections¹⁰ must be exercised so that electors from any parliamentary polling district¹¹ wholly or partly within the electoral area can, in the absence of special circumstances, be allotted to a polling station within the parliamentary polling place for that district unless the parliamentary polling place is outside the electoral area¹².

1 For the meaning of 'England' see PARA 13 note 1 ante. As to the election of councillors for local government principal areas see PARA 204 ante. As to counties in England, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 24 et seq.

2 For the meaning of 'Wales' see PARA 13 note 1 ante. As to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq.

3 As to electoral divisions established in England and Wales see PARA 73 ante.

4 Representation of the People Act 1983 s 31(1) (amended by the Local Government Act 1985 s 102(2), Sch 17; and the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 68(6)); Representation of the People Act 1983 s 31(1A) (added by the Local Government (Wales) Act 1994 Sch 16 para 68(6)).

5 As to the London boroughs, and their councils, see LONDON GOVERNMENT vol 29(2) (Reissue) PARAS 30, 35-39, 59 et seq.

6 Representation of the People Act 1983 s 31(1).

7 For the meaning of 'Authority election' see PARA 10 ante.

8 As to the Common Council of the City of London see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 51 et seq.

9 Representation of the People Act 1983 s 31(1B) (added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 2). For these purposes, the Inner Temple and the Middle Temple are treated as forming part of the City of London: Representation of the People Act 1983 s 31(1B) (as so added). As to the Temples see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 32 et seq. As to elections in the City of London see PARA 30 ante.

10 For the meaning of 'local government election' see PARA 10 ante.

11 As to parliamentary polling districts see PARA 348 et seq ante. For the meaning of 'elector', in relation to a local government election, see PARA 110 note 2 ante.

12 Representation of the People Act 1983 s 31(3). In this context, 'electoral area' means an electoral division of a county or a ward of a district or London borough: see PARA 10 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(ii) Polling Districts and Polling Places/353. Polling districts and polling places at elections to the National Assembly for Wales.

353. Polling districts and polling places at elections to the National Assembly for Wales.

For the purpose of Welsh Assembly elections¹, every Assembly constituency² must be divided into polling districts and a polling place must be designated for each polling district³. The polling districts and polling places so designated to have effect at Assembly elections must generally be the districts and places that have effect at parliamentary elections⁴. However, where special circumstances make it desirable, the council of a county or county borough⁵ may determine that other polling districts or polling places are to have effect in its area at an Assembly election⁶.

A Welsh Assembly election cannot be questioned by reason of any non-compliance with these provisions⁷ or any informality relative to polling districts or polling places⁸.

1 For the meaning of 'Assembly election' see PARA 3 note 1 ante.

2 For the meaning of 'Assembly constituency' in the context of a Welsh Assembly election see PARA 3 note 1 ante.

3 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 6(1).

4 Ibid art 6(2). As to parliamentary polling districts and polling places see PARA 348 et seq ante.

5 As to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq.

6 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 6(3). Any such determination made under art 6(3) must be taken in accordance with the rules set out in the Representation of the People Act 1983 ss 18A, 18B (as added) (see PARAS 348-349 ante): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 6(4); and see the Interpretation Act 1978 s 17(2) (b).

7 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 6(5)(a).

8 Ibid art 6(5)(b). As to the questioning of Welsh Assembly elections see PARA 762 et seq post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(ii) Polling Districts and Polling Places/354. Polling districts and polling places for European parliamentary elections.

354. Polling districts and polling places for European parliamentary elections.

Every European parliamentary electoral region¹ must be divided into polling districts and a polling place must be designated for each polling district². The polling district and polling places so designated must be the same as those used or designated for parliamentary elections³, except where it appears to those responsible for the designation of parliamentary polling districts and polling places that special circumstances make it desirable for some other polling district or polling place to be designated⁴.

A European parliamentary election cannot be questioned by reason of any non-compliance with these provisions⁵ or any informality relative to polling districts or polling places⁶.

1 As to electoral regions constituted for the purposes of European parliamentary elections see PARA 76 ante; and as to European parliamentary elections see PARA 224 et seq ante.

2 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 8(1).

3 As to parliamentary polling districts and polling places see PARA 348 et seq ante.

4 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 8(2). As to polling districts and polling places designated for each district in Gibraltar for the purposes of a European parliamentary election held in the combined region see reg 8(4). As to elections to the European Parliament held in the combined region see PARA 76 ante.

5 Ibid reg 8(3)(a).

6 Ibid reg 8(3)(b). As to the questioning of European parliamentary elections see PARA 763 et seq post.

UPDATE

354 Polling districts and polling places for European parliamentary elections

NOTE 4--SI 2004/293 reg 8(4) amended: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/ (iii) Returning Officers/A. PARLIAMENTARY ELECTIONS/355. Returning officers for parliamentary elections.

(iii) Returning Officers

A. PARLIAMENTARY ELECTIONS

355. Returning officers for parliamentary elections.

In England and Wales¹, the returning officer for a parliamentary election² is:

- 415 (1) in the case of a county constituency³ in England which is coterminous with or wholly contained in a county⁴, the sheriff of the county⁵;
- 416 (2) in the case of a county constituency in Wales which is coterminous with or wholly contained in a preserved county⁶, the sheriff of the county⁷;
- 417 (3) in the case of a borough constituency in England which is coterminous with or wholly contained in a district⁸, the chairman of the district council⁹;
- 418 (4) in the case of a borough constituency in Wales which is coterminous with or wholly contained in a county or county borough¹⁰, the chairman of the county or county borough council¹¹;
- 419 (5) in the case of any other constituency in England wholly outside Greater London¹², such sheriff or chairman of a district council as the Secretary of State¹³ may designate in an order made by statutory instrument¹⁴;
- 420 (6) in the case of any other constituency in Wales, such sheriff or chairman of a county or county borough council as the Secretary of State may designate in an order made by statutory instrument¹⁵;
- 421 (7) in the case of a constituency which is coterminous with or wholly contained in a London borough¹⁶, the mayor of the borough¹⁷;
- 422 (8) in the case of a council of a London borough operating executive arrangements which involve a mayor and cabinet executive or a mayor and council manager executive¹⁸, the chairman of the borough¹⁹;
- 423 (9) in the case of a constituency wholly or partly in Greater London which is situated partly in one London borough²⁰ and partly in a district or any other London borough, the mayor of such London borough or the chairman of such district council as the Secretary of State may designate in an order made by statutory instrument²¹.

It is the general duty of the returning officer at a parliamentary election to do all such acts and things as may be necessary for effectively conducting the election in the manner provided by the parliamentary election rules²². No parliamentary election may be declared invalid by reason of any act or omission by the returning officer or any other person in breach of his official duty in connection with the election or otherwise of the parliamentary elections rules²³ if it appears to the tribunal having cognisance of the question²⁴: (a) that the election was so conducted as to be substantially in accordance with the law as to elections²⁵; and (b) that the act or omission did not affect its result²⁶. Nor is a parliamentary election liable to be questioned by reason of a defect in the title, or want of title, of the person presiding at or conducting the election, if that person was then in actual possession of, or acting in, the office giving the right to preside at or conduct the election²⁷. The execution of the writ for a parliamentary election²⁸ belongs to the returning officer as such, the office of returning officer being a distinct office from that by virtue

of which he becomes returning officer²⁹; and where a person enters on an office by virtue of which he becomes returning officer, it belongs to him and not to the outgoing holder of that office to complete the execution of a writ for a parliamentary election previously issued and not yet returned³⁰.

A public notice which is required by or under the Representation of the People Act 1983 to be given by a returning officer for a parliamentary election must be given by posting the notice in some conspicuous place or places in the constituency and may also be given in such other manner as he thinks desirable for publicising it³¹.

A returning officer for a parliamentary election must take such steps as he thinks appropriate to encourage the participation by electors in the electoral process in the area for which he acts³². In so doing, he must have regard to any guidance issued by the Electoral Commission³³.

1 For the meanings of 'England' and 'Wales' see PARA 13 note 1 ante.

2 Representation of the People Act 1983 s 24(1). Any reference in any Act (whenever passed) to the returning officer for a parliamentary election or constituency must be taken as a reference to the returning officer appointed under the Representation of the People Act 1983: s 206, Sch 7 para 11. As to the discharge of the returning officer's functions for parliamentary elections see PARA 356 post. A person is not subject to any incapacity to vote at a parliamentary election by reason of being or acting as returning officer at that election: s 27(3). The provision as respects parliamentary elections is necessary because returning officers were formerly unable to vote at the election for which they acted as returning officers because they decided any equality of votes (which question is now determined by lot: see PARA 441 post). As to the returning officer's general duty at a parliamentary election to effectively conduct the election in the manner provided by the appropriate rules see PARA 388 post. For the meaning of 'parliamentary election', and for the meaning of 'constituency' in the context of a parliamentary election, see PARA 9 ante.

3 As to county constituencies and borough constituencies see PARA 72 ante.

4 *Ie* as defined by the Sheriffs Act 1887 s 38 (as amended) (see SHERIFFS vol 42 (Reissue) PARA 1101).

5 Representation of the People Act 1983 s 24(1)(a) (amended by the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 68(3); and the Local Government Changes for England (Miscellaneous Provision) Regulations 1995, SI 1995/1748, reg 8(3)). In the event of the death of a sheriff, the acting returning officer discharges all the duties of sheriff as returning officer at a parliamentary election until another sheriff is appointed and has made the declaration of office: Representation of the People Act 1983 s 28(6). The Sheriffs Act 1887 s 25 (duty of under-sheriff to act as high sheriff in certain cases: see SHERIFFS vol 42 (Reissue) PARA 1115) does not authorise the under-sheriff to discharge the duties of returning officer at a parliamentary election: Representation of the People Act 1983 s 28(6). As to the acting returning officer at a parliamentary election see PARA 356 post.

6 *Ie* as defined by the Local Government (Wales) Act 1994 s 64. As to preserved counties see LOCAL GOVERNMENT vol 69 (2009) PARA 1.

7 Representation of the People Act 1983 s 24(1)(aa) (s 24(1)(aa), (bb), (cc) added by the Local Government (Wales) Act 1994 Sch 16 para 68(3)).

8 As to districts in England see LOCAL GOVERNMENT vol 69 (2009) PARA 24 et seq.

9 Representation of the People Act 1983 s 24(1)(b) (amended by the Local Government (Wales) Act 1994 Sch 16 para 68(3)).

10 As to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq.

11 Representation of the People Act 1983 s 24(1)(bb) (as added: see note 7 supra).

12 As to Greater London see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 29.

13 As to the Secretary of State see PARA 2 ante.

14 Representation of the People Act 1983 s 24(1)(c) (amended by the Local Government (Wales) Act 1994 Sch 16 para 68(3)). As to the order made see the Returning Officers (Parliamentary Constituencies) (England) Order 1995, SI 1995/2061, arts 3, 4A, Sch 1, Sch 2A (art 4A, Sch 2A added by SI 1996/898; the Returning

Officers (Parliamentary Constituencies) (England) Order 1995, SI 1995/2061, Sch 1 amended by SI 1996/898; SI 1997/537; and the Returning Officers (Parliamentary Constituencies) (England) Order 1995, SI 1995/2061, Sch 2A amended by SI 1997/537). Before making an order designating returning officers, the authority making the instrument must consult the Electoral Commission: see the Political Parties, Elections and Referendums Act 2000 ss 7(1), (2)(c), 160(1); and PARA 49 ante. As to the Electoral Commission see PARA 31 et seq ante.

15 Representation of the People Act 1983 s 24(1)(cc) (as added: see note 7 supra). As to the order made see the Returning Officers (Parliamentary Constituencies) (Wales) Order 2007, SI 2007/171, arts 3-4. See also note 14 supra.

16 As to the London boroughs and their councils see LONDON GOVERNMENT vol 29(2) (Reissue) PARAS 30, 35-39, 59 et seq.

17 Representation of the People Act 1983 s 24(1)(d).

18 For these purposes, 'executive arrangements', 'mayor and cabinet executive' and 'mayor and council manager executive' have the same meanings as in the Local Government Act 2000 Pt II (ss 10-48) (as amended) (arrangements with respect to executives etc: see LOCAL GOVERNMENT vol 69 (2009) PARA 303 et seq): Representation of the People Act 1983 s 24(1A) (added, in relation to England, by the Local Authorities (Executive Arrangements) (Modification of Enactments) (England) Order 2002, SI 2002/1057, arts 2(f), 9(2)). Accordingly, for the meaning of 'executive arrangements' see LOCAL GOVERNMENT vol 69 (2009) PARA 303; and for the meanings of 'mayor and cabinet executive' and 'mayor and council manager executive' see LOCAL GOVERNMENT vol 69 (2009) PARA 327.

19 Representation of the People Act 1983 s 24(1)(d); applied by s 21(1)(dd) (added, in relation to England, by the Local Authorities (Executive Arrangements) (Modification of Enactments) (England) Order 2002, SI 2002/1057, arts 2(f), 9(1)(a)).

20 The City of London, the Inner Temple and the Middle Temple are, for the purposes of the Representation of the People Act 1983 s 24 (as amended), treated as if together they formed a London borough: s 24(1). As to the Temples see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 32 et seq. As to elections in the City of London see PARA 30 ante.

21 Ibid s 24(1)(e) (amended, in relation to England, by the Local Authorities (Executive Arrangements) (Modification of Enactments) (England) Order 2002, SI 2002/1057, arts 2(f), 9(1)(b)). As to the order made see the Returning Officers (Parliamentary Constituencies) (England) Order 1995, SI 1995/2061, art 4, Sch 2 (Sch 2 amended by SI 2002/1057). See also note 14 supra.

22 Representation of the People Act 1983 s 23(2). For the meaning of 'parliamentary election rules' see PARA 388 post.

23 A returning officer for a parliamentary election may take such steps as he thinks appropriate to remedy any act or omission on his part, or on the part of a relevant person, which arises in connection with any function the returning officer or relevant person has in relation to the election, and is not in accordance with the rules or any other requirements applicable to the election: Electoral Administration Act 2006 s 46(1), (3)(a). However, a returning officer may not in exercise of this power recount the votes given at an election after the result has been declared: s 46(2). For these purposes, a 'relevant person' is an electoral registration officer, a presiding officer, a person providing goods or services to the returning officer or a deputy of any such person or a person appointed to assist, or in the course of his employment assisting, such a person in connection with any function he has in relation to the election: s 46(4). Section 46(1)-(4) must be construed as part of the Representation of the People Acts: Electoral Administration Act 2006 s 46(5). For the meaning of the 'Representation of the People Acts' see PARA 3 note 1 ante.

The provisions of the Electoral Administration Act 2006 s 46 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

24 Representation of the People Act 1983 s 23(3). As to the questioning of parliamentary elections see PARA 759 et seq post.

25 Ibid s 23(3)(a).

26 Ibid s 23(3)(b).

27 Ibid s 24(2).

28 As to the issue and execution of writs for a parliamentary election see PARA 199 et seq ante.

29 Representation of the People Act 1983 s 27(1). Since the only duty in connection with the execution of the writ which is to be performed by the returning officer rather than the acting returning officer is the declaration of the result of the poll, and then only if the returning officer by notice reserves that duty to himself (see PARA 356 post), this provision needs to be read with s 28(4), so that references to the returning officer include, as respects England and Wales, the acting returning officer (see PARA 356 post). On this interpretation the reference to execution of the writ means doing all the things that are required to elect a member of Parliament. An alternative construction would be to limit the meaning of the reference to the execution of the writ to the declaration of the result of the poll. But this construction presents difficulties when applied to the words 'execution of the writ' in s 27(2): see note 30 infra. The former construction is therefore to be preferred.

30 Ibid s 27(2). If this provision is applied, as respects England and Wales, to the returning officer, the reference to the completion of the execution of the writ for a parliamentary election can refer only to the declaration of the result of the poll since all other remaining duties are discharged by the acting returning officer: see PARA 356 post. However, those duties can only be discharged by the person who for the time being holds the office of returning officer (s 28(2)(b)) if he has given the notice required by s 28(3), not later than the day following that on which the writ is received (see PARA 356 post). Accordingly, if s 27(2) is construed as applying to the returning officer, it would produce a conflict with s 28(2)(b), (3) by purporting to allow a person who came into the office of returning officer and who had not given such a notice to make the declaration of the result of the poll. It is therefore submitted that, as respects England and Wales, the provision applies to the acting returning officer. Thus, where a person comes into the office of registration officer and the holder of that office is required by the provisions referred to in PARA 356 post to be the acting returning officer, it falls to that person and not the previous holder to complete the proceedings on the election.

31 Ibid s 200(1) (substituted by the Representation of the People Act 1985 s 24, Sch 4 para 68).

32 Electoral Administration Act 2006 s 69(1), (8)(b), (9)(a). For the meaning of 'elector', in relation to a parliamentary election, see PARA 110 note 2 ante.

33 Ibid s 69(2).

UPDATE

355 Returning officers for parliamentary elections

NOTES 14, 20--SI 1995/2061 replaced: Returning Officers (Parliamentary Constituencies) (England) Order 2007, SI 2007/2878.

NOTE 19--1983 Act s 24(1)(dd) amended: Local Government and Public Involvement in Health Act 2007 Sch 3 para 17, Sch 18 Pt 3.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/ (iii) Returning Officers/A. PARLIAMENTARY ELECTIONS/356. Discharge of returning officer's functions for parliamentary elections.

356. Discharge of returning officer's functions for parliamentary elections.

With certain exceptions¹, the duties of the returning officer at a parliamentary election² are discharged, as acting returning officer, by³:

- 424 (1) in the case of a constituency in England⁴ for which the chairman of a district council or the mayor or the chairman of a London borough is returning officer⁵, the registration officer⁶ appointed by that council⁷;
- 425 (2) in the case of a constituency in Wales⁸ for which the chairman of a county or county borough council is returning officer⁹, the registration officer appointed by that council¹⁰;
- 426 (3) in the case of any other constituency, such registration officer as may be designated in an order made by statutory instrument¹¹.

The exceptions are any duty imposed on a returning officer in connection with the delivery of the writ of election¹², and any duties in connection with the declaration of the result of the poll¹³ which the person, if any, who for the time being holds the office of returning officer reserves to himself and undertakes to perform in person¹⁴. The returning officer must give to the acting returning officer written notice of any duties which he reserves to himself in connection with the declaration of the result of the poll, and, in the case of any election, only those duties are reserved in relation to which such a notice is given not later than the day following that on which the writ is received¹⁵.

An acting returning officer at a parliamentary election in the discharge of his duties has all the powers, obligations, rights and liabilities of the returning officer under the Representation of the People Act 1983¹⁶, which Act has effect accordingly¹⁷. An acting returning officer has power to appoint deputies to discharge all or any of those duties¹⁸; and a district council, London borough council, Welsh county council or county borough council may assign officers to assist in carrying out all or any of those duties¹⁹. On the death of a sheriff, the acting returning officer discharges all the duties of sheriff as returning officer at a parliamentary election until another sheriff is appointed and has made the declaration of office²⁰.

1 As to the exceptions see the text and notes 12-14 infra.

2 As to the appointment of returning officers for a parliamentary election see PARA 355 ante. For the meaning of 'parliamentary election' see PARA 9 ante. As to the transferred functions of returning officers where polls are combined see PARA 18 ante.

3 Representation of the People Act 1983 s 28(1).

4 For the meaning of 'constituency' in the context of a parliamentary election see PARA 9 ante; and for the meaning of 'England' see PARA 13 note 1 ante.

5 I.e. by virtue of the Representation of the People Act 1983 s 24(1) (as amended) (see PARA 355 ante). A chairman may be designated in the case of a London borough council which is operating executive arrangements involving a mayor and cabinet executive or a mayor and council manager executive (see LOCAL GOVERNMENT vol 69 (2009) PARA 327 et seq). As to districts in England, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 24 et seq; and as to the London boroughs, and their councils, see LONDON GOVERNMENT vol 29(2) (Reissue) PARAS 30, 35-39, 59 et seq.

6 As to the electoral registration officer see PARA 154 ante.

7 Representation of the People Act 1983 s 28(1)(a) (amended by the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 68(4); and in relation to England by the Local Authorities (Executive Arrangements) (Modification of Enactments) (England) Order 2002, SI 2002/1057, arts 2(f), 10).

8 For the meaning of 'Wales' see PARA 13 note 1 ante.

9 le by virtue of the Representation of the People Act 1983 s 24(1) (as amended) (see PARA 355 ante). As to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq.

10 Ibid s 28(1)(aa) (added by the Local Government (Wales) Act 1994 Sch 16 para 68(4)).

11 Representation of the People Act 1983 s 28(1)(b) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 6(a)). As to the orders that have been made see the Returning Officers (Parliamentary Constituencies) (England) Order 1995, SI 1995/2061, art 5, Sch 3 (Sch 3 amended by SI 1996/898; SI 1999/950); and the Returning Officers (Parliamentary Constituencies) (Wales) Order 2007, SI 2007/171, art 5, Schedule. Before making an order designating acting returning officers, the authority making the instrument must consult the Electoral Commission: see the Political Parties, Elections and Referendums Act 2000 ss 7(1), (2)(c), 160(1); and PARA 49 ante. As to the Electoral Commission see PARA 31 et seq ante.

12 Representation of the People Act 1983 s 28(2)(a). The text refers to any duty imposed by s 23(1), Sch 1 r 3 (see PARA 199 ante).

13 le the duty imposed on a returning officer by ibid Sch 1 r 50 (see PARA 478 post).

14 Ibid s 28(2)(b).

15 Ibid s 28(3).

16 Ibid s 28(4).

17 Ibid s 28(4). It is by virtue of this provision that references in the Representation of the People Act 1983 to the returning officer, except in relation to Sch 1 rr 3, 50 (as to which see the text and notes 12-15 supra), are, as respects England and Wales, to be read as references to the acting returning officer.

18 Ibid s 28(5).

19 Ibid s 28(5) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 6(b); and the Local Government (Wales) Act 1994 Sch 16 para 68(5)).

20 See the Representation of the People Act 1983 s 28(6); and PARA 355 note 5 ante.

UPDATE

356 Discharge of returning officer's functions for parliamentary elections

NOTE 11--SI 1995/2061 replaced: Returning Officers (Parliamentary Constituencies) (England) Order 2007, SI 2007/2878.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/ (iii) Returning Officers/A. PARLIAMENTARY ELECTIONS/357. Payments by and to returning officer for parliamentary elections.

357. Payments by and to returning officer for parliamentary elections.

No consideration is to be given by or to a returning officer at a parliamentary election¹ for the making out, receipt, delivery or return of the writ for a parliamentary election² or, subject to the provisions made³, otherwise in connection with its execution⁴. This prohibition, however, does not apply to any inclusive salary payable to a returning officer at a parliamentary election in respect of the office by virtue of which he becomes returning officer⁵.

A returning officer is entitled to recover his charges in respect of services properly rendered, or expenses properly incurred, for or in connection with a parliamentary election⁶; (1) if the services were necessarily rendered, or the expenses were necessarily incurred, for the efficient and effective conduct of the election⁷; and (2) if the total of his charges does not exceed the amount (the 'overall maximum recoverable amount') specified in, or determined in accordance with, an order made by the Secretary of State for these purposes⁸. In any order so made, the Secretary of State may specify, or make provision for determining in accordance with the order, a maximum recoverable amount for services or expenses of any specified description and the returning officer may not recover more than that amount in respect of any such services or expenses⁹. However, the Secretary of State may, in a particular case, authorise the payment of more than the overall maximum recoverable amount¹⁰ or of more than the specified maximum amount for any specified services or expenses¹¹ if satisfied¹² that it was reasonable for the returning officer concerned to render the services or incur the expenses¹³ and that the charges in question are reasonable¹⁴. On the returning officer's request for an advance on account of his charges, the Secretary of State may, on such terms as he thinks fit, make such an advance¹⁵. The amount of any charges recoverable in accordance with these provisions must be charged on and paid out of the Consolidated Fund¹⁶ on an account being submitted to the Secretary of State, but he may if he thinks fit before payment, apply for a detailed assessment to be made of the account¹⁷. Where the superannuation contributions required to be paid by a local authority in respect of any person are increased by any fee paid under these provisions as part of a returning officer's charges at a parliamentary election, then on an account being submitted to the Secretary of State a sum equal to the increase will be charged on and paid out of the Consolidated Fund to the authority¹⁸. Regulations may make provision as to the time when and the manner and form in which accounts are to be rendered to the Secretary of State for the purposes of the payment of a returning officer's charges¹⁹.

The Secretary of State may also reimburse a returning officer for a parliamentary election in respect of any expenditure incurred by the officer for the purposes of encouraging electoral participation²⁰. However, the amount so paid must not in any year exceed such amount as is determined in accordance with regulations made by the Secretary of State²¹.

1 For the meaning of 'parliamentary election' see PARA 9 ante. As to the designation of returning officers for a parliamentary election see PARA 355 ante.

The Representation of the People Act 1983 s 29 (as amended) is applied with modifications for the purposes of combined polls: see the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 6; and PARA 18 ante.

2 As to the issue and execution of a writ for a parliamentary election see PARA 199 et seq ante.

3 I.e. the provisions of the Representation of the People Act 1983 s 29(2)-(9) (as amended) (see the text and notes 5-19 infra).

4 Ibid s 29(1).

5 Ibid s 29(2). In practice, this provision applies to the acting returning officer since it is that officer who executes the writ at a parliamentary election. Such an officer is a registration officer and a salary is paid to him by the relevant local authority in respect of that office: see PARAS 154, 356 ante.

6 Ibid s 29(3) (s 29(3) substituted by the Electoral Administration Act 2006 s 68(1), (2)).

Any amendment effected by the Electoral Administration Act 2006 s 68 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. The commencement of the Electoral Administration Act 2006 s 68 has the effect that the prospective amendments made to the Representation of the People Act 1983 s 29 (as amended) by the Political Parties, Elections and Referendums Act 2000 s 158(1), Sch 21 para 6(1), (3) and by the Electoral Administration Act 2006 s 74(1), Sch 1 paras 104, 107(1), (2) will not take effect: see the Electoral Administration Act 2006 s 68(4).

7 Representation of the People Act 1983 s 29(3)(a) (as substituted: see note 6 supra). As to the commencement of this provision see note 6 supra.

8 Ibid s 29(3)(b) (as substituted: see note 6 supra). As to the commencement of this provision see note 6 supra. The power to make orders under s 29(3) (as substituted) must be exercised by statutory instrument; and any such order may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the Secretary of State thinks fit: s 29(4C) (added by the Representation of the People Act 1991 s 1(2); and amended by the Representation of the People Act 2000 s 15(1), Sch 6 paras 3, 4). Any exercise by the Secretary of State of his functions under the Representation of the People Act 1983 s 29(3) (as substituted) requires the consent of the Treasury: s 29(9) (added by the Representation of the People Act 1991 s 1(4); substituted by the Transfer of Functions (Returning Officers' Charges) Order 1991, SI 1991/1728, art 3(6); and amended by the Electoral Administration Act 2006 s 68(1), (3)). As to the order made under these provisions see the Parliamentary Elections (Returning Officers' Charges) Order 2005, SI 2005/780, art 2(1), Schedule. As to the Secretary of State see PARA 2 ante. As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 512-517.

As to where the poll at an election is taken together with the poll at another election see PARAS 21-29 ante.

9 Representation of the People Act 1983 s 29(3A) (s 29(3A)-(3C) added by the Electoral Administration Act 2006 s 68(1), (2)). As to the commencement of this provision see note 6 supra. As to the order made under these provisions see the Parliamentary Elections (Returning Officers' Charges) Order 2005, SI 2005/780, art 2, Schedule Part A (maximum recoverable amounts of services of a returning officer), Schedule Part B (expenses of returning officer for which maximum recoverable amounts are specified).

10 Representation of the People Act 1983 s 29(3B)(a) (as added: see note 9 supra). As to the commencement of this provision see note 6 supra.

11 Ibid s 29(3B)(b) (as added: see note 9 supra). As to the commencement of this provision see note 6 supra.

12 Ibid s 29(3B) (as added: see note 9 supra). As to the commencement of this provision see note 6 supra.

13 Ibid s 29(3C)(a) (as added: see note 9 supra). As to the commencement of this provision see note 6 supra.

14 Ibid s 29(3C)(b) (as added: see note 9 supra). As to the commencement of this provision see note 6 supra. As to the order made under these provisions see the Parliamentary Elections (Returning Officers' Charges) Order 2005, SI 2005/780, art 2, Schedule Part C (expenses of returning officer for which no maximum recoverable amounts are specified).

15 Representation of the People Act 1983 s 29(7) (amended by the Transfer of Functions (Returning Officers' Charges) Order 1991, SI 1991/1728, art 3(2), (5)).

16 As to the Consolidated Fund see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 711 et seq; PARLIAMENT vol 78 (2010) PARAS 1028-1031.

17 Representation of the People Act 1983 s 29(5) (amended by the Representation of the People Act 1991 s 1(3); and the Transfer of Functions (Returning Officers' Charges) Order 1991, SI 1991/1728, art 3(4)). The text refers to the detailed assessment of a returning officer's account under the Representation of the People Act 1983 s 30 (see PARA 358 post).

18 Ibid s 29(6) (amended by the Transfer of Functions (Returning Officers' Charges) Order 1991, SI 1991/1728, art 3(2), (5)).

19 Representation of the People Act 1983 s 29(8) (substituted by the Transfer of Functions (Returning Officers' Charges) Order 1991, SI 1991/1728, art 3(6)). The regulations are not made by statutory instrument and are not recorded in this work.

20 Electoral Administration Act 2006 s 69(4), (8)(b), (9)(a). As to a returning officer's duty to encourage electoral participation see s 69(1), (2); and PARA 355 ante.

21 Ibid s 69(5). The power to make such regulations is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament: s 69(6). Such regulations may make different provision for different purposes: s 69(7). The Encouraging Electoral Participation (Reimbursement of Expenses) (England and Wales) Regulations 2006, SI 2006/2972, which are to come into force on 1 April 2007, provide that the total amount that may be paid to local electoral officers in England and Wales in pursuance of the Electoral Administration Act 2006 s 69(4) in the year ending on 31 March 2008 and each successive year is £2,500,000: Encouraging Electoral Participation (Reimbursement of Expenses) (England and Wales) Regulations 2006, SI 2006/2972, reg 2. For these purposes, 'year' means a period of 12 months ending on 31 March: reg 1(2). 'Local electoral officer' means a returning officer for parliamentary elections: Electoral Administration Act 2006 s 69(8)(b), (9)(a).

UPDATE

357 Payments by and to returning officer for parliamentary elections

NOTES 8, 9, 14--SI 2005/780 replaced: Parliamentary Elections (Returning Officers' Charges) Order 2010, SI 2010/830.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/ (iii) Returning Officers/A. PARLIAMENTARY ELECTIONS/358. Detailed assessment of returning officer's account at parliamentary elections.

358. Detailed assessment of returning officer's account at parliamentary elections.

On a returning officer's account being submitted to the Secretary of State¹, he may if he thinks fit before payment, apply to the county court for a detailed assessment to be made of the account². Such an application is made by claim form and on issuing the claim form the court will fix a day for the hearing which is a day for proceeding with the detailed assessment if the application is granted³. On any such application the county court has jurisdiction to assess the account in such manner and at such time and place as the court thinks fit⁴. Such an application may be heard by the district judge⁵.

On any such application, the returning officer may apply to the county court to examine any claim made by any person against him in respect of matters charged in the account⁶. The application must be made in writing and filed, together with a copy of it, within seven days after service on the returning officer of the copy of the application for detailed assessment⁷. On the filing of the returning officer's application, the court officer must fix a day for the hearing and give notice of it to the returning officer⁸. A copy of the returning officer's application and of that notice must be served on the claimant in the manner prescribed⁹. If the county court thinks fit, the examination and the detailed assessment may take place on the same day¹⁰. The application for an examination may be heard and determined by the district judge¹¹. The examination must be determined before the detailed assessment is concluded¹². The court must give the claimant an opportunity to be heard and to tender any evidence¹³.

On the examination of a claim against the returning officer, the county court may allow, disallow or reduce the claim objected to with or without costs, and the court's determination on the examination is final for all purposes and as against all persons¹⁴. On the detailed assessment, the court has jurisdiction finally to determine the amount payable to the returning officer¹⁵. A copy of the order made on the application must be served on the Secretary of State and the returning officer and, in the case of an application for examination, on the claimant¹⁶.

1 As to the Secretary of State see PARA 2 ante. As to the returning officer's charges see PARA 357 ante.

The Representation of the People Act 1983 ss 29-30 (as amended) are applied with modifications for the purposes of combined polls: see the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 6; and PARA 18 ante.

2 Representation of the People Act 1983 s 29(5) (amended by the Representation of the People Act 1991 s 1(3); and the Transfer of Functions (Returning Officers' Charges) Order 1991, SI 1991/1728, art 3(4)); Representation of the People Act 1983 30(1)(a).

3 CPR Sch 2 CCR Ord 45 r 1 (1).

4 Representation of the People Act 1983 s 30(2).

5 CPR Sch 2 CCR Ord 45 r 1(5).

6 Representation of the People Act 1983 s 30(3).

7 CPR Sch 2 CCR Ord 45 r 1(2).

8 CPR Sch 2 CCR Ord 45 r 1(3).

9 CPR Sch 2 CCR Ord 45 r 1(3). The notice must be served on the claimant in the manner set out in CPR r 6.2 (see CIVIL PROCEDURE vol 11 (2009) PARA 139): CPR Sch 2 CCR Ord 45 r 1(3).

10 CPR Sch 2 CCR Ord 45 r 1(4).

11 CPR Sch 2 CCR Ord 45 r 1(5).

12 CPR Sch 2 CCR Ord 45 r 1(4).

13 Representation of the People Act 1983 s 30(3).

14 Ibid s 30(3).

15 Ibid s 30(2).

16 CPR Sch 2 CCR Ord 45 r 1(5).

UPDATE

358 Detailed assessment of returning officer's account at parliamentary elections

TEXT AND NOTES 3, 5, 7-12, 16--CPR Sch 2 CCR Ord 45 revoked: SI 2007/2204.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/ (iii) Returning Officers/B. LOCAL GOVERNMENT ELECTIONS/359. Designation of returning officer at local government elections.

B. LOCAL GOVERNMENT ELECTIONS

359. Designation of returning officer at local government elections.

In England¹, every non-metropolitan county² council must appoint an officer of the council to be the returning officer for elections of councillors of the county³; and every district council⁴ must appoint an officer of the council to be the returning officer for the elections of councillors of the district, and an officer of the council to be the returning officer for elections of councillors of parishes within the district⁵. The returning officer at an election of London borough councillors⁶ is the proper officer of the borough⁷. The returning officer at an election of a constituency member of the London Assembly⁸ is such a person, or a person of such a description, as may be designated by the Secretary of State⁹ in an order made by statutory instrument¹⁰. The returning officer at any election of the Mayor of London¹¹, at the election of the London members of the London Assembly at an ordinary election¹², and for the purposes of the return of London members of the London Assembly otherwise than at an election¹³, is the proper officer of the Greater London Authority¹⁴. The council for any London borough must place the services of its officers at the disposal of any person acting as the returning officer at an Authority election¹⁵ for an electoral area¹⁶ situated wholly or partly in the borough¹⁷; and, at an ordinary election, it is the duty of returning officers for London Authority elections to co-operate with each other in the discharge of their functions¹⁸. In Wales¹⁹, the council of every county or county borough²⁰ must appoint an officer of the council to be the returning officer for elections of councillors of the county or county borough²¹ and an officer of the council to be the returning officer for elections of councillors of communities within the county or county borough²². In relation to an election for the return of a local authority mayor²³, the returning officer is either the proper officer of the London borough concerned or, as the case may be, the person appointed as the returning officer for a local election held in England and Wales²⁴ and any person appointed by such a person²⁵.

A returning officer at any election specified above may by writing under his hand appoint one or more persons to discharge all or any of his functions²⁶. No local government election²⁷ may be declared invalid by reason of any act or omission by the returning officer or any other person in breach of his official duty in connection with the election or otherwise of the elections rules²⁸ if it appears to the tribunal having cognisance of the question²⁹ that the election was so conducted as to be substantially in accordance with the law as to elections³⁰ and that the act or omission did not affect its result³¹. Nor is a local government election in England and Wales liable to be questioned³² by reason of a defect in the title, or want of title, of the person presiding at or conducting the election, if that person was then in actual possession of, or acting in, the office giving the right to preside at or conduct the election³³.

A person is not subject to any incapacity to vote at a local government election by reason of being or acting as returning officer at that election³⁴.

A public notice which is required by or under the Representation of the People Act 1983 to be given by the proper officer of a local authority at a local government election must be given by posting the notice in some conspicuous place or places in the local government area³⁵ and may also be given in such other manner as he thinks desirable for publicising it³⁶.

A returning officer for a local government election must take such steps as he thinks appropriate to encourage the participation by electors in the electoral process in the area for

which he acts³⁷. In so doing, he must have regard to any guidance issued by the Electoral Commission³⁸.

1 For the meaning of 'England' see PARA 13 note 1 ante.

2 For the meaning of 'non-metropolitan county' see LOCAL GOVERNMENT vol 69 (2009) PARA 24.

3 Representation of the People Act 1983 s 35(1) (amended by the Local Government Act 1985 s 102, Sch 16 para 11; and the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 68(7)).

4 As to districts in England see LOCAL GOVERNMENT vol 69 (2009) PARA 24 et seq.

5 Representation of the People Act 1983 s 35(1) (amended by the Local Government (Wales) Act 1994 Sch 16 para 68(7)). As to parishes generally see LOCAL GOVERNMENT vol 69 (2009) PARA 27 et seq.

6 As to the London boroughs and their councils see LONDON GOVERNMENT vol 29(2) (Reissue) PARAS 30, 35-39, 59 et seq.

7 Representation of the People Act 1983 s 35(3). For the meaning of 'proper officer' see PARA 155 note 2 ante.

8 For the meanings of 'constituency member' (of the London Assembly) and 'election of a constituency member of the London Assembly' see PARA 10 ante. As to ordinary elections of constituency members of the London Assembly see PARA 206 et seq ante. As to constituency members of the London Assembly generally see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 92; and as to the London Assembly see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 82.

9 As to the Secretary of State see PARA 2 ante.

10 Representation of the People Act 1983 s 35(2A), (2B) (s 35(2A)-(2C) added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 3(1), (2)). As to the order so made see the Greater London Authority (Assembly Constituencies and Returning Officers) Order 1999, SI 1999/3380, art 2, Table.

11 Representation of the People Act 1983 s 35(2C)(a) (as added: see note 10 supra). For the meaning of 'election of the Mayor of London' see PARA 10 ante. As to elections for the return of a Mayor of London see PARA 206 ante. See also LONDON GOVERNMENT vol 29(2) (Reissue) PARA 90.

12 Ibid s 35(2C)(b) (as added: see note 10 supra). For the meaning of 'London member' see PARA 10 note 5 ante. As to ordinary elections for the return of the London members of the London Assembly see PARA 206 et seq ante.

13 Ie for the purposes of the Greater London Authority Act 1999 s 11 (see PARA 211 ante; and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 115).

14 Representation of the People Act 1983 s 35(2C)(c) (as added: see note 10 supra). For the meaning of 'proper officer of the Greater London Authority' see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 83.

15 For the meaning of 'Authority election' see PARA 10 ante.

16 For the meaning of 'electoral area' see PARA 10 ante.

17 Representation of the People Act 1983 s 35(6) (added by the Greater London Authority Act 1999 Sch 3 paras 1, 3(1), (3)).

18 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 5(1). Where a poll is to be taken for the return of the London members or for the return of the Mayor, it is the duty of constituency returning officers to take, and verify the ballot papers at, the poll (or each poll if both are to be taken) and to count the votes cast in that poll (or each poll, if both are to be taken): r 5(2). Without prejudice to these duties to co-operate, the Greater London returning officer may give to any constituency returning officer directions relating to the discharge of any of the functions of the constituency returning officer, including directions requiring the provision to the Greater London returning officer of any information which the constituency returning officer has or is entitled to have (r 5(3)); and it is the duty of each person to whom such directions are given to discharge his functions in accordance with the directions (r 5(4)). For the meaning of the 'Greater London returning officer' see PARA 218 note 7 ante; and for the meaning of the 'constituency returning officer' in this context see PARA 218 note 8 ante.

19 For the meaning of 'Wales' see PARA 13 note 1 ante.

20 As to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq.

21 Representation of the People Act 1983 s 35(1A)(a) (s 35(1A) added by the Local Government (Wales) Act 1994 Sch 16 para 68(7)).

22 Representation of the People Act 1983 s 35(1A)(b) (as added: see note 21 supra). As to communities generally see LOCAL GOVERNMENT vol 69 (2009) PARA 41 et seq.

23 As to an election for the return of an elected local authority mayor see PARA 205 ante. See also LOCAL GOVERNMENT vol 69 (2009) PARA 320 et seq.

24 Is the person appointed as the returning officer in accordance with the Representation of the People Act 1983 s 35(1) (as amended) (see the text and notes 1-5 supra) or s 35(1A) (as added) (see the text and notes 19-22 supra).

25 Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 2(1). The text refers to any person appointed under the Representation of the People Act 1983 s 35(4) (as amended) (see the text and note 26 infra).

26 Ibid s 35(4) (amended by the Education Reform Act 1988 s 237, Sch 12 para 50).

27 For the meaning of 'local government election' see PARA 10 ante.

28 Is the rules under the Representation of the People Act 1983 s 36 (as amended) (see PARA 388 post). A returning officer for a local government election may take such steps as he thinks appropriate to remedy any act or omission on his part, or on the part of a relevant person, which arises in connection with any function the returning officer or relevant person has in relation to the election, and is not in accordance with the rules or any other requirements applicable to the election: Electoral Administration Act 2006 s 46(1), (3)(b). However, a returning officer may not in exercise of this power recount the votes given at an election after the result has been declared: s 46(2). For these purposes, a 'relevant person' is an electoral registration officer, a presiding officer, a person providing goods or services to the returning officer or a deputy of any such person or a person appointed to assist, or in the course of his employment assisting, such a person in connection with any function he has in relation to the election: s 46(4). Section 46(1)-(4) must be construed as part of the Representation of the People Acts: Electoral Administration Act 2006 s 46(5). For the meaning of the 'Representation of the People Acts' see PARA 3 note 1 ante.

The amendments effected by the Electoral Administration Act 2006 s 46 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

29 Representation of the People Act 1983 s 48(1).

30 Ibid s 48(1)(a).

31 Ibid s 48(1)(b).

32 As to the questioning of local government elections see PARA 760 et seq post.

33 Representation of the People Act 1983 s 35(5).

34 Ibid s 46(2). The provision is necessary because returning officers were formerly unable to vote at the election for which they acted as returning officers because they decided any equality of votes (which question is now determined by lot: see PARA 441 post).

35 For the meaning of 'local government area' see PARA 18 note 2 ante.

36 Representation of the People Act 1983 s 200(1A) (substituted by the Representation of the People Act 1985 s 24, Sch 4 para 68).

37 Electoral Administration Act 2006 s 69(1), (8)(b), (9)(b). For the meaning of 'elector', in relation to a local government election, see PARA 110 note 2 ante.

38 Ibid s 69(2). As to the Electoral Commission see PARA 31 et seq ante.

UPDATE

359 Designation of returning officer at local government elections

NOTE 18--SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

NOTE 25--SI 2002/185 reg 2 now the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 2.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/ (iii) Returning Officers/B. LOCAL GOVERNMENT ELECTIONS/360. Returning officer's expenses for local elections.

360. Returning officer's expenses for local elections.

All expenditure properly incurred by a returning officer¹ in relation to the holding of an election of a councillor for a principal area², or the election of an elected mayor of the council of such an area³, must be paid by that council in so far as such expenditure does not, in cases where there is a scale fixed for the purpose⁴ by the council for that area, exceed that scale⁵. All expenditure properly incurred by a returning officer in relation to the holding of an Authority election⁶, in so far as it does not, in cases where there is a scale fixed for the purpose⁷ by the Greater London Authority⁸, exceed that scale, must be paid by the Greater London Authority⁹. All expenditure properly incurred by a returning officer in relation to the holding of an election of a parish councillor¹⁰, in so far as it does not, in cases where there is a scale fixed for the purpose¹¹ by the council of the district in which the parish is situated, exceed that scale, must be paid by the district council, but any expenditure so incurred must, if the district council so requires, be repaid to that council by the council of the parish for which the election is held¹². All the expenditure properly incurred by a returning officer in relation to the holding of an election of a community councillor¹³, in so far as it does not, in cases where there is a scale fixed for this purpose¹⁴ by the council of the county or county borough in which the community is situated (the 'principal council'), exceed that scale, must be paid by the principal council, but any expenditure so incurred must, if the principal council so requires, be repaid to that council by the community council¹⁵.

Before a poll is taken at an election of a councillor for any local government area in England and Wales¹⁶, or at an election of an elected mayor of the council of any such area, the council of that area or, in the case of an election of a parish or community councillor, the council which appointed the returning officer must, at the request of the returning officer or of any person acting as returning officer, advance to him such reasonable sum in respect of his expenses at the election as he may require¹⁷; and before a poll is taken at an Authority election, the Greater London Authority must, at the request of the returning officer or of any person acting as returning officer, advance to him such reasonable sum in respect of his expenses at the election as he may require¹⁸.

The council which is required to pay the expenses properly incurred by a returning officer in relation to any local government election¹⁹ may treat those expenses as including all costs properly incurred by the returning officer in connection with or in contemplation of any legal proceedings arising out of the election (including any criminal proceedings against the returning officer), whether or not the proceedings are in fact instituted²⁰.

The Secretary of State²¹ may reimburse a returning officer for a local government election in England and Wales in respect of any expenditure incurred by the officer for the purposes of encouraging electoral participation²². However, the amount so paid must not in any year exceed such amount as is determined in accordance with regulations made by the Secretary of State²³.

1 As to the designation of returning officers at local government elections see PARA 359 ante. As to expenditure incurred for the purposes of combined polls see PARA 17 ante.

2 I.e. a county, a county borough, a district or a London borough: Representation of the People Act 1983 s 36(4) (amended by the Local Government Act 1985 s 102, Sch 17; and the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 68(9)). As to the election of councillors for local government principal areas see PARA 204

ante. As to counties and districts in England, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 24 et seq; as to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq; and as to the London boroughs, and their councils, see LONDON GOVERNMENT vol 29(2) (Reissue) PARAS 30, 35-39, 59 et seq.

3 As to elections for the return of an elected mayor for a local authority see PARA 205 et seq ante.

4 le fixed for the purpose of the Representation of the People Act 1983 s 36 (as amended).

5 Ibid s 36(4); applied and modified by the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(2), Sch 2.

6 For the meaning of 'Authority election' see PARA 10 ante.

7 See note 4 supra.

8 As to the Greater London Authority see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 79 et seq.

9 Representation of the People Act 1983 s 36(4B) (added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 4(1), (3)).

10 As to the election of councillors for parish councils see PARA 207 ante.

11 See note 4 supra.

12 Representation of the People Act 1983 s 36(5) (amended by the Local Government (Wales) Act 1994 s 66(8), Sch 16 para 68(10), Sch 18; and the Local Government Finance (Repeals and Consequential Amendments) Order 1991, SI 1991/1730, art 2(2), Sch 2 Pt I).

13 As to the election of councillors for community councils see PARA 207 ante.

14 See note 4 supra.

15 Representation of the People Act 1983 s 36(5A) (added by the Local Government (Wales) Act 1994 Sch 16 para 68(10)).

16 For the meaning of 'local government area' see PARA 18 note 2 ante. For the meanings of 'England' and 'Wales' see PARA 13 note 1 ante.

17 Representation of the People Act 1983 s 36(6); applied and modified by the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(2), Sch 2.

18 Representation of the People Act 1983 s 36(6); applied by s 36(6A) (added by the Greater London Authority Act 1999 Sch 3 paras 1, 4(1), (3)).

19 In relation to an Authority election, the Greater London Authority is treated as the council which is required to pay the expenses properly incurred by the returning officer: Representation of the People Act 1983 s 48(3A) (added by the Greater London Authority Act 1999 Sch 3 paras 1, 9). For the meaning of 'local government election' see PARA 10 ante.

20 Representation of the People Act 1983 s 48(3).

21 As to the Secretary of State see PARA 2 ante.

22 Electoral Administration Act 2006 s 69(4), (8)(b), (9)(b). For these purposes, references to a local government election are to be construed in accordance with the Representation of the People Act 1983: Electoral Administration Act 2006 s 69(10). As to a returning officer's duty to encourage electoral participation see s 69(1), (2); and PARA 359 ante.

23 Ibid s 69(5). The power to make such regulations is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament: s 69(6). Such regulations may make different provision for different purposes: s 69(7). Accordingly, the Encouraging Electoral Participation (Reimbursement of Expenses) (England and Wales) Regulations 2006, SI 2006/2972, which are to come into force on 1 April 2007, provide that the total amount that may be paid to local electoral officers in England and Wales in pursuance of the Electoral Administration Act 2006 s 69(4) in the year ending on 31 March 2008 and each successive year is £2,500,000: Encouraging Electoral Participation (Reimbursement of Expenses) (England and Wales) Regulations 2006, SI 2006/2972, reg 2. For these purposes, 'year' means a period of 12 months

ending on 31 March (reg 1(2)); and 'local electoral officer' means a returning officer for local government elections in England and Wales (Electoral Administration Act 2006 s 69(8)(b), (9)(b)).

UPDATE

360 Returning officer's expenses for local elections

NOTES 5, 17--SI 2002/185 reg 3(2), Sch 2 now the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(2)-(5), Sch 2.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/ (iii) Returning Officers/B. LOCAL GOVERNMENT ELECTIONS/361. Returning officer and appointment of office at a poll consequent on parish meeting.

361. Returning officer and appointment of office at a poll consequent on parish meeting.

If a poll consequent on a parish meeting is required to be taken in respect of any appointment to office¹, the chairman of the meeting must notify the district council² in which the parish³ is situated and the council must appoint an officer of the council to be returning officer⁴. The returning officer must appoint an office for the purpose of the poll⁵.

Any public notice required to be given by a returning officer for these purposes must be given by the notice being posted in some conspicuous place or places in the parish, and may also be given in such other manner as the returning officer thinks desirable for publicising it⁶.

1 As to when such a poll is required to be taken see PARA 207 ante.

2 As to districts, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 24 et seq.

3 As to parishes generally see LOCAL GOVERNMENT vol 69 (2009) PARA 27 et seq.

4 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 4(1).

5 Ibid r 4(3).

6 Ibid r 5, Schedule r 38(2). Where the poll is held in part only of a parish, any reference to a parish in the rules is to be construed as a reference to part of the parish: Schedule r 38(1).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/ (iii) Returning Officers/C. ELECTIONS TO THE NATIONAL ASSEMBLY FOR WALES/362. Designation of returning officers for elections to the National Assembly for Wales.

C. ELECTIONS TO THE NATIONAL ASSEMBLY FOR WALES

362. Designation of returning officers for elections to the National Assembly for Wales.

For the purpose of Welsh Assembly elections¹, there must be a constituency returning officer² for each Assembly constituency³ and a regional returning officer⁴ for each Assembly electoral region⁵. A constituency returning officer is a person appointed⁶ to be the returning officer for elections of councillors of a county or county borough⁷ situated wholly or partly in the Assembly constituency, and (in the case where there is more than one such person)⁸ who is for the time being designated by the Assembly as returning officer for the constituency⁹. A regional returning officer is a person appointed¹⁰ to be the returning officer for elections of councillors of a county or county borough situated wholly or partly in the Assembly electoral region¹¹ and who is for the time being designated by the Assembly as returning officer for the electoral region¹². Either such designation must be in writing¹³.

The council of each county or county borough must place the services of its officers at the disposal of any constituency returning officer for an Assembly constituency wholly or partly situated in its area¹⁴; and the services so placed at the disposal of a constituency returning officer may relate to the exercise of that officer's functions in connection with a constituency election, a regional election or to both such elections¹⁵. The council of each county or county borough must also place the services of its officers at the disposal of any regional returning officer for an Assembly electoral region partly situated in its area¹⁶.

A constituency returning officer at a constituency election and either a constituency returning officer or a regional returning officer at an Assembly regional election may, in writing, appoint one or more persons to discharge all or any of his functions¹⁷. In relation to an ordinary election¹⁸ and to a regional election other than at an ordinary election, it is the duty of each regional returning officer and each constituency returning officer for an Assembly constituency in the Assembly electoral region to co-operate with each other in the discharge of their functions¹⁹; and this duty applies as between constituency returning officers in an Assembly electoral region as well as between such officers and the regional returning officer for the electoral region²⁰.

In addition to the functions otherwise conferred or imposed on a constituency or regional returning officer at an Assembly election, it is the general duty of such an officer to do all such acts as may be necessary for effectively conducting the election²¹. No Assembly election may be declared invalid by reason of any act or omission by such a returning officer or any other person in breach of his official duty in connection with the election or otherwise in breach of the election rules²² if it appears to the election court having cognisance of the question that²³ the election was so conducted as to be substantially in accordance with the law as to Assembly elections²⁴ and the act or omission did not affect the result²⁵. Nor is an Assembly election liable to be questioned²⁶ by reason of a defect in the title, or want of title, of the person presiding at or conducting the election, if that person was then in actual possession of, or acting in, the office giving the right to preside at or conduct the election²⁷. A person is not subject to any incapacity to vote at an Assembly election by reason of being returning officer at that election²⁸.

A returning officer for an election to the National Assembly for Wales must take such steps as he thinks appropriate to encourage the participation by electors in the electoral process in the area for which he acts²⁹. In so doing, he must have regard to any guidance issued by the Electoral Commission³⁰.

1 For the meaning of 'Assembly election' in the context of a Welsh Assembly election see PARA 3 note 1 ante. As to elections for the return of members of the National Assembly for Wales see PARA 220 et seq ante.

2 For the meaning of 'constituency returning officer' see PARA 18 note 2 ante.

3 For the meaning of 'Assembly constituency' in the case of a Welsh Assembly election see PARA 3 note 1 ante.

4 For the meaning of 'regional returning officer' see PARA 18 note 2 ante.

5 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 17(1). For the meaning of 'Assembly electoral region' in the case of a Welsh Assembly election see PARA 3 note 1 ante.

6 le under the Representation of the People Act 1983 s 35(1A)(a) (as added) (see PARA 359 ante).

7 As to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq.

8 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 17(2)(a).

9 Ibid art 17(2)(b).

10 See note 6 supra.

11 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 17(3)(a).

12 Ibid art 17(3)(b).

13 Ibid art 17(4).

14 Ibid art 18(1).

15 Ibid art 18(2). In the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, a reference to a constituency returning officer in relation to the discharge of functions at a regional election is a reference to the discharge of such functions in relation to the Assembly constituency for which he is the returning officer: art 19(5).

16 Ibid art 18(3).

17 Ibid art 19(1), (2).

18 As to ordinary Assembly elections see PARA 12 ante.

19 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 19(3).

20 Ibid art 19(4).

21 Ibid art 16(2). The text refers to proceedings at Assembly elections and return of Assembly members which must be conducted in accordance with the manner provided by art 16(1), Sch 5 (as amended): art 16(1), (2).

22 le or otherwise in breach of ibid Sch 5 (as amended).

23 Ibid art 16(3).

24 Ibid art 16(3)(a).

25 Ibid art 16(3)(b).

26 As to the questioning of Welsh Assembly elections see PARA 762 et seq post.

27 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 20(1).

28 Ibid art 20(2).

29 Electoral Administration Act 2006 s 69(1), (8)(b), (9)(f). For the meaning of 'elector', in relation to a Welsh Assembly election, see PARA 124 note 4 ante.

30 Ibid s 69(2). As to the Electoral Commission see PARA 31 et seq ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/ (iii) Returning Officers/C. ELECTIONS TO THE NATIONAL ASSEMBLY FOR WALES/363. Payments by and to returning officer for elections to the National Assembly for Wales.

363. Payments by and to returning officer for elections to the National Assembly for Wales.

A constituency returning officer¹ or a regional returning officer² is entitled to recover his charges in respect of services properly rendered, or expenses properly incurred, for, or in connection with, a Welsh Assembly election³ if the services or expenses are of a kind specified in an order made by the Assembly⁴ and the charges are reasonable⁵. In any order so made, the National Assembly for Wales⁶ may specify a maximum recoverable amount for services or expenses of any specified description and the returning officer may not recover more than that amount in respect of any such services or expenses⁷, except that the Assembly may, in a particular case, authorise the payment of more than the specified amount for any specified services or expenses if satisfied⁸ that it was reasonable for the returning officer concerned to render the services or incur the expenses⁹ and that the charges in question are reasonable¹⁰. Any order which specifies the maximum amount for services or expenses of a particular description¹¹ may provide for that amount to increase at such dates, or after such periods, by reference to such formula or other method of determination as may be specified in the order¹² and make such transitional provision in connection with any such increase as the Assembly considers appropriate¹³. On a returning officer's request for an advance on account of his charges, the Assembly may, on such terms as it thinks fit, make such an advance¹⁴.

The Assembly must pay the amount of any charges recoverable in accordance with these provisions on an account being submitted to it but the Assembly may if it thinks fit, before payment, apply for a detailed assessment of the account¹⁵. Where the superannuation contributions required to be paid by a local authority in respect of any person are increased by any fee paid under these provisions as part of a returning officer's charges at an Assembly election, then, on an account being submitted to the Assembly, a sum equal to the increase must be paid by the Assembly to the authority¹⁶. The Assembly by regulations may make provision as to the time when and the manner and form in which accounts are to be rendered to the Assembly for the purpose of the payment of a returning officer's charges; and such regulations may make different provision for constituency elections (on the one hand) and regional elections (on the other)¹⁷.

The Secretary of State may reimburse a returning officer for an election to the National Assembly for Wales in respect of any expenditure incurred by the officer for the purposes of encouraging electoral participation¹⁸. However, the amount so paid must not in any year exceed such amount as is determined in accordance with regulations made by the Secretary of State¹⁹.

1 For the meaning of 'constituency returning officer' see PARA 18 note 2 ante. As to the designation of returning officers for elections to the National Assembly for Wales see PARA 362 ante.

2 For the meaning of 'regional returning officer' see PARA 18 note 2 ante.

3 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 21(1). For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante. As to elections for the return of members of the National Assembly for Wales see PARA 220 et seq ante.

4 Ibid art 21(1)(a). In the case of a constituency returning officer, art 21 applies to services rendered or expenses incurred for, or in connection with, a constituency or a regional election: art 21(1).

Any order under art 21(1) may make different provision for constituency elections (on the one hand) and regional elections (on the other): art 21(5). The power to make such orders must be exercised by statutory instrument: art 21(6). As to the order so made see the National Assembly for Wales (Returning Officers' Charges) Order 2006, SI 2006/3268, art 3, Schedule. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

5 Ibid art 21(1)(b).

6 As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

7 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, arts 2(1), 21(2). As to the order so made see the National Assembly for Wales (Returning Officers' Charges) Order 2006, SI 2006/3268, art 3, Schedule Pt I (services of a constituency or a regional returning officer for which maximum recoverable amounts are specified), Schedule Pt II (expenses of a constituency or a regional returning officer for which maximum recoverable amounts are specified). See also Schedule Pt III (expenses of a constituency or a regional returning officer for which no maximum recoverable amounts are specified).

8 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 21(3).

9 Ibid art 21(3)(a).

10 Ibid art 21(3)(b).

11 Ie any order under ibid art 21(1) (see the text and notes 1-5 supra).

12 Ibid art 21(4)(a).

13 Ibid art 21(4)(b).

14 Ibid art 21(9).

15 Ibid art 21(7). The text refers to a detailed assessment conducted under art 22 (see PARA 364 post).

16 Ibid art 21(8).

17 Ibid art 21(10).

18 Electoral Administration Act 2006 s 69(4), (8)(b), (9)(f). As to the duty of a returning officer for an election to the National Assembly for Wales to encourage electoral participation see s 69(1), (2); and PARA 362 ante. As to the Secretary of State see PARA 2 ante.

19 Ibid s 69(5). The power to make such regulations is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament: s 69(6). Such regulations may make different provision for different purposes: s 69(7). Accordingly, the Encouraging Electoral Participation (Reimbursement of Expenses) (England and Wales) Regulations 2006, SI 2006/2972, which are to come into force on 1 April 2007, provide that the total amount that may be paid to local electoral officers in Wales in pursuance of the Electoral Administration Act 2006 s 69(4) in the year ending on 31 March 2008 and each successive year is £2,500,000: Encouraging Electoral Participation (Reimbursement of Expenses) (England and Wales) Regulations 2006, SI 2006/2972, reg 2. For these purposes, 'year' means a period of 12 months ending on 31 March (reg 1(2)); and 'local electoral officer' means a returning officer for elections to the National Assembly for Wales (Electoral Administration Act 2006 s 69(8)(b), (9)(f)).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/ (iii) Returning Officers/C. ELECTIONS TO THE NATIONAL ASSEMBLY FOR WALES/364. Detailed assessment of returning officer's account at elections to the National Assembly for Wales.

364. Detailed assessment of returning officer's account at elections to the National Assembly for Wales.

On a returning officer's account being submitted to the National Assembly for Wales¹, the Assembly may if it thinks fit before payment, apply to the county court for a detailed assessment to be made of the account². Such an application is made by claim form and on issuing the claim form the court will fix a day for the hearing which is a day for proceeding with the detailed assessment if the application is granted³. On any such application the county court has jurisdiction to assess the account in such manner and at such time and place as the court thinks fit⁴. Such an application may be heard by the district judge⁵.

On any such application, the returning officer⁶ may apply to the county court to examine any claim made by any person against him in respect of matters charged in the account⁷. The application must be made in writing and filed, together with a copy of it, within seven days after service on the returning officer of the copy of the application for detailed assessment⁸. On the filing of the returning officer's application, the court officer must fix a day for the hearing and give notice of it to the returning officer⁹. A copy of the returning officer's application and of that notice must be served on the claimant in the manner prescribed¹⁰. If the county court thinks fit, the examination and the detailed assessment may take place on the same day¹¹. The application for an examination may be heard and determined by the district judge¹². The examination must be determined before the detailed assessment is concluded¹³. The court must give the claimant an opportunity to be heard and to tender any evidence¹⁴.

On the examination of a claim against the returning officer, the county court may allow, disallow or reduce the claim objected to with or without costs, and the court's determination on the examination is final for all purposes and as against all persons¹⁵. On the detailed assessment, the court has jurisdiction finally to determine the amount payable to the returning officer¹⁶. A copy of the order made on the application must be served on the National Assembly for Wales¹⁷ and the returning officer and, in the case of an application for examination, on the claimant¹⁸.

1 As to the returning officer's charges see PARA 363 ante. As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

2 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, arts 21(7), 22(1).

3 CPR Sch 2 CCR Ord 45 r 1 (1). CPR Sch 2 CCR Ord 45 r 1 has effect in relation to applications made under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 22: art 22(4).

4 Ibid art 22(2).

5 CPR Sch 2 CCR Ord 45 r 1(5).

6 For these purposes, the references to returning officers must be construed as including references to constituency returning officers in relation to a constituency election and constituency and regional returning officers in relation to a regional election: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 22(4)(b). For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante; and for the meanings of 'constituency returning officer' and 'regional returning officer' in this context see PARA 18 note 2 ante.

- 7 Ibid art 22(3).
- 8 CPR Sch 2 CCR Ord 45 r 1(2).
- 9 CPR Sch 2 CCR Ord 45 r 1(3).
- 10 CPR Sch 2 CCR Ord 45 r 1(3). The notice must be served on the claimant in the manner set out in CPR r 6.2 (see CIVIL PROCEDURE vol 11 (2009) PARA 139): CPR Sch 2 CCR Ord 45 r 1(3) (amended by SI 2001/2792).
- 11 CPR Sch 2 CCR Ord 45 r 1(4).
- 12 CPR Sch 2 CCR Ord 45 r 1(5).
- 13 CPR Sch 2 CCR Ord 45 r 1(4).
- 14 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 22(3).
- 15 Ibid art 22(3).
- 16 Ibid art 22(2).
- 17 For these purposes, the references in CPR Sch 2 CCR Ord 45 r 1 to the Secretary of State must be construed as including references to the National Assembly for Wales: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 22(4)(a).
- 18 CPR Sch 2 CCR Ord 45 r 1(5).

UPDATE

364 Detailed assessment of returning officer's account at elections to the National Assembly for Wales

TEXT AND NOTES 3, 5, 8-13, 17, 18--CPR Sch 2 CCR Ord 45 revoked: SI 2007/2204.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/ (iii) Returning Officers/D. EUROPEAN PARLIAMENTARY ELECTIONS/365. Designation of returning officers and local returning officers for European parliamentary elections.

D. EUROPEAN PARLIAMENTARY ELECTIONS

365. Designation of returning officers and local returning officers for European parliamentary elections.

There must be a returning officer for each European parliamentary electoral region¹. For a region in England² and Wales³, the returning officer is to be a person who⁴ is, in relation to a parliamentary election⁵, an acting returning officer⁶ and is designated for these purposes by order of the Secretary of State⁷; and the local returning officer for a local counting area⁸ is the person who, in relation to a parliamentary election, is the acting returning officer for the parliamentary constituency which is coterminous with the local counting area⁹.

The Secretary of State may by regulations confer functions on the returning officers for the electoral regions and on local returning officers¹⁰. Accordingly, the local returning officer for each local counting area wholly or partly comprised in an electoral region is responsible for¹¹: (1) the conduct of the poll in that area¹²; (2) unless the returning officer otherwise directs, the printing of the ballot papers¹³; (3) the issue and receipt of postal ballot papers for electors in that area and their proxies¹⁴; (4) the verification of the ballot paper accounts¹⁵; and (5) the counting of the votes given in that area¹⁶.

Where such regulations confer functions on a person in relation to an electoral region other than the combined region¹⁷, the council of a district or London borough in England¹⁸ and a county or county borough in Wales¹⁹ falling wholly or partly within that region²⁰ must place the services of their officers at his disposal for the purpose of assisting him in the discharge of those functions²¹. A returning officer and a local returning officer may, in writing, appoint deputies to discharge all or any of the functions imposed on them²²; and a returning officer may appoint such clerks as may be necessary to assist him in his functions in relation to an election²³. The returning officer may give to any local returning officer for a local counting area in the electoral region for which he acts directions relating to the discharge of his functions, including directions requiring the provision to him of any information which that person has or is entitled to have²⁴; and it is the duty of any local returning officer to whom directions are so given to discharge his functions in accordance with the directions²⁵.

It is the general duty of a returning officer and the local returning officer at a European parliamentary election to do all such acts and things as may be necessary for effectively conducting the election in accordance with the European parliamentary elections rules²⁶. No European parliamentary election may be declared invalid by reason of any act or omission by the returning officer and the local returning officer or any other person in breach of his official duty in connection with the election or otherwise in breach of the election rules²⁷ if it appears to the tribunal having cognisance of the question that²⁸ the election was so conducted as to be substantially in accordance with the law as to European parliamentary elections²⁹ and the act or omission did not affect the result³⁰. Nor is a European parliamentary election liable to be questioned³¹ by reason of a defect in the title, or want of title, of the person presiding at or conducting the election, if that person was then in actual possession of, or acting in, the office giving the right to preside at or conduct the election³².

A returning officer for a European parliamentary election must take such steps as he thinks appropriate to encourage the participation by electors in the electoral process in the area for

which he acts³³. In so doing, he must have regard to any guidance issued by the Electoral Commission³⁴.

1 European Parliamentary Elections Act 2002 s 6(1). As to the establishment of electoral regions for the purpose of elections to the European Parliament see PARA 76 ante; and as to European parliamentary elections see PARA 224 et seq ante.

2 Ie including for the purposes of a European parliamentary election held in the combined region. As to elections to the European Parliament held in the combined region see PARA 76 ante. For the meaning of 'England' see PARA 13 note 1 ante.

3 For the meaning of 'Wales' see PARA 13 note 1 ante.

4 European Parliamentary Elections Act 2002 s 6(2) (amended by the European Parliament (Representation) Act 2003 s 20(1), (2)).

5 Ie by virtue of the Representation of the People Act 1983 s 28(1) (as amended) (see PARA 356 ante).

6 European Parliamentary Elections Act 2002 s 6(2)(a).

7 Ibid s 6(2)(b). As to the order so made see the European Parliamentary Elections (Returning Officers) Order 2004, SI 2004/1056, arts 3, 5, Schedule. As to the Secretary of State see PARA 2 ante; and as to the making of orders under the European Parliamentary Elections Act 2002 generally see PARA 13 note 12 ante.

8 For the meaning of 'local counting area' see PARA 230 note 11 ante.

9 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 6(2).

10 European Parliamentary Elections Act 2002 s 6(5) (substituted by the European Parliament (Representation) Act 2003 s 20(1), (3)). For these purposes, 'local returning officer' means a person who is, in relation to parliamentary elections, an acting returning officer in England and Wales: European Parliamentary Elections Act 2002 s 6(5A)(a) (s 6(5A) added by the European Parliament (Representation) Act 2003 s 20(1), (3)). As to the meaning of 'local returning officer' in relation to elections to the European Parliament held in the combined region see the European Parliamentary Elections Act 2002 s 6(5A)(b) (as so added); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 6(3).

11 Ibid reg 6(1).

12 Ibid reg 6(1)(a). As to the conduct of the poll see PARA 388 et seq post.

13 Ibid reg 6(1)(b). As to the form and printing of ballot papers see PARA 391 post.

14 Ibid reg 6(1)(c). As to the issue and receipt of postal ballot papers see PARA 411 et seq post.

15 Ibid reg 6(1)(d). As to the verification of ballot paper accounts at a European parliamentary election see PARAS 468-469 post.

16 Ibid reg 6(1)(e). As to the counting of votes at a European parliamentary election see PARA 470 et seq post.

17 As to the combined region itself see the European Parliamentary Elections Act 2002 s 6(7)(b) (s 6(7) amended by the European Parliament (Representation) Act 2003 s 20(1), (4)).

18 As to counties and districts in England, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 24 et seq; and as to the London boroughs, and their councils, see LONDON GOVERNMENT vol 29(2) (Reissue) PARAS 30, 35-39, 59 et seq.

19 As to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq.

20 European Parliamentary Elections Act 2002 s 6(7)(a), (8) (s 6(7) as amended: see note 17 supra).

21 Ibid s 6(7) (as amended: see note 17 supra).

22 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 7(1). The text refers to functions imposed both under the European Parliamentary Elections Regulations 2004, SI 2004/293 (as amended) and under the provisions applied by those regulations.

- 23 Ibid reg 7(2).
- 24 Ibid reg 9(3).
- 25 Ibid reg 9(4).
- 26 Ibid reg 9(2). For the meaning of 'European parliamentary elections rules' see PARA 388 post.
- 27 Ie in breach of ibid Sch 1 (as amended).
- 28 Ibid reg 9(5).
- 29 Ibid reg 9(5)(a).
- 30 Ibid reg 9(5)(b).
- 31 As to the questioning of European parliamentary elections see PARA 763 et seq post.
- 32 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 14.
- 33 Electoral Administration Act 2006 s 69(1), (8)(b), (9)(c).
- 34 Ibid s 69(2). As to the Electoral Commission see PARA 31 et seq ante.

UPDATE

365 Designation of returning officers and local returning officers for European parliamentary elections

TEXT AND NOTES--A returning officer or a local returning officer for a European Parliamentary election may take such steps as he thinks appropriate to remedy any act or omission on his part, or on the part of a relevant person, which arises in connection with any function the returning officer or local returning officer or relevant person has in relation to the election, and which is not in accordance with the European Parliamentary elections rules or other requirements applicable to the election: SI 2004/293 reg 9(4A) (reg 9(4A)-(4E) added by SI 2009/186). The relevant persons are (1) a registration officer; (2) a presiding officer; (3) a person providing goods or services to the returning officer or local returning officer; and (4) a deputy of any person mentioned in heads (1)-(3) above or a person appointed to assist, or in the course of his employment assisting, such a person in connection with any function he has in relation to the European Parliamentary election: SI 2004/293 reg 9(4C). A returning officer or local returning officer may not under reg 9(4A) re-count the votes given at an election after the result has been declared: SI 2004/293 reg 9(4B). A returning officer or local returning officer for a European Parliamentary election must take such steps as he thinks appropriate to encourage the participation by electors in the electoral process in the area or region for which he acts (reg 9(4D)) and, for this purpose, must have regard to any guidance issued by the Electoral Commission (reg 9(4E)).

NOTE 7--SI 2004/1056 replaced: European Parliamentary Elections (Returning Officers) Order 2008, SI 2008/1914.

NOTE 9--SI 2004/293 reg 6(2) amended, reg 6(2A), Sch A1 added: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/ (iii) Returning Officers/D. EUROPEAN PARLIAMENTARY ELECTIONS/366. Payments by and to returning officer for European parliamentary elections.

366. Payments by and to returning officer for European parliamentary elections.

A returning officer or local returning officer at a European parliamentary election¹ is entitled to recover his charges in respect of services properly rendered, or expenses properly incurred, for or in connection with such an election if² the services or expenses are of a kind specified in an order made by the Secretary of State³ and the charges are reasonable⁴. In any order so made the Secretary of State may specify a maximum recoverable amount for services or expenses of any specified description and the returning officer or local returning officer may not recover more than that amount in respect of any such services or expenses⁵, except that, in a particular case, he may authorise the payment of more than the specified maximum amount for any specified services or expenses if satisfied⁶ that it was reasonable for the returning officer or local returning officer concerned to render the services or incur the expenses⁷ and that the charges in question are reasonable⁸. Any order which specifies a maximum amount for services or expenses of a particular description may⁹ provide for that amount to increase at prescribed dates, or after prescribed periods, by reference to such formula or other method of determination as may be specified in the order¹⁰ and make such transitional provision in connection with any such increase as the Secretary of State considers appropriate¹¹. On the returning officer's or local returning officer's request for an advance on account of his charges, the Secretary of State may, on such terms as he thinks fit, make such an advance¹².

The amount of any charges so recoverable must be charged on and paid out of the Consolidated Fund¹³ on an account being submitted to the Secretary of State, but the Secretary of State may, if he thinks fit, before payment apply for a detailed assessment of the account¹⁴. Where the superannuation contributions required to be paid by a local authority in respect of any person are increased by any fee paid as part of a returning officer's or local returning officer's charges at a European parliamentary election, then on an account being submitted to the Secretary of State a sum equal to the increase may be charged on and paid out of the Consolidated Fund to the authority¹⁵. Regulations by the Secretary of State may make provision as to the time when and the manner and form in which accounts are to be rendered to the Secretary of State for the purposes of the payment of a returning officer's or local returning officer's charges, and may include different provision for different cases, circumstances or areas¹⁶.

The Secretary of State may also reimburse a returning officer for a European parliamentary election in respect of any expenditure incurred by the officer for the purposes of encouraging electoral participation¹⁷. However, the amount so paid must not in any year exceed such amount as is determined in accordance with regulations made by the Secretary of State¹⁸.

1 As to European parliamentary elections see PARA 224 et seq ante; and as to the designation of returning officers and local returning officers at a European parliamentary election see PARA 365 ante.

2 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 15(1).

3 Ibid reg 15(1)(a). The power to make orders under reg 15(1) is exercised by statutory instrument, and the Statutory Instruments Act 1946 s 1 (as amended) (definition of statutory instrument: see STATUTES vol 44(1) (Reissue) PARA 1503) applies accordingly; and any such order may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the Secretary of State thinks fit: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 15(5). Any

exercise by the Secretary of State of his functions under reg 15(1), (2) requires the consent of the Treasury: reg 15(10). As to the orders so made see the European Parliamentary Elections (Returning Officers' Charges) (Great Britain and Gibraltar) Order 2004, SI 2004/1298, art 4, Schedule; and the European Parliamentary Elections (Local Returning Officers' Charges) (Great Britain and Gibraltar) Order 2004, SI 2004/1299, art 4, Schedule. As to the Secretary of State see PARA 2 ante. As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 512-517.

4 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 15(1)(b).

5 Ibid reg 15(2). As to the orders so made see the European Parliamentary Elections (Returning Officers' Charges) (Great Britain and Gibraltar) Order 2004, SI 2004/1298, art 4, Schedule Pt A (maximum recoverable amounts for services of returning officer), Schedule Pt B (expenses of returning officer for which maximum recoverable amounts are specified); and see Schedule Pt C (expenses of returning officer for which no maximum recoverable amounts are specified). See also the European Parliamentary Elections (Local Returning Officers' Charges) (Great Britain and Gibraltar) Order 2004, SI 2004/1299, art 4, Schedule Pt A (maximum recoverable amounts for services of local returning officer), Schedule Pt B (expenses of local returning officers for which maximum recoverable amounts are specified); and see Schedule Pt C (expenses of local returning officer for which no maximum recoverable amounts are specified).

6 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 15(3).

7 Ibid reg 15(3)(a).

8 Ibid reg 15(3)(b).

9 Ibid reg 15(4).

10 Ibid reg 15(4)(a).

11 Ibid reg 15(4)(b).

12 Ibid reg 15(8).

13 As to the Consolidated Fund see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 711 et seq; PARLIAMENT vol 78 (2010) PARA 1028-1031.

14 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 15(6). The text refers to a detailed assessment under reg 16 (see PARA 367 post). Any charges to which persons on whom functions are conferred under the European Parliamentary Elections Act 2002 s 6(5) (as substituted) are entitled under regulations under the European Parliamentary Elections Act 2002 (see PARA 365 ante) and any sums required by the Secretary of State for expenditure on the provision of training relating to functions so conferred are to be charged on, and paid out of, the Consolidated Fund: s 6(6).

15 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 15(7).

16 Ibid reg 15(9). The regulations so made are not made by statutory instrument and are not recorded in this work.

17 Electoral Administration Act 2006 s 69(4), (8)(b), (9)(c). As to the duty of a returning officer for a European parliamentary election to encourage electoral participation see s 69(1), (2); and PARA 365 ante.

18 Ibid s 69(5). The power to make such regulations is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament: s 69(6). Such regulations may make different provision for different purposes: s 69(7). Accordingly, the Encouraging Electoral Participation (Reimbursement of Expenses) (England and Wales) Regulations 2006, SI 2006/2972, which are to come into force on 1 April 2007, provide that the total amount that may be paid to local electoral officers in England and Wales in pursuance of the Electoral Administration Act 2006 s 69(4) in the year ending on 31 March 2008 and each successive year is £2,500,000: Encouraging Electoral Participation (Reimbursement of Expenses) (England and Wales) Regulations 2006, SI 2006/2972, reg 2. For these purposes, 'year' means a period of 12 months ending on 31 March (reg 1(2)); and 'local electoral officer' means a returning officer for European parliamentary elections (Electoral Administration Act 2006 s 69(8)(b), (9)(c)).

UPDATE

366 Payments by and to returning officer for European parliamentary elections

TEXT AND NOTES 1-11--SI 2004/293 reg 15(1)-(4) substituted: SI 2009/186.

NOTES 3, 5--SI 2004/1298 replaced: European Parliamentary Elections (Returning Officers' Charges) (Great Britain and Gibraltar) Order 2009, SI 2009/1069. SI 2004/1299 replaced: European Parliamentary Elections (Local Returning Officers' Charges) (England, Wales and Gibraltar) Order 2009, SI 2009/1077.

NOTE 3--SI 2004/293 reg 15(10) amended: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/ (iii) Returning Officers/D. EUROPEAN PARLIAMENTARY ELECTIONS/367. Detailed assessment of returning officer or local returning officer's account at European parliamentary elections.

367. Detailed assessment of returning officer or local returning officer's account at European parliamentary elections.

On an account of a returning officer or a local returning officer at a European parliamentary election being submitted to the Secretary of State¹, he may if he thinks fit before payment, apply to the county court for a detailed assessment to be made of the account². On any such application the county court has jurisdiction to assess the account in such manner and at such time and place as the court thinks fit³.

On any such application, the returning officer or local returning officer may apply to the county court to examine any claim made by any person against him in respect of matters charged in the account⁴; and the court must give the claimant an opportunity to be heard and to tender any evidence⁵. On the examination of a claim against the returning officer, the county court may allow, disallow or reduce the claim objected to with or without costs, and the court's determination on the examination is final for all purposes and as against all persons⁶. On the detailed assessment, the court has jurisdiction finally to determine the amount payable to the returning officer⁷.

1 As to returning officers and local returning officers appointed for the purposes of elections to the European Parliament see PARA 365 ante; and as to the returning officer or local returning officer's charges see PARA 366 ante. As to the Secretary of State see PARA 2 ante. As to European parliamentary elections see PARA 224 et seq ante.

2 European Parliamentary Elections Regulations 2004, SI 2004/293, regs 15(6), 16(1). As to an account which relates to the whole of the combined region see reg 16(4). As to the combined region see PARA 76 ante.

3 Ibid reg 16(2).

4 Ibid reg 16(3).

5 Ibid reg 16(3).

6 Ibid reg 16(3).

7 Ibid reg 16(2).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(iv) Manner of Voting at Elections/A. VOTING OPTIONS/368. Manner of voting at a parliamentary or local government election.

(iv) Manner of Voting at Elections

A. VOTING OPTIONS

368. Manner of voting at a parliamentary or local government election.

A person entitled to vote as an elector at a parliamentary or local government election¹ may vote in person at the polling station allotted to him², unless he is entitled as an elector to an absent vote at the election³. If he is entitled as an elector to vote by post at the election, he may vote by post⁴. If he is entitled to vote by proxy at the election, he may so vote unless, before a ballot paper has been issued for him to vote by proxy, he applies at the polling station allotted to him under the appropriate rules for a ballot paper for the purpose of voting in person, in which case he may vote in person there⁵. If he is not entitled as an elector to an absent vote at the election⁶ but he cannot reasonably be expected to go in person to the polling station allotted to him under the appropriate rules by reason of the particular circumstances of his employment, either as a constable or by the returning officer, on the date of the poll for a purpose connected with the election⁷, he may vote in person at any polling station in the constituency or, as the case may be, electoral area⁸.

Subject to these provisions, a person is not entitled to vote as a parliamentary elector more than once in the same constituency at any parliamentary election or in more than one constituency at a general election⁹. At a local government election for any electoral area (except in relation to Authority elections¹⁰) no person as an elector and no person as proxy for any one elector¹¹ may give more than one vote for any one candidate¹² or give more votes in all than the total number of councillors to be elected for the electoral area¹³. Each person entitled to vote as an elector at a London Authority ordinary election¹⁴ has one vote (a 'mayoral vote') which may be given for a candidate to be the Mayor of London¹⁵, one vote (a 'constituency vote') which may be given for a candidate to be the Assembly member for the Assembly constituency¹⁶ and one vote (a 'London vote') which may be given for either a registered political party¹⁷ which has submitted a list of candidates to be London members¹⁸ or an individual who is a candidate to be a London member¹⁹. At an election for an elected local authority mayor²⁰, each person entitled to vote as an elector has one vote which may be given for the voter's first preference from among the candidates to be the elected mayor²¹ but a person is not entitled as an elector to cast more than one first preference vote (or, where it applies, more than one second preference vote) at an election for the return of an elected mayor²².

1 For the meaning of 'elector' in relation to a parliamentary or local government election see PARA 110 note 2 ante. For the meaning of 'parliamentary election' see PARA 9 ante. 'Local government election' means a local government election in England or Wales: Representation of the People Act 2000 s 12, Sch 4 para 1(1). For the meaning of 'local government election' see PARA 10 ante; definition applied by virtue of Sch 4 para 1(2).

However, nothing in Sch 4 para 2(1)-(5) (see the text and notes 2-8 infra) applies to a person to whom the Representation of the People Act 1983 s 7 (as substituted and amended) (deemed residence for persons in mental hospitals who are not detained offenders or on remand: see PARA 134 ante) applies and who is liable, by virtue of any enactment, to be detained in the mental hospital in question, whether he is registered by virtue of that provision or not: Representation of the People Act 2000 Sch 4 para 2(5A) (added by the Electoral Administration Act 2006 s 35(1), (2), (4)). Such a person may vote either in person (where he is granted permission to be absent from the hospital and voting in person does not breach any condition attached to that

permission) or by post or by proxy (where he is entitled as an elector to vote by post or, as the case may be, by proxy at the election): Representation of the People Act 2000 Sch 4 para 2(5A) (as so added). Nor does anything in Sch 4 para 2(1)-(5) apply to a person to whom the Representation of the People Act 1983 s 7A (as added and amended) (deemed residence for persons on remand: see PARA 135 ante) applies (Representation of the People Act 2000 Sch 4 para 2(6)(b)), whether he is registered by virtue of that provision or not; and such a person may only vote by post or by proxy (where he is entitled as an elector to vote by post or, as the case may be, by proxy at the election) (Sch 4 para 2(6)). As to voting by proxy see PARA 379 et seq post.

2 le under the appropriate rules. For these purposes, the 'appropriate rules' means, in the case of a parliamentary election, the parliamentary elections rules and, in the case of a local government election, rules made (or having effect as if made) under the Representation of the People Act 1983 s 36 (as amended) (see PARA 388 post): Representation of the People Act 2000 Sch 4 para 1(1). For the meaning of 'parliamentary elections rules' see PARA 388 post; definition applied by virtue of Sch 4 para 1(2). As to the provision and allotment of polling stations see PARA 395 post.

3 Ibid Sch 4 para 2(1), (2). This provision does not prevent a person, at the polling station allotted to him, marking a tendered ballot paper in pursuance of the Representation of the People Act 1983 s 23(1), Sch 1 r 40(1ZC), (1ZE) (as added) (see PARA 408 post): Representation of the People Act 2000 Sch 4 para 2(6A) (added by the Electoral Administration Act 2006 s 38(6)(a)). For the purposes of the Representation of the People Act 2000 Sch 4 (as amended) and the Representation of the People Act 1983, so far as it has effect in relation to England and Wales, a person entitled to vote as an elector at a parliamentary or local government election is entitled as an elector to vote by post or is entitled to vote by proxy at the election if the Representation of the People Act 2000 Sch 4 para 2(8) or Sch 4 para 2(9) (as added) applies to him in relation to the election: Sch 4 para 2(7) (amended by the Electoral Administration Act 2006 s 74(1), Sch 1 Pt 7 para 137(1), (3)(a)). The Representation of the People Act 2000 Sch 4 para 2(8) (as added) applies to a person who is shown in the postal voters list mentioned in Sch 4 para 5(2) (as amended) (see PARA 378 post) as entitled to vote by post at an election: Sch 4 para 2(8) (Sch 4 para 2(8), (9) added by the Electoral Administration Act 2006 Sch 1 para 137(1), (3)(b)). The Representation of the People Act 2000 Sch 4 para 2(9) (as added) applies to a person who is shown in the list of proxies mentioned in Sch 4 para 5(3) (see PARA 378 post) as entitled to vote by proxy at an election: Sch 4 para 2(9) (as so added). As to the postal voters list and the list of proxies see PARA 378 post.

Any amendment effected by the Electoral Administration Act 2006 s 38 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

4 Representation of the People Act 2000 Sch 4 para 2(1), (3).

5 Ibid Sch 4 para 2(1), (4).

6 Ibid Sch 4 para 2(1), (5)(a).

7 Ibid Sch 4 para 2(1), (5)(b). As to the date of the poll at a parliamentary general election or by-election see PARA 202 ante; and as to the date of the poll at local government elections (including elections to fill vacancies) see PARAS 213-216 ante.

8 Ibid Sch 4 para 2(1), (5). For the meaning of 'constituency' in the context of a parliamentary election see PARA 9 ante; and for the meaning of 'electoral area' see PARA 18 note 2 ante.

9 See the Representation of the People Act 1983 s 1(2) (as substituted); and PARA 110 ante.

10 For the meaning of 'Authority election' see PARA 10 ante.

11 Representation of the People Act 1983 s 46(1) (amended by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 8).

12 Representation of the People Act 1983 s 46(1)(a).

13 Ibid s 46(1)(b).

14 As to London Assembly ordinary elections see PARA 206 et seq ante. As to filling vacancies arising in the office of Mayor of London or in membership of the London Assembly see PARA 211 ante.

15 Greater London Authority Act 1999 s 4(1)(a). However, if there are three or more candidates to be Mayor of London, a supplementary vote system operates and a voter's mayoral vote will be a vote capable of being given to indicate the voter's first and second preferences from among the candidates: see further PARA 346 ante. As to elections for the return of a Mayor of London see PARA 206 ante. See also LONDON GOVERNMENT vol 29(2) (Reissue) PARA 90.

16 Ibid s 4(1)(b). An Assembly member for an Assembly constituency is returned under the simple majority system: s 4(4). For the meanings of 'Assembly constituency' and 'constituency member' in the context of elections to the London Assembly see PARA 10 ante. As to elections for the return of constituency members of the London Assembly see PARA 206 et seq ante.

17 For the meaning of 'registered political party' in this context see PARA 233 note 16 ante.

18 For the meaning of 'London member' (of the London Assembly) see PARA 10 note 5 ante. As to the submission of lists of candidates to be London members of the London Assembly see PARA 233 ante; and as to references to party lists in elections for the return of London members of the London Assembly see PARA 262 note 24 ante.

19 Greater London Authority Act 1999 s 4(1)(c), (5). As to elections for the return of the London members of the London Assembly see PARA 206 et seq ante; and as to individual candidates to be London members of the London Assembly see PARA 233 ante.

20 As to elections for the return of an elected local authority mayor see PARA 205 ante.

21 However, if there are three or more candidates to be the elected mayor, a supplementary vote system operates and another vote (in addition to the first preference vote) is capable of being given to indicate the voter's second preference from among the candidates: see further PARA 346 ante.

22 See the Local Government Act 2000 ss 42(1), 43(2); and LOCAL GOVERNMENT vol 69 (2009) PARA 321.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(iv) Manner of Voting at Elections/A. VOTING OPTIONS/369. Manner of voting at an election to the National Assembly for Wales.

369. Manner of voting at an election to the National Assembly for Wales.

A person entitled to vote as an elector at a Welsh Assembly election¹ may vote in person at the polling station allotted to him², unless he is entitled as an elector to an absent vote at the Assembly election³. If he is entitled as an elector to vote by post at the Assembly election, he may vote by post⁴. If he is entitled to vote by proxy at the Assembly election, he may so vote unless, before a ballot paper has been issued for him to vote by proxy, he applies at the polling station allotted to him for a ballot paper for the purposes of voting in person, in which case he may vote in person there⁵. If he is not entitled as an elector to an absent vote at the Assembly election but cannot reasonably be expected to go in person to the polling station allotted to him, by reason of the particular circumstances of his employment as a constable, by a constituency returning officer⁶ (in the case of a constituency election⁷), by a regional returning officer⁸ (in the case of a regional election⁹) or by a constituency returning officer (in the case of a regional election where that officer is exercising functions in relation to the election), on the date of the poll for a purpose connected with the election, he may vote in person at any polling station in the Assembly constituency for which the election is being held, in the case of a constituency election, or in which he is entitled to give his vote, in the case of a regional election¹⁰. But if a person is employed at an ordinary election¹¹ for a purpose connected with only one of two elections at which he is entitled to give a vote, he is treated for these purposes as employed for a purpose connected with both elections; provided that, if a person is so treated, in exercising the right so conferred to vote in person at any polling station, those votes will be given at the same polling station¹².

Each person entitled to vote at a general election in an Assembly constituency¹³ has two votes¹⁴: one (a 'constituency vote') is a vote which may be given for a candidate to be the Assembly constituency member for the Assembly constituency¹⁵; the other (an 'electoral region vote') is a vote which may be given for either a registered political party¹⁶ which has submitted a list of candidates to be Assembly regional members for the Assembly electoral region¹⁷ in which the Assembly constituency is included¹⁸ or an individual who is a candidate to be an Assembly regional member¹⁹ for that Assembly electoral region²⁰. The Assembly constituency member for the Assembly constituency is to be returned under the simple majority system²¹; and the Assembly regional members for the Assembly electoral region are to be returned under the additional member system of proportional representation²².

However, a person is not entitled as an elector to cast more than one constituency vote or more than one electoral region vote in the same Assembly constituency at any general election²³, to vote in more than one Assembly constituency at any general election²⁴, or to cast more than one vote in any election held to fill a vacancy in a constituency seat²⁵.

1 For these purposes, a person entitled to vote as an elector at an Assembly election is entitled as an elector to vote by post or entitled to vote by proxy at the election if he is shown in the absent voters list for the election as so entitled; and references in those provisions to entitlement as an elector to an absent vote at an Assembly election are references to entitlement as an elector to vote by post or entitlement to vote by proxy at the election: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 7(8). For the meaning of the 'absent voters list' see PARA 378 note 6 post. For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante. As to elections for the return of members of the National Assembly for Wales see PARA 220 et seq ante. As to voting by proxy see PARA 379 et seq post.

However, nothing in art 7(1)-(6) (see the text and notes 2-12 infra) applies to: (1) a person to whom the Representation of the People Act 1983 s 7 (as substituted and amended) (deemed residence for persons in

mental hospitals who are not detained offenders or on remand: see PARA 134 ante) applies and who is liable, by virtue of any enactment, to be detained in the mental hospital in question (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 7(7)(a)); or (2) a person to whom the Representation of the People Act 1983 s 7A (as added and amended) (deemed residence for persons on remand: see PARA 135 post) applies (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 7(7)(b)), whether he is registered by virtue of that provision or not; and such a person may only vote by post or by proxy (where he is entitled as an elector to vote by post or, as the case may be, by proxy at the election) (art 7(7)).

2 le under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284. As to the provision and allotment of polling stations see PARA 395 post.

3 Ibid art 7(1), (2).

4 Ibid art 7(1), (3).

5 Ibid art 7(1), (4).

6 For the meaning of 'constituency returning officer' see PARA 18 note 2 ante. As to the designation of returning officers for elections to the National Assembly for Wales see PARA 362 ante.

7 For the meaning of 'constituency election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

8 For the meaning of 'regional returning officer' see PARA 18 note 2 ante.

9 For the meaning of 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

10 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 7(5). As to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see PARAS 220-221 ante.

11 As to ordinary general elections for the National Assembly for Wales see PARA 12 et seq ante.

12 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 7(6).

13 For the meaning of 'Assembly constituency' in the case of a Welsh Assembly election see PARA 3 note 1 ante.

14 Government of Wales Act 2006 s 6(1). The provisions of the Government of Wales Act 2006 come into force immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes until that date see the Government of Wales Act 1998 s 4(1).

15 Government of Wales Act 2006 s 6(2). As to the date at which this provision takes effect see note 14 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 4(2). For the meaning of 'Assembly constituency member' in the case of a Welsh Assembly election see PARA 12 ante.

16 For the meaning of 'registered political party' in this context see PARA 234 note 4 ante.

17 For the meaning of 'Assembly electoral region' in the case of a Welsh Assembly election see PARA 3 note 1 ante. For the meaning of 'Assembly regional member' in the context of a Welsh Assembly regional election see PARA 12 ante; and for the meaning of 'party list candidate' see PARA 237 note 23 ante. As to the submission of lists of candidates to be members for a Welsh Assembly region see PARA 234 ante.

18 Government of Wales Act 2006 s 6(3)(a). As to the date at which this provision takes effect see note 14 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 4(3)(a).

19 For the meaning of 'individual candidate' in the context of a Welsh Assembly regional election see PARA 237 note 23 ante. As to individual candidates to be members for a Welsh Assembly region see also PARA 234 ante.

20 Government of Wales Act 2006 s 6(3)(b). As to the date at which this provision takes effect see note 14 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 4(3)(b).

21 Government of Wales Act 2006 s 6(4). As to the date at which this provision takes effect see note 14 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 4(4).

22 Government of Wales Act 2006 s 6(5). As to the date at which this provision takes effect see note 14 *supra*. As to the provision that applies until that date see the Government of Wales Act 1998 s 4(5).

23 Government of Wales Act 2006 s 12(2)(a). As to the date at which this provision takes effect see note 14 *supra*. As to the provision that applies until that date see the Government of Wales Act 1998 s 10(2)(a).

24 Government of Wales Act 2006 s 12(2)(b). As to the date at which this provision takes effect see note 14 *supra*. As to the provision that applies until that date see the Government of Wales Act 1998 s 10(2)(b).

25 Government of Wales Act 2006 s 12(2)(c). As to the date at which this provision takes effect see note 14 *supra*. As to the provision that applies until that date see the Government of Wales Act 1998 s 10(2)(c). As to elections held to fill a vacancy in a constituency seat see *PARA 221 ante*.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(iv) Manner of Voting at Elections/A. VOTING OPTIONS/370. Manner of voting at a European parliamentary election.

370. Manner of voting at a European parliamentary election.

A person entitled to vote as an elector at a European parliamentary election¹ may vote in person at the polling station allotted to him², unless he is entitled as an elector to an absent vote at the election³. If he is entitled as an elector to vote by post at the election, he may vote by post⁴. If he is entitled to vote by proxy at the election, he may so vote unless, before a ballot paper has been issued for him to vote by proxy, he applies at the polling station allotted to him under the European parliamentary elections rules for a ballot paper for the purpose of voting in person, in which case he may vote in person there⁵. If he is not entitled as an elector to an absent vote at the election⁶, but he cannot reasonably be expected to go in person to the polling station allotted to him under the European parliamentary elections rules by reason of the particular circumstances of his employment, either as a constable or by the local returning officer⁷, on the date of the poll for a purpose connected with the election⁸, he may vote in person at any polling station in the local counting area⁹.

At a European parliamentary election, a vote may be cast either for a registered party¹⁰ or for an individual candidate named on the ballot paper¹¹. If, on any occasion when elections to the European Parliament are held in all the member states, a person votes as an elector more than once in those elections, whether in the United Kingdom or elsewhere, he is guilty of an offence¹².

1 For the purposes of the European Parliamentary Elections Regulations 2004, SI 2004/293, and the Representation of the People Act 1983, the European Parliamentary Elections Act 2002 and the European Parliament (Representation) Act 2003, a person entitled to vote as an elector at a European parliamentary election is entitled as an elector to vote by post or entitled to vote by proxy at the election if he is shown in the absent voters list for the election as so entitled; and references in those provisions to entitlement as an elector to an absent vote at a European parliamentary election are references to entitlement as an elector to vote by post or entitlement to vote by proxy at the election: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 2(7). For the meaning of the 'absent voters list' see PARA 378 post. As to European parliamentary elections see PARA 224 et seq ante. As to voting by proxy see PARA 379 et seq post.

However, nothing in Sch 2 para 2(1)-(5) (see the text and notes 2-9 infra) applies to: (1) a person to whom the Representation of the People Act 1983 s 7 (as substituted and amended) (deemed residence for persons in mental hospitals who are not detained offenders or on remand: see PARA 134 ante) applies and who is liable, by virtue of any enactment, to be detained in the mental hospital in question (European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 2(6)(a)); or (2) a person to whom the Representation of the People Act 1983 s 7A (as added and amended) (deemed residence for persons on remand: see PARA 135 ante) applies (European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 2(6)(b)), whether he is registered by virtue of that provision or not; and such a person may only vote by post or by proxy (where he is entitled as an elector to vote by post or, as the case may be, by proxy at the election) (Sch 2 para 2(6)).

2 Ie under the European parliamentary elections rules. For these purposes, 'European parliamentary elections rules' means the rules in ibid reg 9(1), Sch 1 (as amended) (see PARA 388 post): reg 2(1). For these purposes, 'allotted polling station' has the meaning set out in Sch 2 para 16(7) (see PARA 373 note 15 post): Sch 2 para 1(1).

3 Ibid Sch 2 para 2(1), (2).

4 Ibid Sch 2 para 2(1), (3).

5 Ibid Sch 2 para 2(1), (4).

6 Ibid Sch 2 para 2(1), (5)(a).

7 As to local returning officers appointed for the purposes of elections to the European Parliament see PARA 365 ante.

8 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 2(1), (5)(b). As to the date of the poll at a European parliamentary election see PARA 229 ante.

9 Ibid Sch 2 para 2(1), (5). For the meaning of 'local counting area' see PARA 230 note 11 ante.

10 As to the submission by a registered party of lists of candidates to be members of the European Parliament ('MEPs') see PARA 235 ante.

11 European Parliamentary Elections Act 2002 s 2(3), (4). For the meaning of 'individual candidate' in the context of a European parliamentary election see PARA 237 note 32 ante.

12 See ibid s 9 (as amended); and PARA 703 note 12 post. For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

UPDATE

370 Manner of voting at a European parliamentary election

TEXT AND NOTES 1-9--SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

NOTE 2--SI 2004/293 reg 2(1) substituted: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(iv) Manner of Voting at Elections/A. VOTING OPTIONS/371. Absent voting.

371. Absent voting.

A person may vote by post if he is either an elector entitled to vote by post or a person who is entitled to vote by post as proxy on behalf of an elector¹. Alternatively, a person entitled to vote as proxy for an elector at an election may do so in person at the polling station allotted to the elector under the appropriate rules². Where a person is entitled to vote by post as proxy for the elector at any election, the elector may not apply for a ballot paper for the purpose of voting in person at the election³.

Provision is made for the procedure by which a person may apply to make an absent vote (for voting by post or by proxy either for a specified or indefinite period⁴ or at a particular election only⁵), and for the procedure by which a person is appointed to vote as proxy for an elector⁶.

The Secretary of State⁷ may by regulations⁸ make provision⁹: (1) enabling the registration officer¹⁰ to require an existing absent voter¹¹ to provide the registration officer with a signature and date of birth¹²; and (2) as to the consequences of an existing absent voter refusing or failing in such circumstances as are prescribed to provide a signature and date of birth¹³. Accordingly, the registration officer must every year by 31 January send every person who remains an absent voter¹⁴ (and whose signature held on the personal identifiers record¹⁵ is more than five years old) a notice in writing¹⁶ requiring him to provide a fresh signature¹⁷ and informing him of the date (six weeks from the date of sending the notice) on which he would cease to be entitled to vote by post or by proxy in the event of a failure or refusal to provide a fresh signature¹⁸. The notice must be sent by the registration officer to the current or last known address of the absent voter¹⁹. The registration officer must, if the absent voter has not responded to the notice within three weeks from the date on which the notice was sent, as soon as practicable send a copy of the notice to him²⁰. Upon the expiration of the period specified in the notice sent to the absent voter, the registration officer must determine whether the absent voter has failed or refused to provide a fresh signature²¹. Where the registration officer determines that the absent voter has refused or failed to provide a fresh signature within the specified period, he must remove that person's entry from the records kept of those entitled to an absent vote at elections (either for a particular period or for an indefinite period)²² or of those entitled to vote by post as proxy at elections²³ and from the postal voters list²⁴, list of proxies²⁵ or proxy postal voters list²⁶, as the case may be²⁷. Where a registration officer removes an absent voter's entry in such circumstances²⁸: (a) the registration officer must inform the absent voter, where appropriate, of the location of the polling station allotted or likely to be allotted²⁹ to him³⁰; (b) the provisions governing the refusal of an application for absent voting³¹ and notice of appeal³² apply as if the registration officer were refusing an application for absent voting³³; and (c) in the case of an entry removed from the proxy postal voters list, the registration officer must also notify the elector who appointed the proxy whose entry has been removed³⁴.

The registration officer must maintain a record (the 'personal identifiers record'), apart from the other records and lists which he is required to keep in relation to applications made for absent voting³⁵, of the signatures and dates of birth provided by persons whose applications³⁶ were granted, until the expiry of 12 months from³⁷ either: (i) the date on which a person is removed from the record kept of those entitled to an absent vote at elections either for a particular period or for an indefinite period³⁸ or from the record kept of those entitled to vote by post as proxy at elections³⁹; or (ii) the date of the poll for the purposes of which the person's application

for an absent vote was granted⁴⁰. The personal identifiers record must contain, in respect of each absent voter on the postal voters list, list of proxies or proxy postal voters list, his name⁴¹, his date of birth⁴² and his signature, or a record of the waiver by the registration officer of the requirement for a signature⁴³. The registration officer may disclose information held in the personal identifiers records either: (A) to any candidate or agent attending proceedings⁴⁴ on receipt of postal ballot papers⁴⁵; or (B) to any person attending proceedings on receipt of postal ballot papers who is entitled to do so⁴⁵, but only to the extent required to permit them to observe the proceedings⁴⁷.

1 See PARA 383 et seq post. As to the mechanism by which postal ballots are issued and counted see PARA 411 et seq post.

2 See PARA 382 post.

3 See PARA 382 post.

4 See PARA 372 et seq post.

5 See PARA 376 et seq post.

6 See PARA 379 et seq post.

7 As to the Secretary of State see PARA 2 ante.

8 The regulations may make different provision for different purposes and must be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament: Electoral Administration Act 2006 s 14(7).

9 Ibid s 14(5).

10 For the meaning of 'registration officer' see PARA 154 ante.

11 For these purposes, an existing absent voter is a person whose application under the Representation of the People Act 2000 Sch 4 para 3(1) (as amended) or Sch 4 para 3(2) (as amended) (absent vote at elections for definite or indefinite period: see PARA 372 post) or under Sch 4 para 4(1) (as amended) or Sch 4 para 4(2) (as amended) (absent vote at particular election: see PARA 376 post) or under Sch 4 para 7(4) (voting as proxy for an indefinite period or for a particular period or at a particular election: see PARA 383 post) has been granted before 1 January 2007 (ie the date at which the Electoral Administration Act 2006 s 14 came into force): s 14(6). As to the transitional provisions made for the capture of the personal identifiers of those who were existing absent voters at 1 January 2007 see the Absent Voting (Transitional Provisions) (England and Wales) Regulations 2006, SI 2006/2973, regs 2-5 (which reflect the force of the provisions set out in the text and notes 14-34 infra).

12 Electoral Administration Act 2006 s 14(5)(a).

13 Ibid s 14(5)(b).

14 For the purposes of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt IV (regs 50-63) (as amended) (see PARA 372 et seq post), 'absent voter' means an elector who is entitled to vote by proxy or an elector or proxy who is entitled to vote by post: reg 50 (definition added by SI 2006/2910).

15 As to the personal identifiers record see the text and notes 35-47 infra.

16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 60A(1) (reg 60A added by SI 2006/2910). Where a notice is sent by post, the registration officer may use a universal postal service provider or a commercial delivery firm, and postage must be pre-paid: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 60A(4) (as so added). A notice sent to an absent voter in accordance with reg 60A(1) (as added) must be accompanied by a pre-addressed reply envelope and, in the case of any notice sent to an address in the United Kingdom, return postage must be pre-paid: reg 60A(5) (as so added). For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

17 Ibid reg 60A(1)(a) (as added: see note 16 supra).

18 Ibid reg 60A(1)(b) (as added: see note 16 supra).

19 Ibid reg 60A(2) (as added: see note 16 supra).

20 Ibid reg 60A(3) (as added: see note 16 supra). Where a copy of a notice is sent by post, the registration officer may use a universal postal service provider or a commercial delivery firm, and postage must be pre-paid: reg 60A(4) (as so added). A copy of a notice sent to an absent voter in accordance with reg 60A(3) (as added) must be accompanied by a pre-addressed reply envelope and, in the case of any copy of a notice sent to an address in the United Kingdom, return postage must be pre-paid: reg 60A(5) (as so added).

21 Ibid reg 60A(6) (as added: see note 16 supra).

22 Ie the record kept pursuant to the Representation of the People Act 2000 s 12, Sch 4 para 3(4) (see PARA 375 post).

23 Ie the record kept pursuant to ibid Sch 4 para 7(6) (see PARA 384 post).

24 Ie the list kept under ibid Sch 4 para 5(2) (as amended) (see PARA 378 post).

25 Ie the list kept under ibid Sch 4 para 5(3) (see PARA 378 post).

26 Ie the list kept under ibid Sch 4 para 7(8) (as amended) (see PARA 384 post).

27 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 60A(7) (as added: see note 16 supra).

28 Ibid reg 60A(8) (as added: see note 16 supra). The registration officer must include in the notice to be sent to an absent voter regarding removal from the records kept pursuant to the Representation of the People Act 2000 Sch 4 para 3(4) (see PARA 375 post) or Sch 4 para 7(6) (see PARA 384 post) and from the postal voters list, list of proxies or proxy postal voters list (as the case may be) kept under Sch 4 para 5(2) (as amended) (see PARA 378 post), Sch 4 para 5(3) (see PARA 378 post) or Sch 4 para 7(8) (as amended) (see PARA 384 post), information explaining the effect of such removal and reminding the absent voter that he may make a fresh application under Sch 4 (as amended) to vote by post or by proxy (see PARA 372 et seq post), as the case may be: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 60A(9) (as so added).

29 Ie under the appropriate rules, as defined in the Representation of the People Act 2000 Sch 4 para 1 (see PARA 368 note 2 ante).

30 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 60A(8)(a) (as added: see note 16 supra).

31 Where the registration officer refuses an application under the Representation of the People Act 2000 Sch 4 (as amended), he must notify the applicant of his decision and of the reason for it: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4).

32 Ie ibid reg 58 (see PARAS 190-191 ante).

33 Ibid reg 60A(8)(b) (as added: see note 16 supra).

34 Ibid reg 60A(8)(c) (as added: see note 16 supra).

35 Ie under the Representation of the People Act 2000 Sch 4 (as amended) (see PARA 372 et seq post).

36 Ie under ibid Sch 4 para 3(1), (2) (as amended) (absent vote at elections for definite or indefinite period: see PARA 372 post), Sch 4 para 4(1), (2) (as amended) (absent vote at particular election: see PARA 376 post) or Sch 4 para 7(4)(a), (b) (voting as proxy for an indefinite period or for a particular period or at a particular election: see PARA 383 post).

37 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61B(1) (reg 61B added by SI 2006/2910).

38 See note 22 supra.

39 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61B(1)(a) (as added: see note 37 supra). As to the record mentioned in the text see note 23 supra.

40 Ibid reg 61B(1)(b) (as added: see note 37 supra). The text refers to the date of the poll for the purposes of which the person's application for an absent vote was granted under the Representation of the People Act 2000 Sch 4 para 4(1), (2) (as amended) (absent vote at particular election: see PARA 376 post) or Sch 4 para 7(4)(b) (voting as proxy at a particular election: see PARA 383 post).

41 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61B(2)(a) (as added: see note 37 *supra*).

42 Ibid reg 61B(2)(b) (as added: see note 37 *supra*).

43 Ibid reg 61B(2)(c) (as added: see note 37 *supra*).

44 Ie in accordance with and for the purposes referred to in *ibid* reg 85 (as amended) (see *PARA* 428 *post*).

45 Ibid reg 61B(3)(a) (as added: see note 37 *supra*).

46 Ie by virtue of any of the Political Parties, Elections and Referendums Act 2000 ss 6A-6D (as added) (see *PARA* 48 *ante*).

47 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61B(3)(b) (as added: see note 37 *supra*).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(iv) Manner of Voting at Elections/B. ABSENT VOTING/(A) Applications relating to a Particular Period or an Indefinite Period/372. Application for absent vote at elections for a particular period or for an indefinite period.

B. ABSENT VOTING

(A) APPLICATIONS RELATING TO A PARTICULAR PERIOD OR AN INDEFINITE PERIOD

372. Application for absent vote at elections for a particular period or for an indefinite period.

Where a person applies to the registration officer¹ to vote by post at parliamentary² or local government elections³ (or at both) or at Welsh Assembly elections⁴ or at European parliamentary elections⁵ (whether for an indefinite period or for a particular period specified in his application), the registration officer must grant the application⁶ if he is satisfied that the applicant is or will be registered in the register of electors for the election⁷ and if the application meets the statutory requirements⁸.

Where a person applies to the registration officer to vote by proxy⁹ at such elections (whether for an indefinite period or for a particular period specified in his application), the registration officer must grant the application¹⁰ if he is satisfied that the applicant is eligible to vote by proxy at elections to which the application relates¹¹, if he is satisfied that the applicant is or will be registered in the relevant register of electors¹², and if the application meets the statutory requirements¹³. For these purposes, a person is eligible to vote by proxy at such elections:

- 427 (1) if he is or will be registered as a service voter¹⁴;
- 428 (2) if he cannot reasonably be expected to go in person to the polling station allotted or likely to be allotted to him¹⁵ or to vote unaided there¹⁶ (in the case of a parliamentary election) by reason of blindness or other disability or (otherwise) by reason of blindness or physical incapacity¹⁷;
- 429 (3) if he cannot reasonably be expected to go in person to that polling station by reason of the general nature of his occupation, service or employment or that of his spouse or civil partner, or by reason of his or his spouse's or his civil partner's attendance on a course provided by an educational institution¹⁸;
- 430 (4) if he cannot go in person from his qualifying address to that polling station without making a journey by air or sea¹⁹; or
- 431 (5) (in relation to parliamentary or local government elections) if he has an anonymous entry in the register of electors²⁰ for the election²¹.

A person is also eligible to vote by proxy at parliamentary elections or at European parliamentary elections if he is or will be registered in pursuance of an overseas elector's declaration (or further, in the case of a European parliamentary election, in pursuance of a European parliamentary overseas elector's declaration)²².

Such an application²³ must state: (a) the full name of the applicant²⁴; (b) the address in respect of which the applicant is registered or has applied to be (or is treated as having applied to be) registered in the register²⁵; (c) in the case of a person applying to vote by post, the address to which the ballot paper should be sent²⁶; (d) in the case of an application to vote by proxy, the grounds on which the elector claims to be entitled to an absent vote²⁷; and (e) in relation to

parliamentary or local government elections only: (i) in the case of a person who is unable to provide a signature, the reasons for his request for waiver of any requirement²⁸ to provide a signature and the name and address of any person who has assisted him to complete his application²⁹; and (ii) where the applicant has, or has applied for, an anonymous entry, that fact³⁰.

The application must be made in writing and dated³¹. In relation to a parliamentary, local government or European parliamentary election, such an application which is made for an indefinite period or the period specified in the application must state that it is so made³² and must specify the election (or elections) in respect of which it is made³³. Where an application is made by an elector to vote by proxy, it must include an application for the appointment of a proxy which meets the statutory requirements³⁴.

Where the registration officer grants an application to vote by post, he must notify the applicant of his decision³⁵; and where he refuses an application, he must notify the applicant of his decision and of the reason for it³⁶. An appeal lies to the county court from any decision of the registration officer disallowing a person's application to vote by proxy or by post as elector in any case where the application is not made for a particular election only³⁷.

1 The registration officer must supply free of charge as many forms for use in connection with applications made under the provisions relating to absent voting as appear to that officer reasonable in the circumstances to any person who satisfies that officer of his intention to use the forms in connection with an election or elections: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 4(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 140; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 9(1). As to electoral registration officers and the areas for which they act see PARA 154 et seq ante.

2 For the meaning of 'parliamentary election' see PARA 9 ante.

3 For the meaning of 'local government election' see PARA 10 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1(2). See also PARA 368 note 1 ante.

4 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

5 As to European parliamentary elections see PARA 224 et seq ante.

6 Representation of the People Act 2000 Sch 4 para 3(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(1). Such an application must be disregarded for the purposes of any particular election if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that election (or on the sixth such day, in the case of a European parliamentary election): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(1) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(2), Sch 2 para 6(1) (substituted by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(2). Where a registration officer disregards such an application for the purposes of any particular election, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(5) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(4).

In computing a period of days for these purposes, Saturday, Sunday, Christmas Eve, Christmas Day, Good Friday or a bank holiday is to be disregarded and, in the case of a Welsh Assembly or European parliamentary election, Maundy Thursday is to be disregarded as well: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(6) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(6). 'Bank holiday' means, in relation to a parliamentary or European parliamentary general election, a day which is a bank holiday under the Banking and Financial Dealings Act 1971 (see TIME vol 97 (2010) PARA 321) in any part of the United Kingdom: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(7). In relation to a parliamentary or European parliamentary by-election or a local government election or Welsh Assembly election or where, at a parliamentary general election, any proceedings are commenced afresh by reason of a candidate's death, 'bank holiday' means a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in the area in which the election is

to take place: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(7). For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

As to the date of the poll at a parliamentary general election or by-election see PARA 202 ante; as to the date of the poll at local government elections (including elections to fill vacancies) see PARAS 213-216 ante; as to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see PARAS 220-221 ante; and as to the date of the poll at a European parliamentary election see PARA 229 ante.

7 Representation of the People Act 2000 Sch 4 para 3(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(1)(a). In the case of a parliamentary election, the register referred to in the text is the register of parliamentary electors and, in the case of a local government election, it is the register of local government electors (although an application under the Representation of the People Act 2000 Sch 4 (as amended) may relate to both types of election, in which case the requirement is for the applicant to be registered in both). In the case of a Welsh Assembly election, the requirement is for the applicant to be registered in the register of local government electors (as to which see PARA 156 et seq ante). In the case of a European parliamentary election, the 'register of electors' means any part of: (1) a register of parliamentary or, in the case of peers, local government electors; (2) a register under the Representation of the People Act 1985 s 3 (as substituted and amended) (peers resident outside the United Kingdom registered as European parliamentary electors: see PARA 116 ante); (3) a register under the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 5(2) (see PARA 156 ante); and (4) (for the purposes of European parliamentary elections held in the combined region) the Gibraltar register (see PARA 131 note 2 ante), in force within an electoral region at the time of a European parliamentary election in that region: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 2(1). As to electoral regions established for the purposes of European parliamentary elections (including the combined region) see PARA 76 ante; as to registration as an elector see PARA 128 et seq ante; and as to the registers of electors maintained by registration officers see PARA 156 et seq ante.

8 Representation of the People Act 2000 Sch 4 para 3(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(1)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(1)(b).

In the case of a parliamentary or local government election, the application referred to in the text must contain the applicant's signature and date of birth and meet the prescribed requirements: Representation of the People Act 2000 Sch 4 para 3(1)(b) (amended by the Electoral Administration Act 2006 s 14(1)(a), (8)). For the purposes of the Representation of the People Act 2000 Sch 4 (as amended), 'prescribed' means prescribed by regulations (see the Representation of the People Act 1983 s 202(1); applied by virtue of the Representation of the People Act 2000 Sch 4 para 1(2)); and, accordingly, the text refers to the requirements set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt IV (regs 50-63) (as amended). Where a person has made an application under the Representation of the People Act 2000 Sch 4 para 3(1) (as amended) or Sch 4 para 3(2) (as amended) (see the text and notes 9-13 infra) prior to 31 December 2006 that has not been determined on or before that date, the registration officer must not grant the application unless the applicant has provided to the registration officer a specimen of his signature and his date of birth: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 3. As to the provisions made for the initial and continuing capture of the personal identifiers of those who are existing absent voters see PARA 371 ante.

The registration officer may dispense with the requirement under the Representation of the People Act 2000 Sch 4 para 3(1)(b) (as amended) or Sch 4 para 3(2)(c) (as amended) (see the text and note 13 infra) for the applicant to provide a signature if he is satisfied that the applicant is unable to provide a signature because of any disability the applicant has or is unable to provide a signature because the applicant is unable to read or write or is unable to sign in a consistent and distinctive way because of any such disability or inability: Sch 4 para 3(8) (added by the Electoral Administration Act 2006 s 14(1)(c), (8)). By virtue of the Representation of the People Act 2000 Sch 4 para 1(2), 'disability', in relation to doing a thing, includes a short term inability to do it: see the Representation of the People Act 1983 s 202(1) (definition added by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 76). Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 69, 76 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

In the case of a Welsh Assembly election, the application referred to in the text must meet the requirements of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 (as amended).

In the case of a European parliamentary election, the application referred to in the text must meet the requirements of the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 (as amended).

9 As to applications made to vote by proxy see PARA 379 et seq post.

10 Representation of the People Act 2000 Sch 4 para 3(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(2). See note 8 *supra*. Such an application must be disregarded for the purposes of a particular election if it is received by the registration officer after 5 pm on the sixth day before the date of the poll at that election: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(2) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(1A) (added by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(2). Where a registration officer disregards an application for the purposes of any particular election, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(4). At a Welsh Assembly election, the officer must also give the reason for his decision and date such notification: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4). As to the computation of time for these purposes see note 6 *supra*.

11 Representation of the People Act 2000 Sch 4 para 3(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(2)(a).

12 Representation of the People Act 2000 Sch 4 para 3(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(2)(b).

13 Representation of the People Act 2000 Sch 4 para 3(2)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(1)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(2)(c).

In the case of a parliamentary or local government election, the application referred to in the text must contain the applicant's signature and date of birth and meet the prescribed requirements: Representation of the People Act 2000 Sch 4 para 3(2)(c) (amended by the Electoral Administration Act 2006 s 14(1)(b), (8)). As to the requirements so prescribed and as to the provision made for enabling the registration officer to require an absent voter to provide the registration officer with a signature and date of birth (including transitional provisions) see note 8 *supra*.

As to the statutory requirements for Welsh Assembly elections and European parliamentary elections see note 8 *supra*.

14 Representation of the People Act 2000 Sch 4 para 3(3)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(3)(a). As to registration as a service voter see PARA 140 *et seq ante*.

15 Representation of the People Act 2000 Sch 4 para 3(3)(b)(i); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(2)(b)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(3)(b)(i). As to the appropriate rules referred to in the text, in relation to a parliamentary or local government election, see PARA 368 note 2 *ante*; in relation to a Welsh Assembly election, see PARA 369 note 2 *ante*; and, in relation to a European parliamentary election, see PARA 370 note 2 *ante*.

16 Representation of the People Act 2000 Sch 4 para 3(3)(b)(ii); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(2)(b)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(3)(b)(ii).

17 Representation of the People Act 2000 Sch 4 para 3(3)(b) (amended by the Electoral Administration Act 2006 s 74(1), Sch 1 Pt 7 para 137(1), (4)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(3)(b).

18 Representation of the People Act 2000 Sch 4 para 3(3)(c) (amended by the Civil Partnership Act 2004 s 261(1), Sch 27 para 164(1), (2)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(2)(c) (amended by SI 2005/2114); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(3)(c) (amended by SI 2005/2114). It is suggested that the test would be satisfied where the duties of a person's employment frequently required him to be away from home at night. Where, however, a person was away on rare occasions only, the 'general nature' test would appear not to be satisfied, but the person would be eligible for an absent vote for a particular election if his employment duties required him to be away from his qualifying address on polling day (as to which see PARA 376 *post*). In order for a person's spouse or partner to qualify under this category it would be necessary to show that the general nature of the person's occupation, service or employment required him to be frequently away from home at night with the other spouse or partner in accompaniment.

19 Representation of the People Act 2000 Sch 4 para 3(3)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(2)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(3)(d).

20 For the meaning of 'anonymous entry' in relation to a register of electors see PARA 174 ante.

21 Representation of the People Act 2000 Sch 4 para 3(3)(aa) (added by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 19, 20(1)-(3)).

22 Representation of the People Act 2000 Sch 4 para 3(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(3). As to registration in pursuance of an overseas elector's declaration see PARA 129 ante; and as to registration in pursuance of a European parliamentary overseas elector's declaration see PARA 130 ante.

23 Applications relating to absent voting must comply with such requirements as are relevant to the application: in relation to a parliamentary or local government election, see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(1); in relation to a Welsh Assembly election, see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(5); and, in relation to a European parliamentary election, see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(1). As to additional requirements for applications to vote by proxy for a definite or indefinite period see PARAS 373-374 post.

24 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(2)(a).

25 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(b) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(b) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(2)(b).

In relation to Welsh Assembly elections, it is specified in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(2) (amended by SI 2006/884) that, for the purposes of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(b) (as amended), the address in respect of which the applicant is registered or has applied to be (or is treated as having applied to be) registered includes: (1) in the case of a service voter, the address given in the service declaration in accordance with the Representation of the People Act 1983 s 16(d) (amended) (see PARA 142 ante) (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(2)(a)); (2) in the case of a person to whom the Representation of the People Act 1983 s 7 (as substituted and amended) (deemed residence for persons in mental hospitals who are not detained offenders or on remand: see PARA 134 ante) applies, the address of the mental hospital or the address shown on the declaration of local connection in accordance with s 7B(3)(d) (as added) (see PARA 137 ante) (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(2)(b)); (3) in the case of a person to whom the Representation of the People Act 1983 s 7A (as added and amended) (deemed residence for persons on remand: see PARA 135 ante) applies, the address of the place at which he is detained or the address shown on the declaration of local connection in accordance with s 7B(3)(d) (as added) (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(2)(c)); and (4) in the case of a homeless person, the address shown on the declaration of local connection in accordance with the Representation of the People Act 1983 s 7B(3)(d) (as added) (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(2)(d)).

26 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(2)(d).

In the case of an application to vote by post at parliamentary or local government elections under the Representation of the People Act 2000 Sch 4 para 3(1) (see the text and notes 1-8 supra) or Sch 4 para 3(7) (see PARA 375 post) where the addresses stated in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(b) (as amended) (see the text and note 25 supra) and reg 51(2)(d) are different, except where an applicant has, or has applied for, an anonymous entry, the application must set out why the applicant's circumstances will be or are likely to be such that he requires the ballot paper to be sent to the address stated in accordance with reg 51(2)(d): reg 51AA(1)-(3) (added by SI 2006/2910).

27 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(e); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(2)(e).

28 Ie under the Representation of the People Act 2000 Sch 4 para 3 (as amended): see the text and notes 1-22 supra.

29 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(f) (added by SI 2006/2910).

30 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(g) (added by SI 2006/2910).

31 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(3) (substituted by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(3). At a Welsh Assembly or European parliamentary election, the application must also be signed by the applicant: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1); and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(3).

In relation to parliamentary or local government elections, where an application is required to contain a signature and date of birth (see note 8 *supra*), the information must be set out in a manner that is sufficiently clear and unambiguous as to be capable of electronic scanning into his record: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(3A) (reg 51(3A), (3B) added by SI 2006/2910). This requirement is met by configuring the information as follows: (1) the signature must appear against a background of white unlined paper of at least five centimetres long and two centimetres high (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(3A)(a) (as so added)); and (2) the applicant's date of birth must be set out numerically configured in the sequence of date, month and year, namely [d][d][m][m][y][y][y][y] (reg 51(3A)(b) (as so added)). Where the application contains a request that the registration officer waive the requirement for a signature (see note 8 *supra*), head (1) *supra* does not apply: reg 51(3B) (as so added). The registration officer may satisfy himself: (a) that an application under the Representation of the People Act 2000 Sch 4 (as amended) meets any requirements that it has been signed by the applicant and states his date of birth by referring to any signature and date of birth either previously provided by the applicant to the registration officer or to the returning officer or previously provided by the applicant to the authority referred to in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 35(2)(a) (ie the council which appointed him: see PARA 157 *ante*), which the registration officer is authorised to inspect for the purposes of his registration duties (reg 51A(a) (reg 51A added by SI 2006/752; and substituted by SI 2006/2910)); and (b) as to whether the applicant is unable to provide a signature or a consistent signature due to any disability or inability to read or write (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51A(b) (reg 51A as so added and substituted)).

At a Welsh Assembly election, the registration officer may satisfy himself that an application for an absent vote meets the requirement that it has been signed by the applicant by referring to any signature previously provided by the applicant to the registration officer or the returning officer: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1A (added by SI 2006/884). Any application or notice which is required by the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended) to be made to a registration officer or a returning officer must be made in writing and sent by post or delivered to his office or to the address specified by him for the purpose: art 143.

32 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(4)(a).

33 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(4)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(4)(b).

34 See the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 51(6), 52; the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 paras 1(4), 5; the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 paras 14(6), 15; and PARA 380 *post*.

35 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(1) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(1) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(1). At a parliamentary or Welsh Assembly election where the registration officer is not the acting returning officer for any constituency (or at a European parliamentary election where the registration officer is not the local returning officer for any local counting area) or part of such area in the area for which he is the registration officer, he must send to that officer details of any application to vote by post which he has granted as soon as practicable after doing so: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(5). For the meaning of 'local counting area' see PARA 230 note 11 *ante*. As to local returning officers appointed for the purposes of elections to the European Parliament see PARA 365 *ante*.

In relation to a Welsh Assembly election, where a registration officer is required to notify any person, such notification must be in writing and may be sent by post: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 14. In the case of a person other than a service voter, the notification may be sent to the address provided by that person for the purpose of such notification or of any

record or, if there is no such address, to the last known place of abode of that person: Sch 2 para 14(a). In the case of a service voter, the notification may be sent to any address provided by him for the purpose of such notification or of any record or to the address provided for the purpose by the appropriate government department (as defined by the Representation of the People Act 1983 s 59(3) (see PARA 146 note 2 ante)) or, as the case may be, the British Council: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 14(b).

36 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(3). At a Welsh Assembly election, the officer must date such notification: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4).

37 See PARA 189 et seq ante.

UPDATE

372-387 Application for absent vote at elections for a particular period or for an indefinite period ... Voting by post as proxy

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

372 Application for absent vote at elections for a particular period or for an indefinite period

NOTE 7--SI 2004/293 reg 2(1) substituted: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(iv) Manner of Voting at Elections/B. ABSENT VOTING/(A) Applications relating to a Particular Period or an Indefinite Period/373. Additional requirements for applications for a proxy vote for a definite or indefinite period by reason of physical incapacity.

373. Additional requirements for applications for a proxy vote for a definite or indefinite period by reason of physical incapacity.

An application to vote by proxy for a particular or indefinite period by reason of blindness or other disability (or, in the case of a Welsh Assembly or European parliamentary election, physical incapacity)¹ must specify the blindness or other disability (or the physical incapacity) by reason of which it is made². Such an application must be attested and signed³ by:

- 432 (1) a registered medical practitioner⁴;
- 433 (2) a nurse registered on the register maintained by the Nursing and Midwifery Council⁵ by virtue of qualifications in nursing⁶;
- 434 (3) a Christian Science practitioner⁷;
- 435 (4) (except in the case of a Welsh Assembly or European parliamentary election) a registered dentist⁸, a registered dispensing optician or registered optometrist⁹, a registered pharmaceutical chemist¹⁰, a registered osteopath¹¹ or a registered chiropractor¹²;
- 436 (5) (except in the case of a Welsh Assembly or European parliamentary election) a person for the time being listed in the British Psychological Society's Register of Chartered Psychologists¹³;
- 437 (6) (except in the case of a Welsh Assembly or European parliamentary election) a person registered as a member of a profession to which the Health Professions Order 2001¹⁴ for the time being extends¹⁵;
- 438 (7) the person carrying on a care home registered under Part II of the Care Standards Act 2000¹⁶ (or, in the case of a Welsh Assembly or European parliamentary election, the person registered as carrying on a residential care home¹⁷, where the applicant states that he is resident in such a home)¹⁸;
- 439 (8) the warden of premises forming one of a group of premises provided for persons of pensionable age or disabled persons for which there is a resident warden, where the applicant states that he resides in such premises¹⁹;
- 440 (9) (in the case of a Welsh Assembly or European parliamentary election only) the matron or other person in charge of residential accommodation provided by a local authority²⁰, where the applicant states that he is resident in such accommodation²¹;
- 441 (10) (except in the case of a Welsh Assembly or European parliamentary election) a manager within the meaning of the Mental Health Act 1983²², or on behalf of such a manager²³;
- 442 (11) (except in the case of a Welsh Assembly or European parliamentary election) a person registered in the register for social workers²⁴.

A person who qualifies by virtue of any of heads (1) to (6) above may not attest an application for these purposes unless he is treating the applicant for the disability (or the physical incapacity) specified in the application or unless the applicant is receiving care from him in respect of that disability or incapacity (as the case may be)²⁵. A person who qualifies by virtue of head (11) above may not attest an application for these purposes unless he is treating the

applicant for the disability specified in the application or unless the applicant is receiving care from him in respect of that disability or unless he has arranged care or assistance for the person in respect of his disability²⁶. The person attesting the application must state: (a) his name and address and the qualification by virtue of which he attests the application²⁷; (b) where the person who attests the application is a person who qualifies by virtue of any of heads (1) to (6) above, that he is treating the applicant for the disability (or the physical incapacity) specified in the application or that the applicant is receiving care from him in respect of that disability or incapacity (as the case may be)²⁸ and, where the person who attests the application is a person who qualifies by virtue of head (11) above, that he is treating the applicant for the disability specified in the application or that the applicant is receiving care from him in respect of that disability or that he has arranged care or assistance for the applicant in respect of that disability²⁹; (c) that, to the best of his knowledge and belief, the applicant has the disability (or is suffering from the physical incapacity) specified in the application and that he cannot reasonably be expected to go in person to his allotted polling station³⁰ or to vote unaided there by reason of that disability or incapacity (as the case may be)³¹; and (d) that, to the best of his knowledge and belief, the disability (or the physical incapacity) specified in the application is likely to continue either indefinitely or for a period specified by the person attesting the application³².

However, the provisions as to attestation³³ do not apply where the application is based on the applicant's blindness and the applicant is registered as a blind person by the local authority³⁴ which is specified in the application³⁵ or where the application states that the applicant is in receipt of the higher rate of the mobility component of a disability living allowance³⁶ because of the disability (or the physical incapacity) specified in the application³⁷.

For the purpose of determining whether there has been a material change of circumstances, the registration officer may, at such times as he thinks fit, make inquiries of a person³⁸ who is shown as voting by proxy³⁹ in the record kept of those entitled to an absent vote at elections either for a particular period or for an indefinite period⁴⁰. The registration officer may treat the failure by a person of whom inquiries have been made to respond to such inquiries within one month of the date on which they were made as sufficient evidence of a material change in circumstances⁴¹.

1 le at a parliamentary or local government election under the Representation of the People Act 2000 s 12, Sch 4 para 3(3)(b) (as amended) or at a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(2)(b) or at a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 3(3)(b) (whichever is appropriate) (see PARA 372 ante). For the meaning of 'parliamentary election' see PARA 9 ante. For the meaning of 'local government election' see PARA 10 ante; definition applied by virtue of the Representation of the People Act 2000 Sch 4 para 1(2). See also PARA 368 note 1 ante. For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante. As to European parliamentary elections see PARA 224 et seq ante.

2 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(1) (amended by SI 2001/1700; SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(2), Sch 2 para 2(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(1). The application must also satisfy the general requirements of absent voting applications (see PARA 372 ante). As to the offence in respect of false statements made in any declaration or form used in connection with absent voting see PARA 738 post.

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2) (reg 53(2)-(4) substituted by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(2). As to the offence of attesting such an application when not authorised to do so see PARA 738 post.

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(a) (as substituted: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(2)(a).

5 le the register maintained under the Nursing and Midwifery Order 2001, SI 2002/253, art 5 (see MEDICAL PROFESSIONS vol 30(1) (Reissue) PARA 717).

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(b) (as substituted: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2)(b) (substituted by SI 2004/1771); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(2)(b) (substituted by SI 2004/1771).

7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(h) (as substituted: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(2)(c).

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(c) (as substituted: see note 3 supra). The text refers to a registered dentist as defined by the Dentists Act 1984 s 53(1) (see MEDICAL PROFESSIONS vol 30(1) (Reissue) PARA 417).

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(d) (as substituted: see note 3 supra). The text refers to a registered dispensing optician or a registered optometrist within the meaning of the Opticians Act 1989 (as amended) (see MEDICAL PROFESSIONS).

10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(e) (as substituted: see note 3 supra). The text refers to a registered pharmaceutical chemist as defined by the Pharmacy Act 1954 s 24(1) (see MEDICAL PROFESSIONS vol 30(1) (Reissue) PARA 417).

11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(f) (as substituted: see note 3 supra). The text refers to a registered osteopath as defined by the Osteopaths Act 1993 s 41 (see MEDICAL PROFESSIONS vol 30(1) (Reissue) PARA 503).

12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(g) (as substituted: see note 3 supra). The text refers to a registered chiropractor as defined by the Chiropractors Act 1994 s 43 (see MEDICAL PROFESSIONS vol 30(1) (Reissue) PARA 595).

13 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(i) (as substituted: see note 3 supra).

14 le the Health Professions Order 2001, SI 2001/254 (as amended).

15 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(j) (as substituted: see note 3 supra). As to persons registered as members of a profession to which the Health Professions Order 2001, SI 2001/254 (as amended) for the time being extends see MEDICAL PROFESSIONS vol 30(1) (Reissue) PARA 308 et seq.

16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(k) (as substituted: see note 3 supra). The text refers to a care home registered under the Care Standards Act 2000 Pt II (ss 11-42). As to the registration of residential care homes see SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue) PARA 1042 et seq.

17 In the case of a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2)(d) specifies a residential care home within the meaning of the Registered Homes Act 1984 s 1 (repealed) which is required to be registered under Pt I (ss 1-20) (repealed); but see also the National Assembly for Wales (Representation of the People) Order 2003, SI 2007/236, Sch 1 para 4(2)(k), which is framed in similar terms to the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(k) (as substituted) (see the text and note 16 supra). In the case of a European parliamentary election, a care home registered under the Care Standards Act 2000 s 3 (see SOCIAL SERVICES AND COMMUNITY CARE) is specified: see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(2)(d).

18 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(2)(d).

19 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(l) (as substituted: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2)(f); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(2)(f).

20 le under the National Assistance Act 1948 s 21(1) (as amended) (see SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue) PARAS 1029-1030).

21 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2)(e); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(2)(e).

22 *le* within the meaning of the Mental Health Act 1983 s 145(1) (as amended) (see MENTAL HEALTH vol 30(2) (Reissue) PARA 439).

23 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(m) (as substituted: see note 3 *supra*).

24 *Ibid* reg 53(2)(n) (as substituted: see note 3 *supra*). The text refers to the register for social workers maintained in accordance with the Care Standards Act 2000 s 56 (see SOCIAL SERVICES AND COMMUNITY CARE).

25 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(3)(a) (as substituted: see note 3 *supra*); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(3).

26 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(3)(b) (as substituted: see note 3 *supra*).

27 *Ibid* reg 53(4)(a) (as substituted: see note 3 *supra*); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(4)(a).

A person who qualifies by virtue of head (10) in the text must, instead of the matters specified in head (a) in the text, state in the attestation his name, his position in the hospital at which the applicant is liable to be detained or at which he is receiving treatment, that he is a person authorised to make the attestation and, in the case of an applicant who is liable to be detained in hospital, the statutory provision under which the applicant is liable to be so detained: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(5A) (added by SI 2006/2910).

28 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(4)(b) (as substituted: see note 3 *supra*); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(4)(a).

29 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(4)(c) (as substituted: see note 3 *supra*).

30 For these purposes, 'his allotted polling station', in relation to an elector, means the polling station allotted or likely to be allotted to him under the appropriate rules: *ibid* reg 53(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(7); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 paras 1(2), 16(7). As to the appropriate rules, in relation to a parliamentary or local government election, see PARA 368 note 2 *ante*; in relation to a Welsh Assembly election, see PARA 369 note 2 *ante*; and, in relation to a European parliamentary election, see PARA 370 note 2 *ante*.

31 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(4)(d) (as substituted: see note 3 *supra*); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(4)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(4)(b).

32 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(4)(e) (as substituted: see note 3 *supra*); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(4)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(4)(c).

33 *le* the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)-(4) (as substituted), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2)-(4) (as amended) or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(2)-(4) (as amended) (whichever is appropriate) (see the text and notes 3-32 *supra*).

34 *le* the local authority which has made arrangements for compiling and maintaining classified registers of persons who are blind, etc under the National Assistance Act 1948 s 29(4)(g) (see SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue) PARA 1021).

35 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(5)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(5)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(5)(a). The fact that an applicant is registered with a local authority under the National Assistance Act 1948 s 29(4)(g) (see SOCIAL SERVICES AND

COMMUNITY CARE vol 44(2) (Reissue) PARA 1021) is deemed sufficient evidence that he is eligible to vote by proxy on the grounds set out for the purposes of a parliamentary or local government election under the Representation of the People Act 2000 Sch 4 para 3(3)(b) (as amended) or for the purposes of a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(2)(b) or for the purposes of a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(3)(b) (whichever is appropriate) (see PARA 372 ante): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(6).

36 le payable under the Social Security Contributions and Benefits Act 1992 ss 71, 73 (as amended) (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) PARA 106).

37 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(5)(b) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(5)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(5)(c).

38 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 60(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 10(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 23(1).

39 le where applications have been granted on the grounds set out for the purposes of a parliamentary or local government election under the Representation of the People Act 2000 Sch 4 para 3(3)(b) (as amended) or for the purposes of a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(2)(b) or for the purposes of a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(3)(b) (whichever is appropriate) (see PARA 372 ante). Except in the case of European parliamentary elections, this includes applications granted under predecessor provisions: see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 60(1)(b); and the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 10(1)(b).

40 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 60(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 10(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 23(1). The text refers to the record kept for the purposes of a parliamentary or local government election under the Representation of the People Act 2000 Sch 4 para 3(4) or for the purposes of a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(4) or for the purposes of a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(4) (whichever is appropriate) (see PARA 375 post).

41 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 60(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 10(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 23(3).

UPDATE

372-387 Application for absent vote at elections for a particular period or for an indefinite period ... Voting by post as proxy

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

373 Additional requirements for applications for a proxy vote for a definite or indefinite period by reason of physical incapacity

NOTES--Certain functions under provisions mentioned in this paragraph are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3, see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

TEXT AND NOTE 10--Reference to a registered pharmaceutical chemist replaced by reference to a registered pharmacist as defined in Pharmacists and Pharmacy Technicians Order 2007, SI 2007/289, art 3(1) (see PARA 880-934): SI 2001/341 reg 53(2)(e) (substituted by SI 2009/1182).

TEXT AND NOTE 13--SI 2001/341 reg 53(2)(i) revoked: SI 2009/1182.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(iv) Manner of Voting at Elections/B. ABSENT VOTING/(A) Applications relating to a Particular Period or an Indefinite Period/374. Additional requirements for applications for a proxy vote for a definite or indefinite period by reason of occupation, service or employment or attendance on a course.

374. Additional requirements for applications for a proxy vote for a definite or indefinite period by reason of occupation, service or employment or attendance on a course.

An application to vote by proxy for a particular or indefinite period by reason of occupation, service or employment or attendance on a course¹ must state²: (1) whether the occupation, service or employment in respect of which it is made is that of the applicant or his spouse or civil partner or, as the case may be, whether it is the applicant or his spouse or civil partner who is attending the course provided by an educational institution in respect of which the application is made³; (2) the nature of the occupation, service or employment or course provided by an educational institution giving rise to the application⁴; (3) where the person in respect of whose occupation, service or employment it is made (the 'employed person') is self employed, that fact and, in any other case, the name of that person's employer⁵; (4) the reason, relevant to the general nature of the employment, service or occupation in question or the course provided by an educational institution, why the applicant cannot reasonably be expected to go in person to his allotted polling station⁶.

Such an application must be attested and signed: (a) where the person is self-employed, by a person who is aged 18 years or over⁷, knows the self-employed person⁸ and is not related to him⁹; or (b) by the employer of the employed person or by another employee to whom this function is delegated by the employer¹⁰; or (c) in the case of a course provided by an educational institution, by the director or tutor of that course or by the principal or head of that institution or an employee to whom this function is delegated by the head or principal¹¹. The person attesting an application so made must, where the applicant is the employed person or the person attending the course, certify that the statements required by heads (1) to (4) above to be included in the application are true¹² or, where the applicant is the spouse or civil partner of the employed person or the person attending the course, certify that the statements included in the application in accordance with the requirements of heads (1) to (3) above are true¹³. The person so attesting an application must also state: (i) his name and address, that he is aged 18 years or over, that he knows the employed person, self-employed person or person attending a course provided by an educational institution but is not related to him¹⁴; and (ii) if he is attesting as or on behalf of the employer of the employed person, that he is the employer or the position he holds in the employment of that employer¹⁵; or (iii) if he is attesting an application made on the grounds of attendance at a course provided by an educational institution, the post he holds at that institution¹⁶.

For the purpose of determining whether there has been a material change of circumstances, the registration officer may, at such times as he thinks fit, make inquiries of a person¹⁷ who is shown as voting by proxy, in the record kept of those entitled to an absent vote at elections either for a particular period or for an indefinite period¹⁸, by reason of occupation, service or employment or attendance on a course¹⁹; and where the grant of such an application was based on such grounds²⁰, the registration officer must make the inquiries referred to not later than three years after the granting of the application or the last such inquiries, as the case may be²¹. The registration officer may treat the failure by a person of whom inquiries have been made to respond to such inquiries within one month of the date on which they were made as sufficient evidence of a material change in circumstances²².

1 le at a parliamentary or local government election under the Representation of the People Act 2000 s 12, Sch 4 para 3(3)(c) (as amended) or at a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(2)(c) (as amended) or at a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 3(3)(c) (as amended) (whichever is appropriate) (see PARA 372 ante). For the meaning of 'parliamentary election' see PARA 9 ante. For the meaning of 'local government election' see PARA 10 ante; definition applied by virtue of the Representation of the People Act 2000 Sch 4 para 1(2). See also PARA 368 note 1 ante. For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante. As to European parliamentary elections see PARA 224 et seq ante.

2 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 54(1) (amended by SI 2001/1700); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(2), Sch 2 para 3(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 17(1). The application must also satisfy the general requirements of absent voting applications (see PARA 372 ante). As to the offence in respect of false statements made in any declaration or form used in connection with absent voting see PARA 738 post.

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 54(1)(a) (amended by SI 2005/2114); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 3(1)(a) (amended by SI 2005/2114); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 17(1)(a) (amended by SI 2005/2114).

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 54(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 3(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 17(1)(b).

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 54(1)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 3(1)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 17(1)(c).

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 54(1)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 3(1)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 17(1)(d). For the meaning of 'his allotted polling station', in relation to an elector, see PARA 373 note 15 ante.

7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 54(2)(a)(i); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 3(2)(a)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 17(2)(a)(i).

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 54(2)(a)(ii); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 3(2)(a)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 17(2)(a)(ii).

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 54(2)(a)(iii); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 3(2)(a)(iii); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 17(2)(a)(iii). For these purposes, one person is related to another if he is the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild of the other: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 54(5) (amended by SI 2005/2114); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 3(3) (amended by SI 2005/2114); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 17(5) (amended by SI 2005/2114).

10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 54(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 3(2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 17(2)(b).

11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 54(2)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 3(2)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 17(2)(c).

12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 54(3)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 3(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 17(3)(a).

13 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 54(3)(b) (amended by SI 2005/2114); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2

para 3(4)(b) (amended by SI 2005/2114); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 17(3)(b) (amended by SI 2005/2114). The reason why the applicant cannot reasonably be expected to go in person to the allotted polling station is not included in the statements that the person attesting the application has to certify as true in the case of the spouse or civil partner of an employed person or person attending a course.

14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 54(4)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 3(4)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 17(4)(a).

15 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 54(4)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 3(4)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 17(4)(b).

16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 54(4)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 3(4)(iii); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 17(4)(c).

17 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 60(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 10(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 23(1).

18 I.e. the record kept for the purposes of a parliamentary or local government election under the Representation of the People Act 2000 Sch 4 para 3(4) or for the purposes of a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(4) or for the purposes of a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(4) (whichever is appropriate) (see PARA 375 post).

19 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 60(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 10(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 23(1). The text refers to applications which have been granted on the grounds set out for the purposes of a parliamentary or local government election under the Representation of the People Act 2000 Sch 4 para 3(3)(c) (as amended) or for the purposes of a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(2)(c) (as amended) or for the purposes of a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(3)(c) (as amended) (whichever is appropriate) (see PARA 372 ante). Except in the case of European parliamentary elections, this includes applications granted under predecessor provisions: see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 60(1)(b); and the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 10(1)(b), (5).

20 I.e. on grounds that are similar: see note 19 supra.

21 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 60(2) (amended by SI 2001/1700); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 10(2), (3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 23(2).

22 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 60(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 10(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 23(3).

UPDATE

372-387 Application for absent vote at elections for a particular period or for an indefinite period ... Voting by post as proxy

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(iv) Manner of Voting at Elections/B. ABSENT VOTING/(A) Applications relating to a Particular Period or an Indefinite Period/375. Record of those entitled to an absent vote at elections for a definite period or for an indefinite period.

375. Record of those entitled to an absent vote at elections for a definite period or for an indefinite period.

The registration officer¹ must keep a record of those whose applications for an absent vote at elections² for a definite period or for an indefinite period³ have been granted showing⁴: (1) whether their applications were to vote by post or proxy for an indefinite or a particular period (specifying that period)⁵; (2) in the case of applications made in respect of parliamentary or local government elections, whether their applications were in respect of parliamentary elections, local government elections or both⁶; (3) in the case of those who may vote by post, the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent⁷; and (4) in the case of those who may vote by proxy, the names and addresses of those appointed as their proxies⁸. The registration officer at a Welsh Assembly or European parliamentary election must make available for inspection at his office a copy of the records so kept⁹ and, in relation to a Welsh Assembly election, any person may make a copy (whether handwritten or by other means) of the whole or any part of them¹⁰.

A person who remains on the record of those entitled to an absent vote at parliamentary or local government elections for a particular period or for an indefinite period¹¹ may, at any time, provide the registration officer with a fresh signature¹²; and anything required or authorised to be done for the purposes of any enactment in relation to a signature required to be provided in pursuance of absent voting in Great Britain¹³ must be done in relation to a signature so provided instead of in relation to a signature provided on any earlier occasion¹⁴. Regulations may make provision as to circumstances in which a registration officer may require a person who remains on the record of those who are entitled to an absent vote at parliamentary or local government elections for a particular period or for an indefinite period¹⁵ to provide a fresh signature¹⁶ and as to the consequences of a person refusing or failing to comply with a requirement to provide a fresh signature¹⁷.

The registration officer must remove a person from the record: (a) if he applies to the registration officer to be removed¹⁸; (b) in the case of any registered person, if he ceases to be registered or registered at the same qualifying address or ceases to be, or becomes, registered in pursuance of¹⁹ a service declaration²⁰ or a declaration of local connection²¹ or (except in the case of a Welsh Assembly election) an overseas elector's declaration²²; (c) in the case of any person shown in the record as voting by proxy, if the registration officer gives notice that he has reason to believe there has been a material change of circumstances²³; (d) in the case of a person who applied to vote by post or proxy for a particular period, once that period has expired²⁴; or (e) in the case of a person who is eligible to vote by proxy at parliamentary or local government elections by virtue of having an anonymous entry²⁵, if he ceases to have an anonymous entry²⁶. Where a person is removed from the record under any of heads (a) to (e) above, the registration officer must, where practicable, notify him of this and the reason for it²⁷.

A person shown in the record as voting by post may subsequently alter his choice by applying to the registration officer to vote by proxy instead (whether for an indefinite period or for a particular period specified in his application); and, if the registration officer would be required to grant that application to vote by proxy²⁸, the registration officer must amend the record accordingly²⁹. Equally, a person shown in the record as voting by proxy may subsequently alter his choice by applying to the registration officer to vote by post instead (whether for an

indefinite period or for a particular period specified in his application); and, if the application meets the statutory requirements, the registration officer must amend the record accordingly³⁰.

The registration officer must also keep a record in relation to those whose applications for an absent vote at parliamentary or local government elections for a particular period or for an indefinite period have been granted showing their dates of birth³¹ and, except in cases where the registration officer³² has dispensed with the requirement to provide a signature, their signatures³³. This record must be retained by the registration officer for the prescribed period³⁴. The registration officer must either provide a copy of the information contained in records so kept by him³⁵ to the returning officer for an election in relation to electors at the election³⁶ or give the returning officer access to such information³⁷. Information contained in such records may be disclosed by a registration officer (subject to any prescribed conditions) to any other registration officer if he thinks that to do so will assist the other registration officer in the performance of his duties³⁸, or to any person exercising functions in relation to the preparation or conduct of legal proceedings under the Representation of the People Acts³⁹ or to such other persons for such other purposes relating to elections as may be prescribed⁴⁰.

1 As to electoral registration officers and the areas for which they act see PARA 154 et seq ante.

2 I.e. at parliamentary, local government, Welsh Assembly or European parliamentary elections. For the meaning of 'parliamentary election' see PARA 9 ante. For the meaning of 'local government election' see PARA 10 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1(2). See also PARA 368 note 1 ante. For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante. As to European parliamentary elections see PARA 224 et seq ante.

3 I.e. applications for the purposes of a parliamentary or local government election under the Representation of the People Act 2000 Sch 4 para 3 (as amended) or for the purposes of a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8 (as amended) or for the purposes of a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 3 (as amended) (whichever is appropriate) (see PARA 372 ante).

4 Representation of the People Act 2000 Sch 4 para 3(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(4).

5 Representation of the People Act 2000 Sch 4 para 3(4)(a)(ii); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(4)(a).

6 Representation of the People Act 2000 Sch 4 para 3(4)(a)(i).

7 Ibid Sch 4 para 3(4)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(4)(b).

8 Representation of the People Act 2000 Sch 4 para 3(4)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(4)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(4)(c). As to the appointment of proxies to vote see PARA 379 et seq post.

9 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(2), Sch 2 para 11(5); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 24(2). In the case of records relating to a Welsh Assembly election, the records may be in such form as the registration officer thinks fit: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 11(1).

10 Ibid SI 2003/284, art 144(2).

11 I.e. the record kept under the Representation of the People Act 2000 Sch 4 para 3(4) (see the text and notes 1-8 supra).

12 Ibid Sch 4 para 7A(1) (Sch 4 paras 7A-7D added by the Electoral Administration Act 2006 s 14(4), (8)).

13 I.e. in pursuance of the Representation of the People Act 2000 Sch 4 (as amended).

14 Ibid Sch 4 para 7A(2) (as added: see note 12 supra).

15 le the record kept under *ibid* Sch 4 para 3(4) (see the text and notes 1-8 *supra*).

16 *Ibid* Sch 4 para 7B(a) (as added: see note 12 *supra*).

17 *Ibid* Sch 4 para 7B(b) (as added: see note 12 *supra*).

18 *Ibid* Sch 4 para 3(5)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(5)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(5)(a). Such an application by an elector to be removed from the record must be disregarded for the purposes of a particular election if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that election: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(5) (amended by SI 2001/1700); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(3)(a), (i); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(5)(a). Where a registration officer disregards an application for the purposes of any particular election, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(4). As to the computation of time for these purposes see PARA 372 note 6 *ante*. As to the date of the poll at a parliamentary general election or by-election see PARA 202 *ante*; as to the date of the poll at local government elections (including elections to fill vacancies) see PARAS 213-216 *ante*; as to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see PARAS 220-221 *ante*; and as to the date of the poll at a European parliamentary election see PARA 229 *ante*.

19 Representation of the People Act 2000 Sch 4 para 3(5)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(5)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(5)(b).

20 Representation of the People Act 2000 Sch 4 para 3(5)(b)(i); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(5)(b)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(5)(b)(i). As to registration in pursuance of a service declaration see PARA 140 *et seq ante*.

21 Representation of the People Act 2000 Sch 4 para 3(5)(b)(ii); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(5)(b)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(5)(b)(ii). As to registration in pursuance of a declaration of local connection see PARA 136 *et seq ante*.

22 Representation of the People Act 2000 Sch 4 para 3(5)(b)(iii); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(5)(b)(iii). As to registration in pursuance of an overseas elector's declaration see PARA 129 *et seq ante*.

23 Representation of the People Act 2000 Sch 4 para 3(5)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(5)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(5)(c). As to the registration officer's powers and duties to make inquiries of persons included in this record see PARAS 373-374 *ante*.

24 Representation of the People Act 2000 Sch 4 para 3(5)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(5)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(5)(d).

25 le an anonymous entry in relation to a register of electors: see PARA 174 *ante*; and see also PARA 372 *ante*.

26 Representation of the People Act 2000 Sch 4 para 3(5)(aa) (added by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 19, 20(1), (4)).

27 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4B) (added by SI 2006/752; and amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4B) (added by SI 2006/884). As to notification see PARA 372 note 35 *ante*.

28 le if it were one that had been made for the purposes of a parliamentary or local government election under the Representation of the People Act 2000 Sch 4 para 3(2) (as amended) or for the purposes of a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(1) or for the purposes of a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(2) (whichever is appropriate) (see PARA 372 *ante*).

29 Representation of the People Act 2000 Sch 4 para 3(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(6). Such an application must be disregarded for the purposes of a particular election if it is

received by the registration officer after 5 pm on the eleventh day before the date of the poll at that election: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(1) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(1). Where a registration officer disregards an application for the purposes of any particular election, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(4). As to the computation of time for these purposes see PARA 372 note 6 ante.

30 Representation of the People Act 2000 Sch 4 para 3(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(7); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(7). The text refers to the requirements set out, in the case of a parliamentary or local government election, in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt IV (regs 50-63) (as amended) or, in the case of a Welsh Assembly election, in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 (as amended) or, in the case of a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 (as amended) (whichever is appropriate). For the purposes of the Representation of the People Act 2000 Sch 4 (as amended), the requirements are as prescribed; and 'prescribed' means prescribed by regulations (see the Representation of the People Act 1983 s 202(1); applied by virtue of the Representation of the People Act 2000 Sch 4 para 1(2)). As to the requirements to be met by applications to vote by post see further PARA 372 ante. An application of the kind referred to in the text must be disregarded for the purposes of a particular election if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that election: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(1) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(1). Where a registration officer disregards an application for the purposes of any particular election, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(4).

31 Representation of the People Act 1983 Sch 4 para 3(9)(a) (Sch 4 para 3(9)-(10) added by the Electoral Administration Act 2006 s 14(1)(c), (8)).

32 *Ie* in pursuance of the Representation of the People Act 2000 Sch 4 para 3(8) (as added) (see PARA 372 ante).

33 *Ibid* Sch 4 para 3(9)(b) (as added: see note 31 *supra*).

34 *Ibid* Sch 4 para 3(10) (as added: see note 31 *supra*). As to the retention of the records referred to in the text see PARA 503 *et seq post*.

35 *Ie* in pursuance of *ibid* Sch 4 para 3(9) (as added) (see the text and notes 31-34 *supra*).

36 *Ibid* Sch 4 para 7C(a) (as added: see note 12 *supra*).

37 *Ibid* Sch 4 para 7C(b) (as added: see note 12 *supra*).

38 *Ibid* Sch 4 para 7D(a) (as added: see note 12 *supra*). As to the prescribed requirements see note 30 *supra*.

39 *Ibid* Sch 4 para 7D(b) (as added: see note 12 *supra*). For the meaning of 'the Representation of the People Acts' see PARA 3 note 1 *ante*.

40 Representation of the People Act 1983 Sch 4 para 7D(c) (as added: see note 12 *supra*). As to the prescribed requirements see note 30 *supra*.

UPDATE

372-387 Application for absent vote at elections for a particular period or for an indefinite period ... Voting by post as proxy

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(iv) Manner of Voting at Elections/B. ABSENT VOTING/(B) Applications relating to a Particular Election/376. Applications for an absent vote at a particular election.

(B) APPLICATIONS RELATING TO A PARTICULAR ELECTION

376. Applications for an absent vote at a particular election.

Where a person applies to the registration officer¹ to vote by post at a particular parliamentary², local government³, Welsh Assembly⁴ or European parliamentary election⁵, the registration officer must grant the application⁶ if he is satisfied that the applicant is or will be registered in the register of electors for the election⁷ and if the application meets the statutory requirements⁸. Where a person applies to the registration officer to vote by proxy⁹ at a particular such election, the registration officer must grant the application¹⁰ if: (1) he is satisfied that the applicant's circumstances on the date of the poll will be or are likely to be such that he cannot reasonably be expected to vote in person at the polling station allotted or likely to be allotted to him under the appropriate rules¹¹; (2) he is satisfied that the applicant is or will be registered in the register of electors for the election¹²; and (3) the application meets the statutory requirements¹³. Where a person who has an anonymous entry in the register of electors for the election¹⁴ applies to the registration officer to vote by proxy at a particular parliamentary or local government election, the registration officer must grant the application if it meets the prescribed requirements¹⁵.

A person who is included in the record kept of those entitled to an absent vote in respect of parliamentary, local government or Welsh Assembly elections, either for a particular period or for an indefinite period¹⁶, may, in respect of a particular such election, apply to the registration officer¹⁷ for his ballot paper to be sent to a different address from that shown in the record¹⁸ or to vote by proxy¹⁹, if he is shown in the record so kept as voting by post at elections of the kind in question²⁰; and the registration officer must grant such an application if²¹, in the case of any application, it meets the statutory requirements²² and, in the case of an application to vote by proxy, the registration officer is satisfied that the applicant's circumstances on the date of the poll will be or are likely to be such that he cannot reasonably be expected to vote in person at the polling station allotted or likely to be allotted to him under the appropriate rules²³.

Such an application²⁴ must state: (a) the full name of the applicant²⁵; (b) the address in respect of which the applicant is registered or has applied to be (or is treated as having applied to be) registered in the register²⁶; (c) in the case of a person applying to vote by post, the address to which the ballot paper should be sent²⁷; (d) in the case of an application to vote by proxy, the grounds on which the elector claims to be entitled to an absent vote²⁸; and (e) in relation to parliamentary or local government elections only: (i) in the case of a person who is unable to provide a signature, the reasons for his request for waiver of any requirement²⁹ to provide a signature and the name and address of any person who has assisted him to complete his application³⁰; and (ii) where the applicant has, or has applied for, an anonymous entry, that fact³¹. Additionally, except in the case of a European parliamentary election, an application for a ballot paper to be sent to a different address from that shown in the record must set out why the applicant's circumstances will be or are likely to be such that he requires his ballot paper to be sent to that address³². Such an application which is made for a particular election must identify the election in question³³ and (except for a Welsh Assembly election) must state that it is made for a particular election³⁴. An application for a parliamentary or a local government election may be combined where the polls fall on the same day³⁵, and such an application (whether combined or not) may be used in combination with that for an absent vote at a

particular European parliamentary election³⁶. The application must be made in writing and dated³⁷. Where an application is made by an elector to vote by proxy, it must include an application for the appointment of a proxy which meets the statutory requirements³⁸.

Where the registration officer grants an application to vote by post, he must notify the applicant of his decision³⁹; and where he refuses an application, he must notify the applicant of his decision⁴⁰. An appeal does not lie from any decision of the registration officer disallowing a person's application to vote by proxy or by post as elector made for a particular election only⁴¹.

1 The registration officer must supply free of charge as many forms for use in connection with applications made under the provisions relating to absent voting as appear to that officer reasonable in the circumstances to any person who satisfies that officer of his intention to use the forms in connection with an election or elections: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 4(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 140; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 9(1). As to electoral registration officers and the areas for which they act see PARA 154 et seq ante.

2 For the meaning of 'parliamentary election' see PARA 9 ante.

3 For the meaning of 'local government election' see PARA 10 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1(2). See also PARA 368 note 1 ante.

4 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante. For these purposes, 'particular election', where a person (whether as elector or as proxy) is entitled to give two votes at an ordinary election, refers to both elections at which he is entitled to so vote; and references to an absent vote at a particular Assembly election must be construed accordingly: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(5). As to ordinary general elections to the National Assembly for Wales see PARA 12 et seq ante.

5 As to European parliamentary elections see PARA 224 et seq ante.

6 Representation of the People Act 2000 Sch 4 para 4(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(1) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(1). Such an application must be refused if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at the election (or on the sixth such day, in the case of a European parliamentary election) for which it is made: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(4) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(2), Sch 2 para 6(1) (substituted by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(3). Where a registration officer disregards such an application for the purposes of any particular election, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(5) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(4). As to the computation of time for these purposes see PARA 372 note 6 ante. As to the date of the poll at a parliamentary general election or by-election see PARA 202 ante; as to the date of the poll at local government elections (including elections to fill vacancies) see PARAS 213-216 ante; as to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see PARAS 220-221 ante; and as to the date of the poll at a European parliamentary election see PARA 229 ante.

7 Representation of the People Act 2000 Sch 4 para 4(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(1)(a).

In the case of a parliamentary election, the register referred to is the register of parliamentary electors and, in the case of a local government election, it is the register of local government electors (although an application under the Representation of the People Act 2000 Sch 4 (as amended) may relate to both types of election, in which case the requirement is to be registered in both). In the case of a Welsh Assembly election, the requirement is for the applicant to be registered in the register of local government electors (see PARA 160 ante). In the case of a European parliamentary election, the 'register of electors' means any part of: (1) a register of parliamentary or, in the case of peers, local government electors; (2) a register under the Representation of the People Act 1985 s 3 (as substituted and amended) (peers resident outside the United Kingdom registered as European parliamentary electors: see PARA 116 ante); (3) a register under the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 5(2) (see PARA 156 ante); and (4) (for the purposes of European parliamentary elections held in the combined region) the Gibraltar register (see PARA 131 note 2 ante), in force within an electoral region at the time of a European

parliamentary election in that region: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 2(1). As to electoral regions established for the purposes of European parliamentary elections (including the combined region) see PARA 76 ante; as to registration as an elector see PARA 128 et seq ante; and as to the registers of electors maintained by registration officers see PARA 156 et seq ante.

8 Representation of the People Act 2000 Sch 4 para 4(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(1)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(1)(b).

In the case of a parliamentary or local government election, the application referred to in the text must contain the applicant's signature and date of birth and meet the prescribed requirements: Representation of the People Act 2000 Sch 4 para 4(1)(b) (amended by the Electoral Administration Act 2006 s 14(2)(a), (8)). For the purposes of the Representation of the People Act 2000 Sch 4 (as amended), 'prescribed' means prescribed by regulations (see the Representation of the People Act 1983 s 202(1); applied by virtue of the Representation of the People Act 2000 Sch 4 para 1(2)); and, accordingly, the text refers to the requirements set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt IV (regs 50-63) (as amended). Where a person has made an application under the Representation of the People Act 2000 Sch 4 para 4(1) (as amended) or Sch 4 para 4(2) (as amended) (see the text and notes 9-13 infra) prior to 31 December 2006 that has not been determined on or before that date, the registration officer must not grant the application unless the applicant has provided to the registration officer a specimen of his signature and his date of birth: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 3. As to the provisions made for the initial and continuing capture of the personal identifiers of those who are existing absent voters see PARA 371 ante.

The registration officer may dispense with the requirement under the Representation of the People Act 2000 Sch 4 para 4(1)(b) (as amended) or Sch 4 para 4(2)(c) (as amended) (see the text and note 13 infra) for the applicant to provide a signature if he is satisfied that the applicant is unable to provide a signature because of any disability the applicant has or is unable to provide a signature because the applicant is unable to read or write or is unable to sign in a consistent and distinctive way because of any such disability or inability: Sch 4 para 4(5) (added by the Electoral Administration Act 2006 s 14(2)(c), (8)). By virtue of the Representation of the People Act 2000 Sch 4 para 1(2), 'disability', in relation to doing a thing, includes a short term inability to do it: see the Representation of the People Act 1983 s 202(1) (definition added by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 76).

In the case of a Welsh Assembly election, the application referred to in the text must meet the requirements of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 (as amended).

In the case of a European parliamentary election, the application referred to in the text must meet the requirements of the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 (as amended).

9 As to voting by proxy see PARA 379 et seq post.

10 Representation of the People Act 2000 Sch 4 para 4(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(2). Such an application must be refused if it is received by the registration officer after 5 pm on the sixth day before the date of the poll at the election for which it is made: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(3) (substituted by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(1A) (added by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(3). Where an application is made, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 4(2) (as amended) on the grounds of the applicant's disability and the applicant became disabled after 5 pm on the sixth day before the date of the poll at the election for which it is made or by a person to whom Sch 4 para 2(5A) (as added) applies (ie a person in a mental hospital who is not a detained offender or on remand but who is liable to be detained in the mental hospital in question: see PARA 368 ante), the application, or an application under Sch 4 para 6(8) (application for the appointment of a proxy to vote at a particular election: see PARA 380 post) made by virtue of that application, must be refused if it is received after 5 pm on the day of the poll at the election for which it is made: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(3A) (added by SI 2006/752; and substituted by SI 2006/2910). In relation to a Welsh Assembly election, where such an application is made on the grounds of the applicant's physical incapacity, and the applicant became physically incapacitated after 5 pm on the sixth day before the date of the poll at the election for which it is made, the application must be refused if it is received after 5 pm on the day of the poll at the election for which it is made: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(1B) (added by SI 2006/884). Where a registration officer disregards such an application for the purposes of any particular election, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(4). This restriction applies also to applications made under the Representation of the People Act 2000 Sch 4 para 6(8), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(7) or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(7) made by virtue of an application under

the Representation of the People Act 2000 Sch 4 para 4(2) (as amended), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(1) or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(2): see PARA 380 post.

11 Representation of the People Act 2000 Sch 4 para 4(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(2)(a). As to the appropriate rules referred to in the text, in relation to a parliamentary or local government election, see PARA 368 note 2 ante; in relation to a Welsh Assembly election, see PARA 369 note 2 ante; and, in relation to a European parliamentary election, see PARA 370 note 2 ante.

12 Representation of the People Act 2000 Sch 4 para 4(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(2)(b).

13 Representation of the People Act 2000 Sch 4 para 4(2)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(1)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(2)(c).

In the case of a parliamentary or local government election, the application referred to in the text must contain the applicant's signature and date of birth and meet the prescribed requirements: Representation of the People Act 2000 Sch 4 para 4(2)(c) (amended by the Electoral Administration Act 2006 s 14(2)(b), (8)). As to the requirements so prescribed and as to the provision made for enabling the registration officer to require an absent voter to provide the registration officer with a signature and date of birth (including transitional provisions) see note 8 supra.

As to the statutory requirements for Welsh Assembly elections and European parliamentary elections see note 8 supra.

As to additional requirements to be included in applications to vote by proxy at a particular election see PARA 377 post.

14 For the meaning of 'anonymous entry' in relation to a register of electors see PARA 174 ante.

15 Representation of the People Act 2000 Sch 4 para 4(2A) (added by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 19, 21). As to the prescribed requirements see note 8 supra.

16 Is the record kept for the purposes of a parliamentary or local government election under the Representation of the People Act 2000 Sch 4 para 3 (as amended) or for the purposes of a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8 (as amended) or for the purposes of a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3 (as amended) (whichever is appropriate) (see PARA 375 ante).

17 Representation of the People Act 2000 Sch 4 para 4(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(3).

18 Representation of the People Act 2000 Sch 4 para 4(3)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(2)(a) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(3)(a).

19 Representation of the People Act 2000 Sch 4 para 4(3)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(3)(b).

20 Representation of the People Act 2000 Sch 4 para 4(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(3). Such an application must be refused for the purposes of any particular election if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that election: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(1) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(1). Where a registration officer disregards such an application for the purposes of any particular election, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(4).

21 Representation of the People Act 2000 Sch 4 para 4(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(3); European Parliamentary Elections Regulations 2004, SI 2004/293,

Sch 2 para 4(4). Where the registration officer grants such an application made by a person shown as voting by post, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4A) (added by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4A) (added by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(1).

22 Representation of the People Act 2000 Sch 4 para 4(4)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(3)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(4)(a). As to the statutory requirements see note 8 *supra*.

23 Representation of the People Act 2000 Sch 4 para 4(4)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(3)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(4)(b).

24 Applications relating to absent voting must comply with such requirements as are relevant to the application: in relation to a parliamentary or local government election, see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(1); in relation to a Welsh Assembly election, see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(5); and in relation to a European parliamentary election, see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(1).

25 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(2)(a).

26 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(b) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(b) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(2)(b). As to the address to be specified for the purposes of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(b) (as amended), in relation to Welsh Assembly elections, see PARA 372 note 25 *ante*.

27 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(2)(d).

In the case of an application to vote by post at parliamentary or local government elections under the Representation of the People Act 2000 Sch 4 para 4(1) (see the text and notes 1-8 *supra*) where the addresses stated in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(b) (as amended) (see the text and note 26 *supra*) and reg 51(2)(d) are different, except where an applicant has, or has applied for, an anonymous entry, the application must set out why the applicant's circumstances will be or are likely to be such that he requires the ballot paper to be sent to the address stated in accordance with reg 51(2)(d): reg 51AA(1)-(3) (added by SI 2006/2910).

28 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(e); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(2)(e).

29 *Ie* under the Representation of the People Act 2000 Sch 4 para 4 (as amended): see the text and notes 1-23 *supra*.

30 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(f) (added by SI 2006/2910).

31 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(g) (added by SI 2006/2910).

32 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51B(1) (added by SI 2006/752; and renumbered by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1B (added by SI 2006/884). The Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51B (as added and amended) does not apply where an applicant has, or has applied for, an anonymous entry: reg 51B(2) (added by SI 2006/2910). For the meaning of 'anonymous entry' in relation to a register of electors see PARA 174 *ante*.

33 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(5)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(5)(b).

34 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(5)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(5)(a).

35 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(5).

36 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(7).

37 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(3) (substituted by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(3). At a Welsh Assembly or European parliamentary election, the application must also be signed by the applicant: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1); and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(3).

In relation to parliamentary or local government elections, where an application is required to contain a signature and date of birth (see note 8 *supra*), the information must be set out in a manner that is sufficiently clear and unambiguous as to be capable of electronic scanning into his record: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(3A), (3B) added by SI 2006/2910). This requirement is met by configuring the information as follows: (1) the signature must appear against a background of white unlined paper of at least five centimetres long and two centimetres high (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(3A)(a) (as so added)); and (2) the applicant's date of birth must be set out numerically configured in the sequence of date, month and year, namely [d][d][m][m][y][y][y][y] (reg 51(3A)(b) (as so added)). Where the application contains a request that the registration officer waive the requirement for a signature (see note 8 *supra*), head (1) *supra* does not apply: reg 51(3B) (as so added). The registration officer may satisfy himself: (a) that an application under the Representation of the People Act 2000 Sch 4 (as amended) meets any requirements that it has been signed by the applicant and states his date of birth by referring to any signature and date of birth either previously provided by the applicant to the registration officer or to the returning officer or previously provided by the applicant to the authority referred to in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 35(2)(a) (ie the council which appointed him: see *PARA 157 ante*), which the registration officer is authorised to inspect for the purposes of his registration duties (reg 51A(a) (reg 51A added by SI 2006/752; and substituted by SI 2006/2910)); and (b) as to whether the applicant is unable to provide a signature or a consistent signature due to any disability or inability to read or write (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51A(b) (reg 51A as so added and substituted)).

At a Welsh Assembly election, the application must be sent and delivered in accordance with the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 143 (see *PARA 372 note 31 ante*). The registration officer may satisfy himself that an application for an absent vote meets the requirement that it has been signed by the applicant by referring to any signature previously provided by the applicant to the registration officer or the returning officer: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1A (added by SI 2006/884).

38 See the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 51(6), 52; the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 paras 1(4), 5; the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 paras 14(6), 15; and *PARA 380 post*.

39 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(1) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(1) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(1). At a parliamentary or Welsh Assembly election where the registration officer is not the acting returning officer for any constituency (and at a European parliamentary election where the registration officer is not the local returning officer for any local counting area) or part of such area in the area for which he is the registration officer, he must send to that officer details of any application to vote by post which he has granted as soon as practicable after doing so: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(5). For the meaning of 'local counting area' see *PARA 230 note 11 ante*. As to local returning officers appointed for the purposes of elections to the European Parliament see *PARA 365 ante*. As to notification see *PARA 372 note 35 ante*.

40 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(3). In the case of a parliamentary, local government or European parliamentary election, the reason for the decision must also be given: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(3). At a Welsh Assembly election, the officer must date such notification: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4).

41 See *PARA 189 et seq ante*.

UPDATE

372-387 Application for absent vote at elections for a particular period or for an indefinite period ... Voting by post as proxy

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

376 Applications for an absent vote at a particular election

NOTE 7--SI 2004/293 reg 2(1) substituted: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(iv) Manner of Voting at Elections/B. ABSENT VOTING/(B) Applications relating to a Particular Election/377. Additional requirements for applications for a proxy vote at a particular election.

377. Additional requirements for applications for a proxy vote at a particular election.

An application to vote by proxy at a particular election¹ must set out why the applicant's circumstances on the date of the poll for that election in respect of which it is made will be or are likely to be such that he cannot reasonably be expected to vote in person at his allotted polling station². Where such an application is made on the grounds of the applicant's disability (or, in the case of a Welsh Assembly election, the applicant's physical incapacity)³ and is made after 5 pm on the sixth day before the date of the poll at the election for which it is made⁴, such an application must be attested and signed by⁵:

- 443 (1) a registered medical practitioner⁶;
- 444 (2) a nurse registered on the register maintained by the Nursing and Midwifery Council⁷ by virtue of qualifications in nursing⁸;
- 445 (3) a Christian Science practitioner⁹;
- 446 (4) (except in the case of a Welsh Assembly election) a registered dentist¹⁰, a registered dispensing optician or registered optometrist¹¹, a registered pharmaceutical chemist¹², a registered osteopath¹³ or a registered chiropractor¹⁴;
- 447 (5) (except in the case of a Welsh Assembly election) a person for the time being listed in the British Psychological Society's Register of Chartered Psychologists¹⁵;
- 448 (6) (except in the case of a Welsh Assembly election) a person registered as a member of a profession to which the Health Professions Order 2001¹⁶ for the time being extends¹⁷;
- 449 (7) the person carrying on a care home registered under Part II of the Care Standards Act 2000¹⁸ (or, in the case of a Welsh Assembly election, the person registered as carrying on a residential care home¹⁹, where the applicant states that he is resident in such a home)²⁰;
- 450 (8) the warden of premises forming one of a group of premises provided for persons of pensionable age or disabled persons for which there is a resident warden, where the applicant states that he resides in such premises²¹;
- 451 (9) (in the case of a Welsh Assembly election only) the matron or other person in charge of residential accommodation provided by a local authority²², where the applicant states that he is resident in such accommodation²³;
- 452 (10) (except in the case of a Welsh Assembly election) a manager within the meaning of the Mental Health Act 1983²⁴, or on behalf of such a manager²⁵;
- 453 (11) (except in the case of a Welsh Assembly election) a person registered in the register for social workers²⁶.

A person who qualifies by virtue of any of heads (1) to (6) above may not attest an application for these purposes unless he is treating the applicant for the disability (or the physical incapacity) specified in the application or unless the applicant is receiving care from him in respect of that disability or incapacity (as the case may be)²⁷. A person who qualifies by virtue of head (11) above may not attest an application for these purposes unless he is treating the applicant for the disability specified in the application or unless the applicant is receiving care from him in respect of that disability or unless he has arranged care or assistance for the

person in respect of his disability²⁸. The person attesting the application must state: (a) his name and address and the qualification by virtue of which he attests the application²⁹; (b) where the person who attests the application is a person who qualifies by virtue of any of heads (1) to (6) above, that he is treating the applicant for the disability (or the physical incapacity) specified in the application or that the applicant is receiving care from him in respect of that disability or incapacity (as the case may be)³⁰ and, where the person who attests the application is a person who qualifies by virtue of head (11) above, that he is treating the applicant for the disability specified in the application or that the applicant is receiving care from him in respect of that disability or that he has arranged care or assistance for the applicant in respect of that disability³¹; (c) that, to the best of his knowledge and belief, the applicant has the disability (or is suffering from the physical incapacity) specified in the application and that he cannot reasonably be expected to go in person to his allotted polling station³² or to vote unaided there by reason of that disability or incapacity (as the case may be)³³; and (d) that, to the best of his knowledge and belief, the disability (or the physical incapacity) specified in the application is likely to continue either indefinitely or for a period specified by the person attesting the application³⁴. In addition³⁵, the person who attests the application must state, to the best of his knowledge and belief, the date upon which the applicant became disabled (or physically incapacitated)³⁶.

However, the provisions as to attestation³⁷ do not apply where the application is based on the applicant's blindness and the applicant is registered as a blind person by the local authority³⁸ which is specified in the application³⁹ or where the application states that the applicant is in receipt of the higher rate of the mobility component of a disability living allowance⁴⁰ because of the disability (or the physical incapacity) specified in the application⁴¹.

1 ie at a particular parliamentary or local government election under the Representation of the People Act 2000 s 12, Sch 4 para 4(2) (as amended) or at a particular Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9 (as amended) or at a particular European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 4(2) (see PARA 376 ante). For the meaning of 'parliamentary election' see PARA 9 ante. For the meaning of 'local government election' see PARA 10 ante; definition applied by virtue of the Representation of the People Act 2000 Sch 4 para 1(2). See also PARA 368 note 1 ante. For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante. As to European parliamentary elections see PARA 224 et seq ante. In relation to a particular Welsh Assembly election see also PARA 376 note 4 ante.

2 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 55(1) (reg 55 substituted by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(2), Sch 2 para 4(1) (Sch 2 para 4 substituted by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 18. The Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 55(1) (as substituted) does not apply where the applicant has an anonymous entry: reg 55(1A), (6) (reg 55(1A), (4)-(6) added by SI 2006/2910). For the meaning of 'anonymous entry', in relation to a register of electors, see PARA 174 ante; and for the meaning of 'his allotted polling station', in relation to an elector, see PARA 373 note 15 ante. The application must also satisfy the general requirements of absent voting applications (see PARA 376 ante). As to the offence in respect of false statements made in any declaration or form used in connection with absent voting see PARA 738 post. As to the date of the poll at a parliamentary general election or by-election see PARA 202 ante; as to the date of the poll at local government elections (including elections to fill vacancies) see PARAS 213-216 ante; as to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see PARAS 220-221 ante; and as to the date of the poll at a European parliamentary election see PARA 229 ante.

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 55(2)(a) (as substituted (see note 2 supra); and amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 4(2)(a) (as substituted: see note 2 supra).

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 55(2)(b) (as substituted: see note 2 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 4(2)(b) (as substituted: see note 2 supra).

Where an application to vote by proxy at a particular parliamentary or local government election under the Representation of the People Act 2000 Sch 4 para 4(2) (as amended) (see PARA 376 ante) is made by a person to whom Sch 4 para 2(5A) (as added) applies (ie persons in mental hospitals who are not detained offenders or

on remand but who are liable to be detained in the mental hospital in question: see PARA 368 ante) after 5 pm on the sixth day before the date of the poll at the election for which it is made, the following requirements apply (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 55(4) (as added: see note 2 supra)): (1) the application must additionally state the name and address of the hospital at which the applicant is liable to be detained (reg 55(5)(a) (as so added)); and (2) the application must be attested by or on behalf of a manager, within the meaning of the Mental Health Act 1983 s 145(1) (as amended) (see MENTAL HEALTH vol 30(2) (Reissue) PARA 439), of the hospital at which the applicant is liable to be detained (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 55(5)(b) (as so added)), and the attestation must state: (a) the name of the person attesting the application (reg 55(5)(b)(i) (as so added)); (b) his position in the hospital at which the applicant is liable to be detained (reg 55(5)(b)(ii) (as so added)); (c) that he is a person authorised to make the attestation (reg 55(5)(b)(iii) (as so added)); and (d) the statutory provision under which the applicant is liable to be detained in the hospital (reg 55(5)(b)(iv) (as so added)).

5 Ibid reg 53(2) (reg 53(2)-(4) substituted by SI 2006/2910) (applied by the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 55(2) (as substituted: see note 2 supra)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2) (applied by Sch 2 para 4(2) (as substituted: see note 2 supra)). As to the offence of attesting such an application when not authorised to do so see PARA 738 post.

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(a) (as substituted: see note 5 supra) (applied by reg 55(2) (as substituted: see note 2 supra)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2)(a) (applied by Sch 2 para 4(2) (as substituted: see note 2 supra)).

7 Is the register maintained under the Nursing and Midwifery Order 2001, SI 2002/253, art 5 (see MEDICAL PROFESSIONS vol 30(1) (Reissue) PARA 717).

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(b) (as substituted: see note 5 supra) (applied by reg 55(2) (as substituted: see note 2 supra)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2)(b) (substituted by SI 2004/1771) (applied by the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 4(2) (as substituted: see note 2 supra)).

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(h) (as substituted: see note 5 supra) (applied by reg 55(2) (as substituted: see note 2 supra)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2)(c) (applied by Sch 2 para 4(2) (as substituted: see note 2 supra)).

10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(c) (as substituted: see note 5 supra); applied by reg 55(2) (as substituted: see note 2 supra). The text refers to a registered dentist as defined by the Dentists Act 1984 s 53(1) (see MEDICAL PROFESSIONS vol 30(1) (Reissue) PARA 417).

11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(d) (as substituted: see note 5 supra); applied by reg 55(2) (as substituted: see note 2 supra). The text refers to a registered dispensing optician or a registered optometrist within the meaning of the Opticians Act 1989 (as amended) (see MEDICAL PROFESSIONS).

12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(e) (as substituted: see note 5 supra); applied by reg 55(2) (as substituted: see note 2 supra). The text refers to a registered pharmaceutical chemist as defined by the Pharmacy Act 1954 s 24(1) (see MEDICAL PROFESSIONS vol 30(1) (Reissue) PARA 417).

13 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(f) (as substituted: see note 5 supra); applied by reg 55(2) (as substituted: see note 2 supra). The text refers to a registered osteopath as defined by the Osteopaths Act 1993 s 41 (see MEDICAL PROFESSIONS vol 30(1) (Reissue) PARA 503).

14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(g) (as substituted: see note 5 supra); applied by reg 55(2) (as substituted: see note 2 supra). The text refers to a registered chiropractor as defined by the Chiropractors Act 1994 s 43 (see MEDICAL PROFESSIONS vol 30(1) (Reissue) PARA 595).

15 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(i) (as substituted: see note 5 supra); applied by reg 55(2) (as substituted: see note 2 supra).

16 Is the Health Professions Order 2001, SI 2001/254 (as amended).

17 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(j) (as substituted: see note 5 supra); applied by reg 55(2) (as substituted: see note 2 supra). As to persons registered as members of a profession to which the Health Professions Order 2001, SI 2001/254 (as amended) for the time being extends see MEDICAL PROFESSIONS vol 30(1) (Reissue) PARA 308 et seq.

18 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(k) (as substituted: see note 5 supra); applied by reg 55(2) (as substituted: see note 2 supra). The text refers to a care home registered under the Care Standards Act 2000 Pt II (ss 11-42). As to the registration of residential care homes see SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue) PARA 1042 et seq.

19 In the case of a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2)(d) specifies a residential care home within the meaning of the Registered Homes Act 1984 s 1 (repealed) which is required to be registered under Pt I (ss 1-20) (repealed); but see also the National Assembly for Wales (Representation of the People) Order 2003, SI 2007/236, Sch 1 para 4(2)(k), which is framed in similar terms to the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(k) (as substituted) (see the text and note 18 supra).

20 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2)(d); applied by Sch 2 para 4(2) (as substituted: see note 2 supra).

21 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(l) (as substituted: see note 5 supra) (applied by reg 55(2) (as substituted: see note 2 supra)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2)(f) (applied by Sch 2 para 4(2) (as substituted: see note 2 supra)).

22 Ie under the National Assistance Act 1948 s 21(1) (as amended) (see SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue) PARAS 1029-1030).

23 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2)(e); applied by Sch 2 para 4(2) (as substituted: see note 2 supra).

24 Ie within the meaning of the Mental Health Act 1983 s 145(1) (as amended) (see MENTAL HEALTH vol 30(2) (Reissue) PARA 439).

25 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(m) (as substituted: see note 5 supra); applied by reg 55(2) (as substituted: see note 2 supra).

26 Ibid reg 53(2)(n) (as substituted: see note 5 supra); applied by reg 55(2) (as substituted: see note 2 supra). The text refers to the register for social workers maintained in accordance with the Care Standards Act 2000 s 56 (see SOCIAL SERVICES AND COMMUNITY CARE).

27 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(3)(a) (as substituted: see note 5 supra) (applied by reg 55(2) (as substituted: see note 2 supra)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(3) (applied by Sch 2 para 4(2) (as substituted: see note 2 supra)).

28 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(3)(b) (as substituted: see note 5 supra); applied by reg 55(2) (as substituted: see note 2 supra).

29 Ibid reg 53(4)(a) (as substituted: see note 5 supra) (applied by reg 55(2) (as substituted: see note 2 supra)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(4) (a) (applied by Sch 2 para 4(2) (as substituted: see note 2 supra)).

A person who qualifies by virtue of head (10) in the text must, instead of the matters specified in head (a) in the text, state in the attestation his name, his position in the hospital at which the applicant is liable to be detained or at which he is receiving treatment, that he is a person authorised to make the attestation and, in the case of an applicant who is liable to be detained in hospital, the statutory provision under which the applicant is liable to be so detained: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(5A) (added by SI 2006/2910); applied by the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 55(2) (as substituted: see note 2 supra).

30 Ibid reg 53(4)(b) (as substituted: see note 5 supra) (applied by reg 55(2) (as substituted: see note 2 supra)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(4) (a) (applied by Sch 2 para 4(2) (as substituted: see note 2 supra)).

31 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(4)(c) (as substituted: see note 5 supra); applied by reg 55(2) (as substituted: see note 2 supra).

32 For these purposes, 'his allotted polling station', in relation to an elector, means the polling station allotted or likely to be allotted to him under the appropriate rules: *ibid* reg 53(7) (applied by reg 55(2) (as substituted: see note 2 *supra*)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(7) (applied by Sch 2 para 4(2) (as so substituted)). As to the appropriate rules, in relation to a parliamentary or local government election, see PARA 368 note 2 *ante*; and, in relation to a Welsh Assembly election, see PARA 369 note 2 *ante*.

33 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(4)(d) (as substituted: see note 5 *supra*) (applied by reg 55(2) (as substituted: see note 2 *supra*)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(4)(b) (applied by Sch 2 para 4(2) (as substituted: see note 2 *supra*)).

34 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(4)(e) (as substituted: see note 5 *supra*) (applied by reg 55(2) (as substituted: see note 2 *supra*)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(4)(c) (applied by Sch 2 para 4(2) (as substituted: see note 2 *supra*)).

35 *Ie* in addition to those matters specified, in relation to a particular parliamentary or local government election, in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53 (as amended) (applied by reg 55(2) (as substituted)) or, in relation to a particular Welsh Assembly election, in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2 (as amended) (applied by Sch 2 para 4(2) (as substituted)) (whichever is appropriate) (see the text and notes 29-34 *supra*).

36 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 55(3) (as substituted (see note 2 *supra*); and amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 4(3) (as substituted: see note 2 *supra*).

37 *Ie*, in relation to a particular parliamentary or local government election, the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)-(4) (as substituted) (applied by reg 55(2) (as substituted)) or, in relation to a particular Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2)-(4) (as amended) (applied by Sch 2 para 4(2) (as substituted)) (whichever is appropriate) (see the text and notes 5-34 *supra*).

38 *Ie* the local authority which has made arrangements for compiling and maintaining classified registers of persons who are blind, etc under the National Assistance Act 1948 s 29(4)(g) (see SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue) PARA 1021).

39 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(5)(a) (applied by reg 55(2) (as substituted: see note 2 *supra*)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(5)(a) (applied by Sch 2 para 4(2) (as substituted: see note 2 *supra*)). The fact that an applicant is registered with a local authority under the National Assistance Act 1948 s 29(4)(g) (see SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue) PARA 1021) is deemed sufficient evidence that he is eligible to vote by proxy on grounds of physical incapacity (see PARA 373 *ante*): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(6) (applied by reg 55(2) (as so substituted)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(6) (applied by Sch 2 para 4(2) (as so substituted)).

40 *Ie* payable under the Social Security Contributions and Benefits Act 1992 ss 71, 73 (as amended) (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) PARA 106).

41 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(5)(b) (amended by SI 2006/2910) (applied by the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 55(2) (as substituted: see note 2 *supra*)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(5)(b) (applied by Sch 2 para 4(2) (as substituted: see note 2 *supra*)).

UPDATE

372-387 Application for absent vote at elections for a particular period or for an indefinite period ... Voting by post as proxy

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

377 Additional requirements for applications for a proxy vote at a particular election

NOTES--Certain functions under provisions mentioned in this paragraph are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3, see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

TEXT AND NOTE 12--Reference to a registered pharmaceutical chemist replaced by reference to a registered pharmacist as defined in Pharmacists and Pharmacy Technicians Order 2007, SI 2007/289, art 3(1) (see PARA 880-934): SI 2001/341 reg 53(2)(e) (substituted by SI 2009/1182).

TEXT AND NOTE 15--SI 2001/341 reg 53(2)(i) revoked: SI 2009/1182.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(iv) Manner of Voting at Elections/B. ABSENT VOTING/(B) Applications relating to a Particular Election/378. Lists of absent voters.

378. Lists of absent voters.

In respect of each parliamentary¹, local government², Welsh Assembly³ or European parliamentary election⁴, the registration officer⁵ must keep two special lists in respect of absent voters⁶. The first is a list⁷: (1) of those whose applications to vote by post at that particular election⁸ have been granted, together with the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent⁹; and (2) of those who are for the time being shown in the record kept of those entitled to an absent vote at elections either for a particular period or for an indefinite period¹⁰ as voting by post at particular elections of the kind in question¹¹, together with the addresses provided by them in their applications¹² as the addresses to which their ballot papers are to be sent¹³. The second list is of¹⁴: (a) those whose applications to vote by proxy at that particular election¹⁵ have been granted¹⁶; or (b) those who are for the time being shown in the record kept of those entitled to an absent vote at elections either for a particular period or for an indefinite period¹⁷ as voting by proxy at particular elections of the kind in question¹⁸ together with (in each case) the names and addresses of those appointed as their proxies¹⁹.

The registration officer must also keep a record in relation to those whose applications for an absent vote at a particular parliamentary or local government election have been granted²⁰ showing their dates of birth²¹ and, except in cases where the registration officer²² has dispensed with the requirement to provide a signature, their signatures²³. This record must be retained by the registration officer for the prescribed period²⁴. The registration officer must either provide a copy of the information contained in records so kept by him²⁵ to the returning officer for an election in relation to electors at the election²⁶ or give the returning officer access to such information²⁷. Information contained in such records may be disclosed by a registration officer (subject to any prescribed conditions) to any other registration officer if he thinks that to do so will assist the other registration officer in the performance of his duties²⁸, or to any person exercising functions in relation to the preparation or conduct of legal proceedings under the Representation of the People Acts²⁹ or to such other persons for such other purposes relating to elections as may be prescribed³⁰.

Any person entitled to be supplied with copies of the full register³¹ is also a person entitled³² to request that the registration officer supply free of charge the relevant part³³ of a copy of any of the following information which he keeps³⁴, namely: (i) the current version of the information which would, in the event of a particular parliamentary or local government election, be included in the postal voters lists or the list of proxies³⁵; and (ii) the current or final version of the postal voters list or the list of proxies³⁶. The registration officer must supply a current copy of the information so requested as soon as practicable after receipt of a request that is duly made³⁷; and he must supply a final copy of the postal voters list as soon as practicable after 5 pm on the eleventh day before the day of the poll³⁸, in response to a request that has been duly made³⁹. As soon as practicable after 5 pm on the sixth day before the day of the poll the registration officer must⁴⁰: (A) make a copy of the postal voters list and the list of proxies available for inspection at his office, in response to a request that has been duly made⁴¹; and (B) at a parliamentary election, if he is not the acting returning officer for any constituency or part of a constituency in the area for which he is the registration officer, send to that officer a copy of those lists⁴²; (C) supply a final copy of the postal voters lists or the list of proxies in response to every request that has been duly made⁴³.

As soon as practicable after the sixth day⁴⁴ before the day of the poll⁴⁵ at a Welsh Assembly or European parliamentary election, the registration officer must publish the absent voters list by making a copy of it available for inspection at his office⁴⁶. The registration officer at a Welsh Assembly election must, on request, supply free of charge a copy of the absent voters list to each candidate at a constituency election or his election agent⁴⁷ or, in the case of a regional election⁴⁸, to each individual candidate⁴⁹ or group of party list candidates⁵⁰ (or to his or their election agent)⁵¹. The registration officer at a European parliamentary election must, on request, supply free of charge a copy of the absent voters list to the election agent of each registered party⁵² standing nominated and each individual candidate⁵³ or his election agent⁵⁴.

1 For the meaning of 'parliamentary election' see PARA 9 ante.

2 For the meaning of 'local government election' see PARA 10 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1(2). See also PARA 368 note 1 ante.

3 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

4 As to European parliamentary elections see PARA 224 et seq ante.

5 As to electoral registration officers and the areas for which they act see PARA 154 et seq ante.

6 Representation of the People Act 2000 Sch 4 para 5(1) (amended by the Electoral Administration Act 2006 s 74(1), Sch 1 para 137(1), (5)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 10(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 5(1).

For the purposes of a parliamentary or local government election, the requirement under the Representation of the People Act 2000 Sch 4 para 5(1) (as amended) is to keep the two special lists which are mentioned in Sch 4 para 5(2) (ie the list of persons whose applications to vote by post have been granted (the 'postal voters list'): see the text and note 7 infra) and in Sch 4 para 5(3) (ie the list of persons whose applications to vote as proxy have been granted (the 'list of proxies'): see the text and note 14 infra): Sch 4 para 5(1) (as so amended). In the case of a person who has an anonymous entry in a register, the postal voters list or list of proxies (as the case may be) must show in relation to the person only his electoral number and the period for which the anonymous entry has effect: Representation of the People Act 2000 Sch 4 para 5(4) (added by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 19, 22). For the meaning of 'electoral number' see PARA 160 ante; and for the meaning of 'anonymous entry' in relation to a register of electors see PARA 174 ante.

For the purposes of a Welsh Assembly election, the two lists in respect of absent voters constitute a special list known as the 'absent voters list' which has the meaning given by the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 10(1): see art 2(1). Any list such as is mentioned in the text that is kept in relation to a Welsh Assembly election may be in such form as the registration officer thinks fit (art 14(2), Sch 2 para 11(1)); but where electors are entitled to give two votes at an ordinary election in an Assembly constituency, only one absent voters list is to be kept and that list has effect in relation to both elections (art 10(2)). Where a National Assembly for Wales constituency is not coterminous with, or wholly situated in, a county or county borough: (1) the registration officer for any part of the Assembly constituency must, if he is not the returning officer for the constituency, consult him concerning the form of so much of the absent voters list, including the list of proxies (see the text and notes 14-19 infra), as relates to the constituency in order to ensure that, so far as practicable, it is in a form similar to that in use elsewhere in the constituency; and (2) if the registration officer for any part of the Assembly constituency at an Assembly election is not the returning officer for the constituency, he must forthwith supply to the constituency returning officer a copy of the compiled absent voters list on completion of its compilation: art 139. For the meaning of 'Assembly constituency' see PARA 3 note 1 ante; and for the meaning of 'constituency returning officer' for these purposes see PARA 18 note 2 ante. As to counties and county boroughs in Wales see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq. As to ordinary general elections to the National Assembly for Wales see PARA 220 et seq ante.

For the purposes of a European parliamentary election, the 'absent voters list' means, in relation to any election, the list kept under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 5: reg 2(1). In relation to such an election, the registration officer must, forthwith on completion of the compilation of the special list, supply to the local returning officer for any local counting area wholly or partly within the area for which he acts so much of that list as relates to that constituency: Sch 2 para 5(4). For the meaning of 'local counting area' see PARA 230 note 11 ante. As to local returning officers appointed for the purposes of elections to the European Parliament see PARA 365 ante.

7 Representation of the People Act 2000 Sch 4 para 5(2) (amended by the Electoral Administration Act 2006 Sch 1 para 137(1), (6)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 10(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 5(2).

The list referred to in the text which is kept in relation to a parliamentary or local government election pursuant to the Representation of the People Act 2000 Sch 4 para 5(2) (ie the list of persons whose applications to vote by post have been granted) is known as the 'postal voters list': see the Representation of the People Act 1983 s 202(1) (definition added by the Electoral Administration Act 2006 Sch 1 paras 104, 128(1), (3)); and the Representation of the People Act 2000 Sch 4 para 5(2) (as so amended).

8 Ie applications made, in relation to a particular parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 4(1) (as amended) or made, in relation to a particular Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(1) (as amended) or made, in relation to a particular European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(1) (whichever is appropriate) (see PARA 376 ante). In relation to a particular Welsh Assembly election see also PARA 376 note 4 ante.

9 Representation of the People Act 2000 Sch 4 para 5(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 10(1)(a)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 5(2)(a). In relation to a Welsh Assembly election, in the first part of the absent voters list, the address to which a ballot paper (or, where a person is entitled to give two votes at an ordinary election, ballot papers) is to be sent to a person who is entitled to vote by post as an elector must be placed on the right hand side of his name and electoral number: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 11(2). For this purpose, 'electoral number' means a person's number in the register to be used at the election or, pending publication of the register, his number (if any) in the electors' lists for that register: Sch 2 para 11(9).

10 Ie the record kept for the purposes of a parliamentary or local government election under the Representation of the People Act 2000 Sch 4 para 3 (as amended) or for the purposes of a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8 (as amended) or for the purposes of a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3 (as amended) (whichever is appropriate) (see PARA 375 ante).

11 Ie excluding those so shown whose applications to vote by proxy at the election, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 4(3)(b) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(2) (as amended) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(3)(b) (whichever is appropriate) have been granted (see PARA 376 ante).

12 Ie the applications made, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 3 (as amended) or Sch 4 para 4(3)(a) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8 or art 9(2) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3 (as amended) or Sch 2 para 4(3)(a) (whichever is appropriate) (see PARAS 375-376 ante).

13 Representation of the People Act 2000 Sch 4 para 5(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 10(1)(a)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 5(2)(b). In relation to a Welsh Assembly election see note 8 supra.

14 Representation of the People Act 2000 Sch 4 para 5(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 10(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 5(3).

The list referred to in the text which is kept in relation to a parliamentary or local government election under the Representation of the People Act 2000 Sch 4 para 5(3) (ie the list of persons whose applications to vote as proxy have been granted) is known as the 'list of proxies': see the Representation of the People Act 1983 s 202(1) (definition added by the Representation of the People Act 1985 ss 4(5), 11, Sch 2 Pt I; and amended by the Representation of the People Act 2000 s 15, Sch 6 paras 3, 9(b)); and the Representation of the People Act 2000 Sch 4 para 5(3).

For the purposes of a Welsh Assembly election, the 'list of proxies' has the meaning given by the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 10(1)(b): art 2(1).

For the purposes of a European parliamentary election, the 'list of proxies' has, in relation to any European parliamentary election, the meaning given by the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(4)(c) (see PARA 375 ante): reg 2(1).

15 Ie the applications made, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 4(2), (3) (as amended) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9

(as amended) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(2), (3) (whichever is appropriate) (see PARA 376 ante).

16 Representation of the People Act 2000 Sch 4 para 5(3)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 10(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 5(3)(a).

17 See note 10 supra.

18 Representation of the People Act 2000 Sch 4 para 5(3)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 10(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 5(3)(b).

19 Representation of the People Act 2000 Sch 4 para 5(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 10(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 5(3). In relation to a Welsh Assembly election, in the list of proxies, the name and address of the proxy must be placed on the right hand side of the elector's name and electoral number (see note 9 supra): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 11(3).

20 Ie applications made under the Representation of the People Act 2000 Sch 4 para 4 (as amended) (see PARA 376 ante).

21 Ibid Sch 4 para 4(6)(a) (Sch 4 para 4(6), (7) added by the Electoral Administration Act 2006 s 14(2)(c), (8)).

22 Ie in pursuance of the Representation of the People Act 2000 Sch 4 para 4(5) (as added) (see PARA 376 ante).

23 Ibid Sch 4 para 4(6)(b) (as added: see note 21 supra).

24 Ibid Sch 4 para 4(7) (as added: see note 21 supra). 'Prescribed' means prescribed by regulations: see the Representation of the People Act 1983 s 202(1); applied by virtue of the Representation of the People Act 2000 Sch 4 para 1(2). As to the retention of the records referred to in the text see PARA 503 et seq post.

25 Ie in pursuance of ibid Sch 4 para 4(6) (as added) (see the text and notes 20-23 supra).

26 Ibid Sch 4 para 7C(a) (Sch 4 paras 7C-7D added by the Electoral Administration Act 2006 s 14(4), (8)).

27 Representation of the People Act 2000 Sch 4 para 7C(b) (as added: see note 26 supra).

28 Ibid Sch 4 para 7D(a) (as added: see note 26 supra). As to the prescribed requirements see note 24 supra.

29 Ibid Sch 4 para 7D(b) (as added: see note 26 supra). For the meaning of 'the Representation of the People Acts' see PARA 3 note 1 ante.

30 Ibid Sch 4 para 7D(c) (as added: see note 26 supra). As to the prescribed requirements see note 24 supra.

31 Ie in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 103 (as added) (supply of full register to elected representatives for electoral purposes: see PARA 182 ante), reg 105 (as added) (supply of full register to local constituency parties: see PARA 182 ante), reg 106 (as added) (supply of full register to registered political parties: see PARA 182 ante) or reg 108 (as added) (supply of full register to certain candidates: see PARA 182 ante). For the meaning of 'full register' see PARA 166 note 2 ante.

32 Ie subject to ibid reg 61 (as substituted) and reg 61A (as added) (see note 34 infra).

33 Ie within the meaning of the regulations specified in note 31 supra.

34 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61(1) (reg 61 substituted by SI 2006/2910). A request such as is mentioned in the text must be made in writing and must specify the information (or the relevant parts of the information) requested, whether the request is made only in respect of the current lists or whether it includes a request for the supply of any final list and whether a printed copy of the records or lists is requested or a copy in data form: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61(2) (as so substituted). For the meaning of 'data form' see PARA 177 note 11 ante. Subject to any direction by the Secretary of State under the Representation of the People Act 1983 s 52(1) (as amended) (discharge of registration duties: see PARA 156 ante), any duty on a

registration officer to supply a copy under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61 (as substituted) imposes only a duty to provide that information in the form in which he holds it: reg 61(15) (as so substituted). As to the Secretary of State see PARA 2 ante.

A person who obtains any information under reg 61 (as substituted) may use it only for the permitted purposes specified in reg 61A (as added), and any restrictions specified in reg 61A (as added), or which would apply to the use of the full register under whichever of reg 103 (as added) (supply of full register to elected representatives for electoral purposes: see PARA 182 ante), reg 105 (as added) (supply of full register to local constituency parties: see PARA 182 ante), reg 106 (as added) (supply of full register to registered political parties: see PARA 182 ante) or reg 108 (as added) (supply of full register to certain candidates: see PARA 182 ante) entitled that person to obtain that information, apply to such use: reg 61(3) (as so substituted). Any person who has obtained or is entitled to obtain a copy of information covered by reg 61(1) (as substituted) (see heads (i) and (ii) in the text) may supply a copy of the information to a processor for the purpose of processing the information, or procure that a processor processes and supplies to him any copy of the information which the processor has obtained under reg 61 (as substituted), for use in respect of the purposes for which that person is entitled to obtain such information: reg 61(8) (as so substituted). The processor may not disclose the information so supplied except to the person who supplied it to the processor or an employee of that person or a person who is entitled to obtain a copy of the full register under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) or any employee of such a person: reg 92(9) (reg 92 added by SI 2002/1871); applied by the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61(9) (as so substituted). As to references to an employee of any person who has access to a copy of the full register see PARA 177 note 6 ante; and for the meaning of 'processor' see PARA 177 note 11 ante (definitions applied by virtue of reg 61(9) (as substituted)).

The restrictions on the supply, disclosure and use of the full register in reg 94 (as added) (restrictions on supply of full register and disclosure of information from it by the registration officer and his staff: see PARA 176 ante) and reg 96 (as added and amended) (restrictions on use of full register or information contained in it: see PARA 176 ante) apply to information covered by heads (i) and (ii) in the text as they apply to the full register, except that the permitted purpose (as to which see PARA 176 note 18 ante) means either research purposes within the meaning of that term in the Data Protection Act 1998 s 33 (see CONFIDENCE AND DATA PROTECTION vol 8(1) (2003 Reissue) PARA 551) or electoral purposes: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61A (added by SI 2006/2910).

35 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61(1)(a) (as substituted: see note 34 supra). The registration officer must ensure that where he supplies or discloses information covered by head (i) in the text in accordance with reg 61 (as substituted), he does not supply or disclose any record relating either to a person who has an anonymous entry or to the proxy of a person who has an anonymous entry: reg 61(17), (18) (as so substituted). For the meaning of 'anonymous entry' in relation to a register of electors see PARA 174 ante.

36 Ibid reg 61(1)(b) (as substituted: see note 34 supra).

37 Ibid reg 61(4) (as substituted: see note 34 supra). For these purposes, a 'current copy' of records or lists is a copy of the records or lists as kept by the registration officer at 9 am on the date it is supplied: reg 61(16) (a) (as so substituted).

38 For these purposes, any period of days must be calculated in accordance with ibid reg 56(6), (7) (s 56(6) as amended) (see PARA 372 note 6 ante): reg 61(16)(b) (as substituted: see note 34 supra). As to the date of the poll at a parliamentary general election or by-election see PARA 202 ante; and as to the date of the poll at local government elections (including elections to fill vacancies) see PARAS 213-216 ante.

39 Ibid reg 61(5) (as substituted: see note 34 supra). The text refers to a request that has been duly made under reg 61(1) (as substituted) (see the text and notes 31-36 supra).

40 Ibid reg 61(6) (as substituted: see note 34 supra).

41 Ibid reg 61(6)(a) (as substituted: see note 34 supra). The text refers to information made available for inspection in accordance with reg 61(10)-(15) (as substituted). Any person is entitled to request that the registration officer make available for inspection a copy of any of the information specified in heads (i) and (ii) in the text: reg 61(10) (as so substituted). Such a request must be made in writing and must specify: the information (or relevant parts of the information) requested, whether the request is made only in respect of the current lists or whether it includes a request for the inspection of any final list, who will inspect the information, the date on which they wish to inspect the information and whether they would prefer to inspect the information in a printed or data form: reg 61(11) (as so substituted). The registration officer must make a copy of the information available for inspection under supervision as soon as practicable after the date of receipt of a request that has been duly made: reg 61(12) (as so substituted). Where inspection takes place by providing a copy of the information on a computer screen or otherwise in data form, the registration officer must ensure that the manner in, and equipment on, which that copy is provided do not permit any person consulting that copy to search it by electronic means by reference to the name of any person or to copy or transmit any part of

that copy by electronic or any other means: reg 61(13) (as so substituted). A person who inspects a copy of the information, whether a printed copy or in data form, may not make copies of any part of it, or record any particulars in it, otherwise than by means of handwritten notes: reg 61(14) (as so substituted). Subject to any direction by the Secretary of State under the Representation of the People Act 1983 s 52(1) (as amended) (discharge of registration duties: see PARA 156 ante), any duty on a registration officer to make information available for inspection under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61 (as substituted) imposes only a duty to provide that information in the form in which he holds it: reg 61(15) (as so substituted). The provision allowing copying that usually applies where a document is made available for inspection under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) does not apply to copies of information covered by heads (i) and (ii) in the text: reg 7(6) (added by SI 2006/2910).

42 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61(6)(b) (as substituted: see note 34 supra).

43 Ibid reg 61(6)(c) (as substituted: see note 34 supra). The text refers to a request that has been duly made under reg 61(1) (as substituted) (see the text and notes 31-36 supra). The registration officer must supply a final copy of the proxy voters list, updated to include any additions to that list made in consequence of any applications granted in accordance with reg 56(3A) (as added and substituted) (see PARA 376 ante), as soon as practicable after 5 pm on the day of the poll, to every person who received that list in accordance with reg 61(6)(c) (as substituted): reg 61(7) (as so substituted).

44 As to the computation of time for these purposes see PARA 372 note 6 ante.

45 As to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see PARAS 220-221 ante; and as to the date of the poll at a European parliamentary election see PARA 229 ante.

46 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 11(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 24(3)(a). At a European parliamentary election, if the registration officer is not the local returning officer for any local counting area or part of such area in the area for which he is the registration officer, he must send to that officer a copy of the lists referred to in the text: Sch 2 para 24(3)(b). In relation to a Welsh Assembly election, it is stated that the registration officer must continue to make a copy of the list available until the date of the poll (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 11(6)); and any person may make a copy (whether handwritten or by other means) of the whole or any part of it (art 144(2)).

47 Ibid Sch 2 para 11(7)(a). If a request is made as mentioned in the text before any issue of postal ballot papers, the registration officer must before that issue supply a copy of those lists or so much of them as relates to that issue: Sch 2 para 11(8). For the meaning of 'candidate' generally see PARA 237 ante; and for the meaning of 'constituency election' in relation to a Welsh Assembly election see PARA 3 note 1 ante. As to the appointment of election agents see PARA 238 et seq ante.

48 For the meaning of 'regional election', in relation to a Welsh Assembly election, see PARA 3 note 1 ante.

49 For the meaning of 'individual candidate', in relation to a Welsh Assembly election, see PARA 237 note 23 ante.

50 For the meaning of references to a group of party list candidates for this purpose see PARA 237 note 23 ante.

51 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 11(7)(b). See note 47 supra.

52 For the meaning of 'registered party' for these purposes see PARA 237 note 30 ante. As to the submission by a registered party of lists of candidates to be members of the European Parliament ('MEPs') see PARA 235 ante.

53 For the meaning of 'individual candidate', in relation to a European parliamentary election, see PARA 237 note 32 ante.

54 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 24(1).

UPDATE

372-387 Application for absent vote at elections for a particular period or for an indefinite period ... Voting by post as proxy

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

378 Lists of absent voters

NOTES 6, 14--SI 2004/293 reg 2(1) substituted: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(iv) Manner of Voting at Elections/B. ABSENT VOTING/(C) Applications by Persons to Vote as Proxy for an Elector/(a) Appointment as Proxy/379. Capacity of person to act as proxy for an elector.

(C) APPLICATIONS BY PERSONS TO VOTE AS PROXY FOR AN ELECTOR

(a) Appointment as Proxy

379. Capacity of person to act as proxy for an elector.

Any person is capable of being appointed proxy to vote for another¹ at any parliamentary², local government³, Welsh Assembly⁴ or European parliamentary election⁵ and he may vote in pursuance of the appointment⁶. However, the elector⁷ cannot have more than one person at a time appointed as proxy to vote for him at parliamentary or Welsh Assembly elections (whether in the same constituency⁸ or elsewhere)⁹ or at local government elections in the same electoral area¹⁰. Nor can an elector have more than one person at a time appointed as proxy to vote for him at European parliamentary elections (whether in the same electoral region¹¹ or elsewhere)¹².

A person is not capable of being appointed to vote, or voting, as proxy if he is subject to any legal incapacity¹³ (age apart¹⁴) to vote at that election as elector¹⁵ or if:

- 454 (1) at a parliamentary election, he is neither a Commonwealth citizen¹⁶ nor a citizen of the Republic of Ireland¹⁷;
- 455 (2) at a local government election or at a Welsh Assembly election, he is neither a Commonwealth citizen nor a citizen of the Republic of Ireland nor a relevant citizen of the Union¹⁸; or
- 456 (3) at a European parliamentary election, he is neither a Commonwealth citizen nor a citizen of the Union¹⁹.

A person is not capable of voting as proxy at any such election unless on the date of the poll he has attained the age of 18²⁰. A person is not entitled to vote as proxy: (a) at the same parliamentary election in any constituency²¹; or (b) at the same local government election in any electoral area²²; or (c) at Welsh Assembly constituency or regional elections²³; or (d) at the same European parliamentary election in any electoral region²⁴, on behalf of more than two electors of whom that person is not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild²⁵.

1 le subject to the restrictions contained, in relation to a parliamentary or local government election, in the Representation of the People Act 2000 s 12, Sch 4 para 6 (as amended) or, in relation to a Welsh Assembly election, in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11 (as amended) or, in relation to a European parliamentary election, in the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7 (as amended) (whichever is appropriate) (see PARA 376 ante). As to applications made by an elector to vote by proxy at elections for a particular period or for an indefinite period see PARA 372 et seq ante; and as to such applications made in relation to a particular election see PARA 376 et seq ante.

2 For the meaning of 'parliamentary election' see PARA 9 ante.

3 For the meaning of 'local government election' see PARA 10 ante; definition applied by virtue of the Representation of the People Act 2000 Sch 4 para 1(2). See also PARA 368 note 1 ante.

4 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

5 As to European parliamentary elections see PARA 224 et seq ante.

6 Representation of the People Act 2000 Sch 4 para 6(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(1).

7 For these purposes, the term 'elector' refers to a person for whom a proxy is appointed: Representation of the People Act 2000 Sch 4 para 6(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(1). Under the general definition of that term (in relation to a parliamentary or local government election, see PARA 110 note 2 ante; in relation to a Welsh Assembly election, see PARA 124 note 4 ante; and, in relation to European parliamentary election, see PARA 125 note 5 ante), an elector is required to be registered in the register of electors to be used at an election; however, a person may be appointed as proxy for another person notwithstanding that the latter is not at the time registered as an elector if the registration officer is satisfied that he will be registered: see PARA 380 post.

8 For the meaning of 'constituency' in relation to a parliamentary election see PARA 9 ante; and for the meaning of 'Assembly constituency' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

9 Representation of the People Act 2000 Sch 4 para 6(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(2).

10 Representation of the People Act 2000 Sch 4 para 6(2)(b). For the meaning of 'electoral area' see PARA 10 ante; definition applied by virtue of Sch 4 para 1(2).

11 As to electoral regions constituted for the purposes of European parliamentary elections see PARA 76 ante.

12 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(2).

13 As to the meaning of 'legal incapacity (to vote)' see PARAS 110 note 8, 117 note 6, 162 note 18 ante.

14 'Voting age' is currently 18 years for all purposes: see PARAS 110 note 2, 112 note 14, 117 note 9 ante.

15 Representation of the People Act 2000 Sch 4 para 6(3)(a), (4)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(3)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(3)(a).

16 As to who are Commonwealth citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 11.

17 Representation of the People Act 2000 Sch 4 para 6(3)(b). As to who are citizens of the Republic of Ireland see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 12.

18 Representation of the People Act 2000 Sch 4 para 6(4)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(3)(b). For the meaning of 'relevant citizen of the Union' for these purposes see PARAS 112 note 13, 162 note 16 ante.

19 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(3)(b).

20 Representation of the People Act 2000 Sch 4 para 6(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(4). As to the date of the poll at a parliamentary general election or by-election see PARA 202 ante; as to the date of the poll at local government elections (including elections to fill vacancies) see PARAS 213-216 ante; as to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see PARAS 220-221 ante; and as to the date of the poll at a European parliamentary election see PARA 229 ante.

21 Representation of the People Act 2000 Sch 4 para 6(6)(a).

22 Ibid Sch 4 para 6(6)(b).

23 In the case of an ordinary election, at constituency elections in Assembly constituencies in an Assembly electoral region (or in one such election) (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(5)(a)); in the case of a constituency election other than at an ordinary election, at the constituency election (art 11(5)(b)); or at a regional election (whether or not at an ordinary election) (art 11(5)(c)). As to ordinary general elections to the National Assembly for Wales see PARA 12 et seq ante. In relation to a

Welsh Assembly election, for the meanings of 'Assembly constituency', 'Assembly region', 'constituency election' and 'regional election' see PARA 3 note 1 ante.

24 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(5).

25 Representation of the People Act 2000 Sch 4 para 6(6) (amended by the Civil Partnership Act 2004 s 261(1), Sch 27 para 164(1), (3)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(5) (amended by SI 2005/2114); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(5) (amended by SI 2005/2114).

UPDATE

372-387 Application for absent vote at elections for a particular period or for an indefinite period ... Voting by post as proxy

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(iv) Manner of Voting at Elections/B. ABSENT VOTING/(C) Applications by Persons to Vote as Proxy for an Elector/(a) Appointment as Proxy/380. Applications for appointment to vote as proxy for an elector.

380. Applications for appointment to vote as proxy for an elector.

Where the elector¹ applies to the registration officer² for the appointment of a proxy to vote for him at parliamentary³ or local government elections⁴ (or at both) or at Welsh Assembly⁵ or European parliamentary elections⁶ (whether for an indefinite period or for a particular period specified in his application⁷), the registration officer must make the appointment if the application meets the statutory requirements⁸ and he is satisfied that the elector is or will be⁹ registered in the register of electors for the election in question¹⁰ and shown in the record kept of those entitled to an absent vote at elections either for a particular period or for an indefinite period¹¹ as voting by proxy at such elections¹², and that the proxy is capable of being, and willing to be, appointed to vote as proxy at such elections¹³.

Where the elector applies to the registration officer for the appointment of a proxy to vote for him at a particular such election¹⁴, the registration officer must make the appointment if the application meets the statutory requirements¹⁵ and he is satisfied that the elector¹⁶ is or will be registered in the relevant register in relation to that election¹⁷ and is or will be entitled to vote by proxy at that election by virtue of that application¹⁸, and that the proxy is capable of being, and willing to be, appointed¹⁹.

Such an application²⁰ must state: (1) the full name of the applicant²¹; and (2) the address in respect of which the applicant is registered or has applied to be (or is treated as having applied to be) registered in the register²². The application must be made in writing and dated²³. Such an application which is made for an indefinite period or the period specified in the application must specify the election (or elections) in respect of which it is made²⁴ and (except in relation to Welsh Assembly elections) must state that it is made for an indefinite period or for a period specified in the application²⁵. An application which is made for a particular election must identify the election in question²⁶ and (except in relation to Welsh Assembly elections) must state that it is so made²⁷. An application for a parliamentary or a local government election may be combined where the polls fall on the same day²⁸, and such an application (whether combined or not) may be used in combination with that for an absent vote at a particular European parliamentary election²⁹. An application for the appointment of a proxy must state also the full name and address of the person whom the applicant wishes to appoint as his proxy, together with his family relationship, if any, with the applicant³⁰. If the application is signed only by the applicant, it must contain a statement by him that he has consulted the person so named and that the person is capable of being and willing to be appointed to vote as his proxy³¹. If the application is signed also by the person to be appointed, it must contain a statement by that person that he is capable of being and willing to be appointed to vote as the applicant's proxy³².

The appointment of a proxy is to be made by means of a proxy paper in the prescribed form issued by the registration officer³³.

Where the registration officer grants an application for the appointment of a proxy, he must confirm in writing to the elector that the proxy has been appointed, his name and address, and the duration of the appointment³⁴. Where he refuses an application, he must notify the applicant of his decision³⁵.

1 For the meaning of 'elector' for these purposes see PARA 379 note 7 ante.

2 As to electoral registration officers and the areas for which they act see PARA 154 et seq ante. The registration officer must supply free of charge as many forms for use in connection with applications made under the provisions relating to absent voting as appear to that officer reasonable in the circumstances to any person who satisfies that officer of his intention to use the forms in connection with an election or elections: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 4(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 140; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 9(1).

3 For the meaning of 'parliamentary election' see PARA 9 ante.

4 For the meaning of 'local government election' see PARA 10 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1(2). See also PARA 368 note 1 ante.

5 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

6 As to European parliamentary elections see PARA 224 et seq ante.

7 As to such applications see PARA 372 ante.

8 The text refers to the requirements set out, in the case of a parliamentary or local government election, in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt IV (regs 50-63) (as amended) or, in the case of a Welsh Assembly election, in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 (as amended) or, in the case of a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 (as amended) (whichever is appropriate). For the purposes of the Representation of the People Act 2000 Sch 4 (as amended), the requirements are as prescribed; and 'prescribed' means prescribed by regulations (see the Representation of the People Act 1983 s 202(1); applied by virtue of the Representation of the People Act 2000 Sch 4 para 1(2)).

An application referred to in the text must be disregarded for the purposes of a particular election if it is received by the registration officer after 5 pm on the sixth day before the date of the poll at that election: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(2) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(1A) (added by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(2). Where a registration officer disregards an application for the purposes of any particular election, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(4). In relation to a Welsh Assembly election, the officer must also date such notification: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4). As to the computation of time for these purposes see PARA 372 note 6 ante. As to the date of the poll at a parliamentary general election or by-election see PARA 202 ante; as to the date of the poll at local government elections (including elections to fill vacancies) see PARAS 213-216 ante; as to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see PARAS 220-221 ante; and as to the date of the poll at a European parliamentary election see PARA 229 ante.

9 Representation of the People Act 2000 Sch 4 para 6(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(6).

10 Representation of the People Act 2000 Sch 4 para 6(7)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(6)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(6)(a).

In the case of a parliamentary election, the register referred to is the register of parliamentary electors and, in the case of a local government election, it is the register of local government electors (although an application under the Representation of the People Act 2000 Sch 4 (as amended) may relate to both types of election, in which case the requirement is for the elector to be registered in both). In the case of a Welsh Assembly election, the requirement is for the elector to be registered in the register of local government electors (as to which see PARA 160 ante). In the case of a European parliamentary election, the 'register of electors' means any part of: (1) a register of parliamentary or, in the case of peers, local government electors; (2) a register under the Representation of the People Act 1985 s 3 (as substituted and amended) (peers resident outside the United Kingdom registered as European parliamentary electors: see PARA 116 ante); (3) a register under the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 5(2) (see PARA 156 ante); and (4) (for the purposes of European parliamentary elections held in the combined region) the Gibraltar register (see PARA 131 note 2 ante), in force within an electoral region at the time of a European parliamentary election in that region: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 2(1). As to electoral regions established for the purposes of European parliamentary elections (including the

combined region) see PARA 76 ante; as to registration as an elector see PARA 128 et seq ante; and as to the registers of electors maintained by registration officers see PARA 156 et seq ante.

11 le the record kept for the purposes of a parliamentary or local government election under the Representation of the People Act 2000 Sch 4 para 3 (as amended) or for the purposes of a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8 (as amended) or for the purposes of a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3 (as amended) (whichever is appropriate) (see PARA 375 ante).

12 Representation of the People Act 2000 Sch 4 para 6(7)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(6)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(6)(b).

13 Representation of the People Act 2000 Sch 4 para 6(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(6).

14 As to such applications see PARA 376 ante.

15 As to the statutory requirements see note 8 supra; and as to the requirements prescribed see PARA 376 ante. Such an application must be refused if it is received by the registration officer after 5 pm on the sixth day before the date of the poll at the election for which it is made: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(3) (substituted by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(1A) (added by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(3). Where a registration officer disregards such an application for the purposes of any particular election, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(4).

16 Representation of the People Act 2000 Sch 4 para 6(8); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(7); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(7).

17 Representation of the People Act 2000 Sch 4 para 6(8)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(7)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(7)(a). As to the registers in use for each election see note 10 supra.

18 Representation of the People Act 2000 Sch 4 para 6(8)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(7)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(7)(b). Where an application is made, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 4(2) (as amended) (see PARA 376 ante) on the grounds of the applicant's disability and the applicant became disabled after 5 pm on the sixth day before the date of the poll at the election for which it is made or by a person to whom Sch 4 para 2(5A) (as added) applies (ie a person in a mental hospital who is not a detained offender or on remand but who is liable to be detained in the mental hospital in question: see PARA 368 ante), the application, or an application under Sch 4 para 6(8) (application for the appointment of a proxy to vote at a particular election: see PARA 380 post) made by virtue of that application, must be refused if it is received after 5 pm on the day of the poll at the election for which it is made: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(3A) (added by SI 2006/752; and substituted by SI 2006/2910). In relation to a Welsh Assembly election, where such an application is made on the grounds of the applicant's physical incapacity, and the applicant became physically incapacitated after 5 pm on the sixth day before the date of the poll at the election for which it is made, the application must be refused if it is received after 5 pm on the day of the poll at the election for which it is made: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(1B) (added by SI 2006/884). Where a registration officer disregards such an application for the purposes of any particular election, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4).

19 Representation of the People Act 2000 Sch 4 para 6(8); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(7); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(7).

20 Applications relating to absent voting must comply with such requirements as are relevant to the application: in relation to a parliamentary or local government election, see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(1); in relation to a Welsh Assembly election, see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(5); and in

relation to a European parliamentary election, see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(1).

21 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(2)(a).

22 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(b) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(b) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(2)(b). As to the address to be specified for the purposes of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(b) (as amended) in relation to Welsh Assembly elections see PARA 372 note 25 ante.

23 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(3) (substituted by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(3). At a Welsh Assembly or European parliamentary election, the application must also be signed by the applicant: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1); and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(3).

At a Welsh Assembly election, the application must be sent and delivered in accordance with the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 143 (see PARA 372 note 31 ante).

24 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(4)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(4)(b).

25 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(4)(a).

26 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(5)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(5)(b).

27 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(5)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(5)(a).

28 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(5).

29 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(7).

30 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 51(6), 52; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 paras 1(4), 5; European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 paras 14(6), 15.

31 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 52(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 5(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 15(a). As to capacity to act as proxy see PARA 379 ante.

32 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 52(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 5(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 15(b).

33 Representation of the People Act 2000 Sch 4 para 6(9); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(8); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(8). As to forms generally see note 2 supra. As to the prescribed form of proxy paper for the purposes of a parliamentary or local government election see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(3), Sch 3 (Form E: proxy paper) (amended by SI 2005/2114). The forms set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Sch 3 (as amended) or forms substantially to the like effect may be used with such variations as the circumstances may require: reg 4(2). A version of the form partly in Welsh and partly in English must be used in Wales: see the Parliamentary Elections (Welsh Forms) Order 2005, SI 2005/1105, art 6, Sch 2 (Form 9: proxy paper).

For the purposes of a Welsh Assembly election, the proxy paper to be issued by the registration officer on the appointment of a proxy must be in the form set out in English and Welsh in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(3), Appendix of Forms (Form of proxy

paper) (amended by SI 2005/2114), but this may be combined with another form of proxy paper if the registration officer is issuing a proxy paper appointing that person as proxy for the same elector in respect of another election or other elections: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(3).

For the purposes of a European parliamentary election, the appointment of a proxy is to be made by means of a proxy paper in the form set out in the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 paras 1(2), 6(8), Appendix of Forms (Form A: proxy paper) (amended by SI 2005/2114). A version of the form partly in Welsh and partly in English must be used in Wales: see the European Parliamentary Elections (Welsh Forms) Order 2004, SI 2004/1373, art 6, Sch 2 (Form 6: proxy paper, papur dirprwy).

34 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(2) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(2).

35 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(3). Except in the case of a Welsh Assembly election, the reason for the decision must also be given: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(3). At a Welsh Assembly election, the officer must date the notification: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4). As to notification see PARA 372 note 35 ante. An appeal does not lie from any such decision of the registration officer: see PARA 189 et seq ante.

UPDATE

372-387 Application for absent vote at elections for a particular period or for an indefinite period ... Voting by post as proxy

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

380 Applications for appointment to vote as proxy for an elector

NOTE 10--SI 2004/293 reg 2(1) substituted: SI 2009/186.

NOTE 33--SI 2005/1105 replaced: Parliamentary Elections (Welsh Forms) Order 2007, SI 2007/1014. SI 2004/1373 replaced: see European Parliamentary Elections (Welsh Forms) Order 2009, SI 2009/781, art 6(1)(l), Sch 2 (Form 12: proxy paper, papur dirprwy).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(iv) Manner of Voting at Elections/B. ABSENT VOTING/(C) Applications by Persons to Vote as Proxy for an Elector/(a) Appointment as Proxy/381. Duration of appointment to vote as proxy for an elector.

381. Duration of appointment to vote as proxy for an elector.

The appointment of a proxy¹ may be cancelled by the elector² giving notice to the registration officer³. The appointment also ceases to be in force⁴:

- 457 (1) where it related to a parliamentary election⁵ or elections, on the issue of a proxy paper⁶ appointing a different person to vote for him at such an election or elections (whether in the same constituency⁷ or elsewhere)⁸;
- 458 (2) where it related to a local government election⁹ or elections, on the issue of a proxy paper appointing a different person to vote for him at such an election or elections in the same electoral area¹⁰;
- 459 (3) where it related to a Welsh Assembly election¹¹, on the issue of a proxy paper appointing a different person to vote for him at an Assembly election or Assembly elections (whether in the same Assembly constituency¹² or elsewhere)¹³;
- 460 (4) where it related to a particular European parliamentary election or elections¹⁴, on the issue of a proxy paper appointing a different person to vote for him at a European parliamentary election or elections (whether in the same electoral region¹⁵ or elsewhere)¹⁶;
- 461 (5) where the appointment was for a particular period, once that period expires¹⁷.

The appointment otherwise remains in force for the particular election for which the appointment was made¹⁸ or, where the appointment was made for a particular period or for an indefinite period, while the elector is shown as voting by proxy in the record kept of those entitled to an absent vote at elections either for a particular period or for an indefinite period¹⁹, in pursuance of the same application²⁰ in respect of which he was included in that record²¹.

Except in relation to a European parliamentary election, where the appointment of a proxy is cancelled by the elector or otherwise ceases to be in force, the registration officer must, where practicable, notify the elector that the appointment has been cancelled or, as the case may be, notify him that the appointment has ceased and the reason for it²². Where the appointment of a proxy is cancelled by notice given to the registration officer or so ceases to be in force²³ or is no longer in force for a particular period or for an indefinite period²⁴, the registration officer²⁵ must notify the person whose appointment as proxy has been cancelled, expired, ceases to be or is no longer in force (unless the registration officer has previously been notified by that person that he no longer wishes to act as proxy)²⁶ and must remove his name from the record of names and addresses of those appointed as proxies²⁷.

1 As to applications for the appointment of a proxy see PARA 380 ante.

2 For the meaning of 'elector' for these purposes see PARA 379 note 7 ante.

3 Representation of the People Act 2000 s 12, Sch 4 para 6(10); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(9); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 6(9). However, such a notice must be disregarded for the purposes of a particular election if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that election (or the sixth day in relation to a Welsh Assembly election): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(5) (amended by SI 2001/1700); National

Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(2), Sch 2 para 6(3)(c), (ii); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(5). Where a registration officer disregards an application for the purposes of any particular election, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(4). At a Welsh Assembly election, the officer must date the notification: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4). As to the computation of time for these purposes see PARA 372 note 6 ante. As to electoral registration officers and the areas for which they act see PARA 154 et seq ante. As to the date of the poll at a parliamentary general election or by-election see PARA 202 ante; as to the date of the poll at local government elections (including elections to fill vacancies) see PARAS 213-216 ante; as to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see PARAS 220-221 ante; and as to the date of the poll at a European parliamentary election see PARA 229 ante.

4 Representation of the People Act 2000 Sch 4 para 6(10); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(9); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(9).

5 For the meaning of 'parliamentary election' see PARA 9 ante.

6 As to the issue of a proxy paper by the registration officer see PARA 380 ante.

7 For the meaning of 'constituency' in the context of a parliamentary election see PARA 9 ante.

8 Representation of the People Act 2000 Sch 4 para 6(10)(a).

9 For the meaning of 'local government election' see PARA 10 ante; definition applied by virtue of ibid Sch 4 para 1(2). See also PARA 368 note 1 ante.

10 Ibid Sch 4 para 6(10)(b). For the meaning of 'electoral area' see PARA 10 ante; definition applied by virtue of Sch 4 para 1(2).

11 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

12 For the meaning of 'Assembly constituency' in relation to a Welsh Assembly election see PARA 3 note 1 ante.

13 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(9).

14 As to European parliamentary elections see PARA 224 et seq ante.

15 As to electoral regions constituted for the purposes of European parliamentary elections see PARA 76 ante.

16 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(9)(a).

17 Representation of the People Act 2000 Sch 4 para 6(10)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(9); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(9)(b).

18 Representation of the People Act 2000 Sch 4 para 6(11)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(10)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(10)(a).

19 Ie the record kept for the purposes of a parliamentary or local government election under the Representation of the People Act 2000 Sch 4 para 3 (as amended) or for the purposes of a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8 (as amended) or for the purposes of a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3 (as amended) (whichever is appropriate) (see PARA 375 ante).

20 Ie, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 3 (as amended) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8 (as amended) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3 (as amended) (whichever is appropriate) (see PARA 375 ante).

21 Representation of the People Act 2000 Sch 4 para 6(11)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(10)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(10)(b).

22 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4C) (added by SI 2006/752; and amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4C) (added by SI 2006/884). As to notification see PARA 372 note 35 ante.

23 Ie, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 6(10) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(9) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(9) (whichever is appropriate) (see the text and notes 1-3 supra).

24 Ie, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 6(11)(b) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(10)(b) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(10)(b) (whichever is appropriate) (see the text and notes 19-21 supra).

25 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 59; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 9; European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 22.

26 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 59(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 9(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 22(a).

27 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 59(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 9(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 22(b). The text refers to the record kept for the purposes of a parliamentary or local government election under the Representation of the People Act 2000 Sch 4 para 3(4)(c) or for the purposes of a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(4), (5)(b) or for the purposes of a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3 (as amended) (whichever is appropriate) (see PARA 375 ante).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(iv) Manner of Voting at Elections/B. ABSENT VOTING/(C) Applications by Persons to Vote as Proxy for an Elector/ (b) Voting in Person as Proxy for an Elector/382. Voting in person where a proxy has been appointed.

(b) Voting in Person as Proxy for an Elector

UPDATE

372-387 Application for absent vote at elections for a particular period or for an indefinite period ... Voting by post as proxy

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

382. Voting in person where a proxy has been appointed.

A person entitled to vote as proxy for an elector¹ at a parliamentary², local government³, Welsh Assembly⁴ or European parliamentary election⁵ may do so in person at the polling station allotted to the elector under the appropriate rules⁶. Where a person is entitled to vote by post as proxy for the elector at any election⁷, the elector may not apply for a ballot paper for the purpose of voting in person at the election⁸. To indicate that an elector or his proxy is entitled to vote by post and is for that reason not entitled to vote in person, the letter 'A' is placed against the entry of that elector in any copy of the register, or part of it, provided for a polling station⁹.

1 For the meaning of 'elector' for these purposes see PARA 379 note 7 ante. As to applications for the appointment of a proxy see PARA 380 ante.

2 For the meaning of 'parliamentary election' see PARA 9 ante.

3 For the meaning of 'local government election' see PARA 10 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1(2). See also PARA 368 note 1 ante.

4 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

5 As to European parliamentary elections see PARA 224 et seq ante.

6 Representation of the People Act 2000 Sch 4 para 7(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(1). As to the appropriate rules referred to in the text, in relation to a parliamentary or local government election, see PARA 368 note 2 ante; in relation to a Welsh Assembly election, see PARA 369 note 2 ante; and, in relation to a European parliamentary election, see PARA 370 note 2 ante.

7 See PARA 383 et seq post.

8 Representation of the People Act 2000 Sch 4 para 7(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(2).

The Representation of the People Act 2000 Sch 4 para 7(2) does not prevent a person, at the polling station allotted to him, marking a tendered ballot paper in pursuance of the Representation of the People Act 1983 s 23(1), Sch 1 r 40(1ZC), (1ZE) (as added) (see PARA 408 post): Representation of the People Act 2000 Sch 4 para 7(10) (added by the Electoral Administration Act 2006 s 38(6)(b)). Any amendment effected by the Electoral Administration Act 2006 s 38 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 62 (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(2), Sch 2 para 12; European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 25.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(iv) Manner of Voting at Elections/B. ABSENT VOTING/(C) Applications by Persons to Vote as Proxy for an Elector/ (c) Voting by Post as Proxy for an Elector/383. Application by person to vote by post as proxy.

(c) Voting by Post as Proxy for an Elector

UPDATE

372-387 Application for absent vote at elections for a particular period or for an indefinite period ... Voting by post as proxy

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

383. Application by person to vote by post as proxy.

Where a person applies to the registration officer¹ to vote by post either as proxy at parliamentary² or local government elections³ (or at both) or at Welsh Assembly⁴ or European parliamentary elections⁵ (whether for an indefinite period or for a particular period specified in his application)⁶ or as proxy at a particular such election⁷, the registration officer must grant the application if⁸: (1) the registration officer is satisfied that the elector⁹ is or will be registered in the relevant register of electors for the election¹⁰; and (2) there is in force an appointment of the applicant as the elector's proxy to vote for him at elections of the kind in question or, as the case may be, the election concerned¹¹; and (3) the application meets the statutory requirements¹².

Such an application¹³ must state: (a) the full name of the applicant¹⁴; (b) the proxy's address, together with the name of the elector for whom he will act as proxy and the elector's address in respect of which the elector is registered or has applied to be (or is treated as having applied to be) registered in the register¹⁵; (c) the address to which the ballot paper should be sent¹⁶; (d) the grounds on which the elector claims to be entitled to an absent vote¹⁷; and (e) in relation to parliamentary or local government elections only: (i) in the case of a person who is unable to provide a signature, the reasons for his request for waiver of any requirement¹⁸ to provide a signature and the name and address of any person who has assisted him to complete his application¹⁹; and (ii) where the applicant has, or has applied for, an anonymous entry, that fact²⁰. The application must be made in writing and dated²¹. Except in relation to a Welsh Assembly election, such an application which is made for an indefinite period or the period specified in the application must state that it is so made²² and must specify the election in respect of which it is made²³. An application which is made for a particular election (other than a Welsh Assembly election) must state that it is so made²⁴ and must identify the election in question²⁵.

An application for a parliamentary or a local government election may be combined where the polls fall on the same day²⁶, and such an application (whether combined or not) may be used in combination with that for an absent vote at a particular European parliamentary election²⁷.

Where the registration officer grants an application to vote by post, he must notify the applicant of his decision²⁸; and where he refuses an application, he must notify the applicant of his decision and give the reason for it²⁹. An appeal lies to the county court from any decision of the registration officer disallowing a person's application to vote by post as proxy in any case where the application is not made for a particular election only³⁰.

1 As to electoral registration officers and the areas for which they act see PARA 154 et seq ante.

2 For the meaning of 'parliamentary election' see PARA 9 ante.

3 For the meaning of 'local government election' see PARA 10 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1(2). See also PARA 368 note 1 ante.

4 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

5 As to European parliamentary elections see PARA 224 et seq ante.

6 Representation of the People Act 2000 Sch 4 para 7(4)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 7(4)(a). As to applications so made see PARA 372 ante.

7 Representation of the People Act 2000 Sch 4 para 7(4)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(4)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(4)(b). As to applications so made see PARA 376 ante.

8 Representation of the People Act 2000 Sch 4 para 7(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(4) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(4). Such an application must be disregarded for the purposes of any particular election if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that election (or the sixth day before such a date in the case of a European parliamentary election): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(1) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(2), Sch 2 para 6(1) (substituted by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(2). Where a registration officer disregards an application for the purposes of any particular election, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(5); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(4). As to the computation of time for these purposes see PARA 372 note 6 ante. As to the date of the poll at a parliamentary general election or by-election see PARA 202 ante; as to the date of the poll at local government elections (including elections to fill vacancies) see PARAS 213-216 ante; as to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see PARAS 220-221 ante; and as to the date of the poll at a European parliamentary election see PARA 229 ante.

9 For the meaning of 'elector' for these purposes see PARA 379 note 7 ante.

10 Representation of the People Act 2000 Sch 4 para 7(5)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(5)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(5)(a).

In the case of a parliamentary election, the register referred to is the register of parliamentary electors and, in the case of a local government election, it is the register of local government electors (although an application under the Representation of the People Act 2000 Sch 4 (as amended) may relate to both types of election, in which case the requirement is to be registered in both). In the case of a Welsh Assembly election, the requirement is to be registered in the register of local government electors (as to which see PARA 160 ante). In the case of a European parliamentary election, the 'register of electors' means any part of: (1) a register of parliamentary or, in the case of peers, local government electors; (2) a register under the Representation of the People Act 1985 s 3 (as substituted and amended) (peers resident outside the United Kingdom registered as European parliamentary electors: see PARA 116 ante); (3) a register under the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 5(2) (see PARA 156 ante); and (4) (for the purposes of European parliamentary elections held in the combined region) the Gibraltar register (see PARA 131 note 2 ante), in force within an electoral region at the time of a European parliamentary election in that region: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 2(1). As to electoral regions established for the purposes of European parliamentary elections (including the combined region) see PARA 76 ante; as to registration as an elector see PARA 128 et seq ante; and as to the registers of electors maintained by registration officers see PARA 156 et seq ante.

11 Representation of the People Act 2000 Sch 4 para 7(5)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(5)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(5)(b). As to the appointment of a proxy see PARA 380 et seq ante.

12 Representation of the People Act 2000 Sch 4 para 7(5)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(5)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(5)(c).

In the case of a parliamentary or local government election, the application referred to in the text must contain the applicant's signature and date of birth and meet the prescribed requirements: Representation of the People Act 2000 Sch 4 para 7(5)(c) (amended by the Electoral Administration Act 2006 s 14(3)(a), (8)). For the purposes of the Representation of the People Act 2000 Sch 4 (as amended), 'prescribed' means prescribed by regulations (see the Representation of the People Act 1983 s 202(1); applied by virtue of the Representation of the People Act 2000 Sch 4 para 1(2)); and, accordingly, the text refers to the requirements set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt IV (regs 50-63) (as amended). Where a person has made an application under the Representation of the People Act 2000 Sch 4 para 7(4) (see the text and notes 1-8 supra) prior to 31 December 2006 that has not been determined on or before that date, the registration officer must not grant the application unless the applicant has provided to the registration officer a specimen of his signature and his date of birth: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 3. As to the provisions made for the initial and continuing capture of the personal identifiers of those who are existing absent voters see PARA 371 ante.

The registration officer may dispense with the requirement under the Representation of the People Act 2000 Sch 4 para 7(5)(c) (as amended) for the applicant to provide a signature if he is satisfied that the applicant is unable to provide a signature because of any disability the applicant has or is unable to provide a signature because the applicant is unable to read or write or is unable to sign in a consistent and distinctive way because of any such disability or inability: Sch 4 para 7(11) (added by the Electoral Administration Act 2006 s 14(3)(b), (8)). 'Disability', in relation to doing a thing, includes a short term inability to do it: see the Representation of the People Act 1983 s 202(1) (definition added by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 76); applied by virtue of the Representation of the People Act 2000 Sch 4 para 1(2).

In the case of a Welsh Assembly election, the application referred to in the text must meet the requirements of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 (as amended).

In the case of a European parliamentary election, the application referred to in the text must meet the requirements of the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 (as amended).

13 Applications relating to absent voting must comply with such requirements as are relevant to the application: in relation to a parliamentary or local government election, see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(1); in relation to a Welsh Assembly election, see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(5); and in relation to a European parliamentary election, see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(1).

14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(2)(a).

15 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(b), (c) (reg 51(2)(b) amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(b), (c) (Sch 2 para 1(1)(b) amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(2)(b), (c). As to the address to be specified for the purposes of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(b) (as amended) in relation to Welsh Assembly elections see PARA 372 note 25 ante.

16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(2)(d).

In the case of an application to vote by post at parliamentary or local government elections under the Representation of the People Act 2000 Sch 4 para 7(4) (see the text and notes 1-8 supra) where the addresses stated in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(c) (ie the proxy's address and the elector's address for the purposes of reg 51(2)(b) (as amended): see the text and note 15 supra) and reg 51(2)(d) are different, except where an applicant has, or has applied for, an anonymous entry, the application must set out why the applicant's circumstances will be or are likely to be such that he requires the ballot paper to be sent to the address stated in accordance with reg 51(2)(d): reg 51AA(1)-(3) (added by SI 2006/2910). For the meaning of 'anonymous entry' in relation to a register of electors see PARA 174 ante.

17 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(e); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(2)(e).

18 Ie under the Representation of the People Act 2000 Sch 4 para 7 (as amended).

19 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(f) (added by SI 2006/2910).

20 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(g) (added by SI 2006/2910).

21 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(3) (substituted by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(3). At a Welsh Assembly or European parliamentary election, the application must also be signed by the applicant: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1); and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(3).

In relation to parliamentary or local government elections, where an application is required to contain a signature and date of birth (see note 12 *supra*), the information must be set out in a manner that is sufficiently clear and unambiguous as to be capable of electronic scanning into his record: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(3A) (reg 51(3A), (3B) added by SI 2006/2910). This requirement is met by configuring the information as follows: (1) the signature must appear against a background of white unlined paper of at least five centimetres long and two centimetres high (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(3A)(a) (as so added)); and (2) the applicant's date of birth must be set out numerically configured in the sequence of date, month and year, namely [d][d][m][m][y][y][y][y] (reg 51(3A)(b) (as so added)). Where the application contains a request that the registration officer waive the requirement for a signature (see note 12 *supra*), head (1) *supra* does not apply: reg 51(3B) (as so added). The registration officer may satisfy himself: (a) that an application under the Representation of the People Act 2000 Sch 4 (as amended) meets any requirements that it has been signed by the applicant and states his date of birth by referring to any signature and date of birth either previously provided by the applicant to the registration officer or to the returning officer or previously provided by the applicant to the authority referred to in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 35(2)(a) (ie the council which appointed him: see PARA 157 *ante*), which the registration officer is authorised to inspect for the purposes of his registration duties (reg 51A(a) (reg 51A added by SI 2006/752; and substituted by SI 2006/2910)); and (b) as to whether the applicant is unable to provide a signature or a consistent signature due to any disability or inability to read or write (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51A(b) (as so added and substituted)).

At a Welsh Assembly election, the application must be sent and delivered in accordance with the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 143 (see PARA 372 note 31 *ante*). The registration officer may satisfy himself that an application for an absent vote meets the requirement that it has been signed by the applicant by referring to any signature previously provided by the applicant to the registration officer or the returning officer: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1A (added by SI 2006/884).

22 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(4)(a).

23 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(4)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(4)(b).

24 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(5)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(5)(a).

25 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(5)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(5)(b).

26 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(5).

27 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(7).

28 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(1) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(1) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(1). At a parliamentary or Welsh Assembly where the registration officer is not the acting returning officer for any constituency (or at a European parliamentary election where the registration officer is not the local returning officer for any local counting area) or part of such area in the area for which he is the registration officer, he must send to that officer details of any application to vote by post which he has granted as soon as practicable after doing so: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(5). For the meaning of 'local counting area' see PARA 230 note 11 *ante*. As to local returning officers appointed for the purposes of elections to the European Parliament see PARA 365 *ante*; and as to notification see PARA 372 note 35 *ante*.

29 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4); European

Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(3). At a Welsh Assembly election, the officer must date the notification: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4).

30 See PARA 189 et seq ante.

UPDATE

372-387 Application for absent vote at elections for a particular period or for an indefinite period ... Voting by post as proxy

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

383 Application by person to vote by post as proxy

NOTE 10--SI 2004/293 reg 2(1) substituted: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(iv) Manner of Voting at Elections/B. ABSENT VOTING/(C) Applications by Persons to Vote as Proxy for an Elector/ (c) Voting by Post as Proxy for an Elector/384. Record of persons entitled to vote by post as proxy.

384. Record of persons entitled to vote by post as proxy.

The registration officer¹ must keep a record of those whose applications to vote by post as proxy at parliamentary² or local government elections³ (or at both) or at Welsh Assembly⁴ or European parliamentary elections⁵ (whether for an indefinite period or for a particular period specified in the application)⁶ have been granted showing⁷: (1) whether their applications were to vote by post as proxy for an indefinite or a particular period (specifying that period)⁸; (2) where the applications were in respect of parliamentary or local government elections, whether they were in respect of parliamentary elections or local government elections or both⁹; and (3) the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent¹⁰. The registration officer at a Welsh Assembly or European parliamentary election must make a copy of the records so kept available for inspection at his office¹¹ and, in relation to a Welsh Assembly election, any person may make a copy (whether handwritten or by other means) of the whole or any part of them¹².

A person who remains on the record of persons entitled to vote by post as proxy at parliamentary or local government elections either for an indefinite period or for a particular period¹³ may, at any time, provide the registration officer with a fresh signature¹⁴; and anything required or authorised to be done for the purposes of any enactment in relation to a signature required to be provided in pursuance of absent voting in Great Britain¹⁵ must be done in relation to a signature so provided instead of in relation to a signature provided on any earlier occasion¹⁶. Regulations may make provision as to circumstances in which a registration officer may require a person who remains on the record of persons entitled to vote by post as proxy either for an indefinite period or for a particular period¹⁷ to provide a fresh signature¹⁸ and as to the consequences of a person refusing or failing to comply with a requirement to provide a fresh signature¹⁹.

The registration officer must remove a person from the record so kept²⁰: (a) if he applies to the registration officer to be removed²¹, (b) if the elector²² ceases to be registered in the appropriate register or registers (as the case may be)²³; (c) if the appointment of the person concerned as the elector's proxy ceases to be in force (whether or not he is re-appointed)²⁴; or (d) in the case of a person who applied to vote by post as proxy for a particular period, once that period expires²⁵. Where a person is removed from the record under any of heads (a) to (d) above, the registration officer must, where practicable, notify him of this and the reason for it²⁶.

The registration officer must also keep a record in relation to those whose applications to vote by post either as proxy at parliamentary elections, at local government elections or at both (whether for an indefinite period or for a particular period specified in the application)²⁷, or at a particular parliamentary or local government election²⁸, have been granted showing their dates of birth²⁹ and, except in cases where the registration officer³⁰ has dispensed with the requirement to provide a signature, their signatures³¹. The record so kept must be retained by the registration officer for the prescribed period³². The registration officer must either provide a copy of the information contained in records so kept by him³³ to the returning officer for an election in relation to electors at the election³⁴ or give the returning officer access to such information³⁵. Information contained in such records may be disclosed by a registration officer (subject to any prescribed conditions) to any other registration officer if he thinks that to do so will assist the other registration officer in the performance of his duties³⁶, or to any person

exercising functions in relation to the preparation or conduct of legal proceedings under the Representation of the People Acts³⁷ or to such other persons for such other purposes relating to elections as may be prescribed³⁸.

1 As to electoral registration officers and the areas for which they act see PARA 154 et seq ante.

2 For the meaning of 'parliamentary election' see PARA 9 ante.

3 For the meaning of 'local government election' see PARA 10 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1(2). See also PARA 368 note 1 ante.

4 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

5 As to European parliamentary elections see PARA 224 et seq ante.

6 Ie a record of those whose applications have been granted, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 7(4)(a) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(4)(a) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(4)(a) (whichever is appropriate) (see PARA 383 ante).

7 Representation of the People Act 2000 Sch 4 para 7(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(7).

8 Representation of the People Act 2000 Sch 4 para 7(6)(a)(ii); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(6)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(6)(a).

9 Representation of the People Act 2000 Sch 4 para 7(6)(a)(i).

10 Representation of the People Act 2000 Sch 4 para 7(6)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(6)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(6)(b).

11 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(2), Sch 2 para 11(5); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 24(2). In the case of records relating to a Welsh Assembly election, the records may be in such form as the registration officer thinks fit: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 11(1).

12 Ibid art 144(2).

13 Ie the record kept under the Representation of the People Act 2000 Sch 4 para 7(6) (see the text and notes 1-10 supra).

14 Ibid Sch 4 para 7A(1) (Sch 4 paras 7A-7D added by the Electoral Administration Act 2006 s 14(4), (8)).

15 Ie in pursuance of the Representation of the People Act 2000 Sch 4 (as amended).

16 Ibid Sch 4 para 7A(2) (as added: see note 14 supra).

17 Ie the record kept under ibid Sch 4 para 7(6) (see the text and notes 1-10 supra).

18 Ibid Sch 4 para 7B(a) (as added: see note 14 supra).

19 Ibid Sch 4 para 7B(b) (as added: see note 14 supra).

20 Ibid Sch 4 para 7(9); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(9); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(9).

21 Representation of the People Act 2000 Sch 4 para 7(9)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(9)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(9)(a). Such an application by a proxy to be removed from the record must be disregarded for the purposes of a particular election if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that election (or the sixth day before that date in the case of a Welsh Assembly election): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(5).

(amended by SI 2001/1700); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(3)(b), (ii); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(5). Where a registration officer disregards an application for the purposes of any particular election, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(4). At a Welsh Assembly election, the officer must date the notification: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4). As to the date of the poll at a parliamentary general election or by-election see PARA 202 ante; as to the date of the poll at local government elections (including elections to fill vacancies) see PARAS 213-216 ante; as to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see PARAS 220-221 ante; and as to the date of the poll at a European parliamentary election see PARA 229 ante. As to the computation of time for these purposes see PARA 372 note 6 ante. As to notification see PARA 372 note 35 ante.

22 For the meaning of 'elector' for these purposes see PARA 379 note 7 ante.

23 Representation of the People Act 2000 Sch 4 para 7(9)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(9)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(9)(b). The text refers to registration as mentioned, in relation to a parliamentary or local government election, in the Representation of the People Act 2000 Sch 4 para 7(5)(a) or, in relation to a Welsh Assembly election, in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(5)(a) or, in relation to a European parliamentary election, in the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(5)(a) (whichever is appropriate) (see PARA 383 ante).

24 Representation of the People Act 2000 Sch 4 para 7(9)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(9)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(9)(c).

25 Representation of the People Act 2000 Sch 4 para 7(9)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(9)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(9)(d).

26 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4B) (added by SI 2006/752; and amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4B) (added by SI 2006/884). As to notification see PARA 372 note 35 ante.

27 Is a record of those whose applications under the Representation of the People Act 2000 Sch 4 para 7(4) (a) (see PARA 383 ante) have been granted.

28 Is a record of those whose applications under *ibid* Sch 4 para 7(4)(b) (see PARA 383 ante) have been granted.

29 *Ibid* Sch 4 para 7(12)(a) (Sch 4 paras 7(12)-(13) added by the Electoral Administration Act 2006 s 14(3) (b), (8)).

30 Is in pursuance of the Representation of the People Act 2000 Sch 4 para 7(11) (as added) (see PARA 383 ante).

31 *Ibid* Sch 4 para 7(12)(b) (as added: see note 29 supra).

32 *Ibid* Sch 4 para 7(13) (as added: see note 29 supra). 'Prescribed' means prescribed by regulations: see the Representation of the People Act 1983 s 202(1); applied by virtue of the Representation of the People Act 2000 Sch 4 para 1(2). As to the retention of the records referred to in the text see PARA 503 et seq post.

33 Is in pursuance of *ibid* Sch 4 para 7(12) (as added) (see the text and notes 27-31 supra).

34 *Ibid* Sch 4 para 7C(a) (as added: see note 14 supra).

35 *Ibid* Sch 4 para 7C(b) (as added: see note 14 supra).

36 *Ibid* Sch 4 para 7D(a) (as added: see note 14 supra).

37 *Ibid* Sch 4 para 7D(b) (as added: see note 14 supra). For the meaning of 'the Representation of the People Acts' see PARA 3 note 1 ante.

38 Representation of the People Act 2000 Sch 4 para 7D(c) (as added: see note 14 supra). As to the prescribed requirements see note 32 supra.

UPDATE

372-387 Application for absent vote at elections for a particular period or for an indefinite period ... Voting by post as proxy

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(iv) Manner of Voting at Elections/B. ABSENT VOTING/(C) Applications by Persons to Vote as Proxy for an Elector/ (c) Voting by Post as Proxy for an Elector/385. Application in respect of a particular election by a proxy entitled to vote by post for an indefinite period or for a particular period.

385. Application in respect of a particular election by a proxy entitled to vote by post for an indefinite period or for a particular period.

Where a person who is included in the record kept of those entitled to vote by post as proxy either for an indefinite period or for a particular period¹ in respect of parliamentary², local government³, Welsh Assembly⁴ or European parliamentary elections⁵, applies to the registration officer⁶ for his ballot paper⁷ in relation to a particular such election to be sent to a different address from that shown in the record, the registration officer must grant the application if it meets the statutory requirements⁸.

Such an application⁹ must state: (1) the full name of the applicant¹⁰; and (2) the proxy's address, together with the name of the elector for whom he will act as proxy and the elector's address in respect of which the elector is registered or has applied to be (or is treated as having applied to be) registered in the register¹¹. Except in relation to a European parliamentary election, such an application must also set out why the applicant's circumstances will be or are likely to be such that he requires his ballot paper to be sent to a different address from that shown in the record¹². An application must identify the election in question¹³ and when it is made for a particular parliamentary, local government or European parliamentary election, it must state that it is so made¹⁴. The application must be made in writing and dated¹⁵.

An application for a parliamentary or a local government election may be combined where the polls fall on the same day¹⁶, and such an application (whether combined or not) may be used in combination with that for an absent vote at a particular European parliamentary election¹⁷.

Where the registration officer grants an application to vote by post, he must notify the applicant of his decision¹⁸; and where he refuses an application, he must notify the applicant of his decision¹⁹. An appeal does not lie from any decision of the registration officer disallowing a person's application to vote by post as proxy in any case where the application is made for a particular election only²⁰.

1 le a record kept, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 s 12, Sch 4 para 7(6) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(6) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(6) (whichever is appropriate) (see PARA 384 ante).

2 For the meaning of 'parliamentary election' see PARA 9 ante.

3 For the meaning of 'local government election' see PARA 10 ante; definition applied by virtue of the Representation of the People Act 2000 Sch 4 para 1(2). See also PARA 368 note 1 ante.

4 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

5 As to European parliamentary elections see PARA 224 et seq ante.

6 As to electoral registration officers and the areas for which they act see PARA 154 et seq ante.

7 Or ballot papers, in the case of an ordinary Welsh Assembly election where a person is entitled to give two votes: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(7). As to ordinary general elections to the National Assembly for Wales see PARA 220 et seq ante.

8 Representation of the People Act 2000 Sch 4 para 7(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(7) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(7). The text refers to the requirements set out, in the case of a parliamentary or local government election, in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt IV (regs 50-63) (as amended) or, in the case of a Welsh Assembly election, in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 (as amended) or, in the case of a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 (as amended) (whichever is appropriate). For the purposes of the Representation of the People Act 2000 Sch 4 (as amended), the requirements are as prescribed; and 'prescribed' means prescribed by regulations (see the Representation of the People Act 1983 s 202(1); applied by virtue of the Representation of the People Act 2000 Sch 4 para 1(2)). Such an application must be refused if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at the election for which it is made: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(4) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(2)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(4). Where a registration officer disregards such an application for the purposes of any particular election, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(4). At a Welsh Assembly election, the officer must date such notification: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4). As to the computation of time for these purposes see PARA 372 note 6 ante. As to the date of the poll at a parliamentary general election or by-election see PARA 202 ante; as to the date of the poll at local government elections (including elections to fill vacancies) see PARAS 213-216 ante; as to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see PARAS 220-221 ante; and as to the date of the poll at a European parliamentary election see PARA 229 ante.

9 Applications relating to absent voting must comply with such requirements as are relevant to the application: in relation to a parliamentary or local government election, see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(1); in relation to a Welsh Assembly election, see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(5); and in relation to a European parliamentary election, see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(1).

10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(1)(a).

11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(b), (c) (reg 51(2)(b) amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(b), (c) (Sch 2 para 1(1)(b) amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(1)(b), (c). As to the address to be specified for the purposes of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(b) (as amended) in relation to Welsh Assembly elections see PARA 372 note 25 ante.

12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51B(1) (added by SI 2006/752; and renumbered by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1B (added by SI 2006/884). The Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51B (as added and amended) does not apply where an applicant has, or has applied for, an anonymous entry: reg 51B(2) (added by SI 2006/2910). For the meaning of 'anonymous entry' in relation to a register of electors see PARA 174 ante.

13 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(5)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(5)(b).

14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(5)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(5)(a).

15 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(3) (substituted by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(3). At a Welsh Assembly or European parliamentary election, the application must also be signed by the applicant: see the

National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1); and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(3).

At a Welsh Assembly election, the application must be sent and delivered in accordance with the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 143 (see PARA 372 note 31 ante).

16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(5).

17 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(7).

18 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4A) (added by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4A) (added by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(1). At a parliamentary or Welsh Assembly where the registration officer is not the acting returning officer for any constituency (or at a European parliamentary election where the registration officer is not the local returning officer for any local counting area) or part of such area in the area for which he is the registration officer, he must send to that officer details of any application to vote by post which he has granted as soon as practicable after doing so: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(5). For the meaning of 'local counting area' see PARA 230 note 11 ante. As to local returning officers appointed for the purposes of elections to the European Parliament see PARA 365 ante; and as to notification see PARA 372 note 35 ante.

19 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(3). Except in the case of a Welsh Assembly election, the reason for the decision must also be given: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(3). At a Welsh Assembly election, the officer must date the notification: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4).

20 See PARA 189 et seq ante.

UPDATE

372-387 Application for absent vote at elections for a particular period or for an indefinite period ... Voting by post as proxy

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(iv) Manner of Voting at Elections/B. ABSENT VOTING/(C) Applications by Persons to Vote as Proxy for an Elector/ (c) Voting by Post as Proxy for an Elector/386. Proxy postal voters list.

386. Proxy postal voters list.

The registration officer¹ must, in respect of each parliamentary², local government³, Welsh Assembly⁴ or European parliamentary election⁵, keep a special list (the 'proxy postal voters list')⁶: (1) of those who are for the time being included in the record kept of persons entitled to vote by post as proxy either for an indefinite period or for a particular period⁷, together with the addresses provided by them in their applications⁸ as the addresses to which their ballot papers are to be sent⁹; and (2) of those whose applications to vote by post as proxy at a particular election¹⁰ have been granted in respect of the election concerned, together with the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent¹¹.

Any person entitled to be supplied with copies of the full register¹² is also a person entitled¹³ to request that the registration officer supply free of charge the relevant part¹⁴ of a copy of any of the following information which he keeps¹⁵, namely: (a) the current version of the information which would, in the event of a particular parliamentary or local government election, be included in the proxy postal voters list¹⁶; and (b) the current or final version of the proxy postal voters list¹⁷. The registration officer must supply a current copy of the information so requested as soon as practicable after receipt of a request that is duly made¹⁸; and, as soon as practicable after 5 pm on the sixth day before the day of the poll¹⁹, he must²⁰: (i) make a copy of the proxy postal voters list available for inspection at his office, in response to a request that has been duly made²¹; and (ii) at a parliamentary election, if he is not the acting returning officer for any constituency or part of a constituency in the area for which he is the registration officer, send to that officer a copy of the list²².

As soon as practicable after the sixth day²³ before the day of the poll²⁴ at a Welsh Assembly or European parliamentary election, the registration officer must publish the list of postal proxy voters by making a copy of it available for inspection at his office²⁵. The registration officer at a Welsh Assembly election must, on request, supply free of charge a copy of the list to each candidate at a constituency election or his election agent²⁶ or, in the case of a regional election²⁷, to each individual candidate²⁸ or group of party list candidates²⁹ (or to his or their election agent)³⁰. The registration officer at a European parliamentary election must, on request, supply free of charge a copy of the list of postal proxy voters to the election agent of each registered party³¹ standing nominated and each individual candidate³² or his election agent³³.

1 As to electoral registration officers and the areas for which they act see PARA 154 et seq ante.

2 For the meaning of 'parliamentary election' see PARA 9 ante.

3 For the meaning of 'local government election' see PARA 10 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1(2). See also PARA 368 note 1 ante.

4 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

5 As to European parliamentary elections see PARA 224 et seq ante.

6 Representation of the People Act 2000 Sch 4 para 7(8) (amended by the Electoral Administration Act 2006 s 74(1), Sch 1 Pt 7 para 137(1), (7)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(8); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(8).

The list of persons referred to in the text which is kept in relation to a parliamentary or local government election pursuant to the Representation of the People Act 2000 Sch 4 para 7(8) (ie the list of persons whose applications to vote by post as proxy have been granted) is known as the 'proxy postal voters list': Representation of the People Act 1983 s 202(1) (definition added by the Electoral Administration Act 2006 Sch 1 Pt 7 paras 104, 128(1), (3)); Representation of the People Act 2000 Sch 4 para 7(8) (as so amended). In the case of a person who has an anonymous entry in a register, the list referred to in the text must contain only the person's electoral number and the period for which the anonymous entry has effect: Representation of the People Act 2000 Sch 4 para 7(8A) (added by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 19, 23). For the meaning of 'electoral number' see PARA 160 ante; and for the meaning of 'anonymous entry' in relation to a register of electors see PARA 174 ante.

Any list so kept as mentioned in the text which relates to a Welsh Assembly election may be in such form as the registration officer thinks fit (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(2), Sch 2 para 11(1)); but where electors are entitled to give two votes at an ordinary election in an Assembly constituency, only one list is to be kept and that list has effect in relation to both elections (art 12(8) proviso). Where a National Assembly for Wales constituency is not coterminous with, or wholly situated in, a county or county borough: (1) the registration officer for any part of the Assembly constituency must, if he is not the returning officer for the constituency, consult him concerning the form of so much of the list of postal proxies (see the text and notes 7-11 infra) as relates to the constituency in order to ensure that, so far as practicable, it is in a form similar to that in use elsewhere in the constituency; and (2) if the registration officer for any part of the Assembly constituency at an Assembly election is not the returning officer for the constituency, he must forthwith supply to the constituency returning officer a copy of the compiled list of postal proxies on completion of the compilation of them: art 139. For the meaning of 'Assembly constituency' in relation to a Welsh Assembly election see PARA 3 note 1 ante; and for the meaning of 'constituency returning officer' see PARA 18 note 2 ante. As to counties and county boroughs in Wales see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq. As to ordinary general elections to the National Assembly for Wales see PARA 220 et seq ante.

At a European parliamentary election, the registration officer must, forthwith on completion of the compilation of the list of postal proxies, supply to the local returning officer for any local counting area wholly or partly within the area for which he acts so much of that list as relates to that constituency: European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(8). For the meaning of 'local counting area' see PARA 230 note 11 ante. As to local returning officers appointed for the purposes of elections to the European Parliament see PARA 365 ante.

7 Ie a record kept, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 7(6) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(6) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(6) (whichever is appropriate) (see PARA 384 ante).

8 Ie applications made, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 7(4)(a) or, as the case may be, under Sch 4 para 7(7) or applications made, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(4)(a) or, as the case may be, under art 12(7) or applications made, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(4)(a) or, as the case may be, under Sch 7(7) (whichever is appropriate) (see PARAS 383, 385 ante).

9 Representation of the People Act 2000 Sch 4 para 7(8)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(8)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(8)(a). In the case of a Welsh Assembly election, in the list kept of proxies who are entitled to vote by post, the name of the proxy, together with the address to which his ballot paper (or, where a person is entitled to give two votes at an ordinary election, ballot papers) must be sent is to be placed on the right hand side of the elector's name and electoral number: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 11(4). As to the meaning of 'electoral number' for this purpose see PARA 378 note 9 ante.

10 Ie a record of those whose applications have been granted, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 7(4)(b) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(4)(b) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(4)(b) (whichever is appropriate) (see PARA 383 ante).

11 Representation of the People Act 2000 Sch 4 para 7(8)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(8)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(8)(b). In relation to a Welsh Assembly election see note 9 *supra*.

12 *le* in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 103 (as added) (supply of full register to elected representatives for electoral purposes: see PARA 182 ante), reg 105 (as added) (supply of full register to local constituency parties: see PARA 182 ante), reg 106 (as added) (supply of full register to registered political parties: see PARA 182 ante) or reg 108 (as added) (supply of full register to certain candidates: see PARA 182 ante). For the meaning of 'full register' see PARA 166 note 2 ante.

13 *le* subject to *ibid* reg 61 (as substituted) and reg 61A (as added) (see note 15 *infra*).

14 *le* within the meaning of the regulations specified in note 12 *supra*.

15 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61(1) (reg 61 substituted by SI 2006/2910). A request such as is mentioned in the text must be made in writing and must specify the information (or the relevant parts of the information) requested, whether the request is made only in respect of the current list or whether it includes a request for the supply of any final list and whether a printed copy of the records or list is requested or a copy in data form: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61(2) (as so substituted). For the meaning of 'data form' see PARA 177 note 11 ante. Subject to any direction by the Secretary of State under the Representation of the People Act 1983 s 52(1) (as amended) (discharge of registration duties: see PARA 156 ante), any duty on a registration officer to supply a copy under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61 (as substituted) imposes only a duty to provide that information in the form in which he holds it: reg 61(15) (as so substituted). As to the Secretary of State see PARA 2 ante.

A person who obtains any information under reg 61 (as substituted) may use it only for the permitted purposes specified in reg 61A (as added), and any restrictions specified in reg 61A (as added), or which would apply to the use of the full register under whichever of reg 103 (as added) (supply of full register to elected representatives for electoral purposes: see PARA 182 ante), reg 105 (as added) (supply of full register to local constituency parties: see PARA 182 ante), reg 106 (as added) (supply of full register to registered political parties: see PARA 182 ante) or reg 108 (as added) (supply of full register to certain candidates: see PARA 182 ante) entitled that person to obtain that information, apply to such use: reg 61(3) (as so substituted). Any person who has obtained or is entitled to obtain a copy of information covered by reg 61(1) (as substituted) (see heads (a) and (b) in the text) may supply a copy of the information to a processor for the purpose of processing the information, or procure that a processor processes and supplies to him any copy of the information which the processor has obtained under reg 61 (as substituted), for use in respect of the purposes for which that person is entitled to obtain such information: reg 61(8) (as so substituted). The processor may not disclose the information so supplied except to the person who supplied it to the processor or an employee of that person or a person who is entitled to obtain a copy of the full register under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) or any employee of such a person: reg 92(9) (reg 92 added by SI 2002/1871); applied by the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61(9) (as so substituted). As to references to an employee of any person who has access to a copy of the full register see PARA 177 note 6 ante; and for the meaning of 'processor' see PARA 177 note 11 ante (definitions applied by virtue of reg 61(9) (as substituted)).

The restrictions on the supply, disclosure and use of the full register in reg 94 (as added) (restrictions on supply of full register and disclosure of information from it by the registration officer and his staff: see PARA 176 ante) and reg 96 (as added and amended) (restrictions on use of full register or information contained in it: see PARA 176 ante) apply to information covered by heads (a) and (b) in the text as they apply to the full register, except that the permitted purpose (see PARA 176 note 18 ante) means either research purposes within the meaning of that term in the Data Protection Act 1998 s 33 (see CONFIDENCE AND DATA PROTECTION vol 8(1) (2003 Reissue) PARA 551) or electoral purposes: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61A (added by SI 2006/2910).

16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61(1)(a) (as substituted: see note 15 *supra*). The registration officer must ensure that where he supplies or discloses information covered by head (a) in the text, in accordance with reg 61 (as substituted), he does not supply or disclose any record relating either to a person who has an anonymous entry or to the proxy of a person who has an anonymous entry: reg 61(17), (18) (as so substituted). For the meaning of 'anonymous entry' in relation to a register of electors see PARA 174 ante.

17 *Ibid* reg 61(1)(b) (as substituted: see note 15 *supra*).

18 *Ibid* reg 61(4) (as substituted: see note 15 *supra*). For these purposes, a 'current copy' of records or lists is a copy of the records or lists as kept by the registration officer at 9 am on the date it is supplied: reg 61(16) (a) (as so substituted).

19 For these purposes, any period of days must be calculated in accordance with *ibid* reg 56(6) (as amended) and reg 56(7) (see PARA 372 note 6 ante); reg 61(16)(b) (as substituted: see note 15 supra). As to the date of the poll at a parliamentary general election or by-election see PARA 202 ante; and as to the date of the poll at local government elections (including elections to fill vacancies) see PARAS 213-216 ante.

20 *Ibid* reg 61(6) (as substituted: see note 15 supra).

21 *Ibid* reg 61(6)(a) (as substituted: see note 15 supra). The text refers to information made available for inspection in accordance with reg 61(10)-(15) (as substituted). Any person is entitled to request that the registration officer make available for inspection a copy of any of the information specified in heads (a) and (b) in the text: reg 61(10) (as so substituted). Such a request must be made in writing and must specify the information (or relevant parts of the information) requested, whether the request is made only in respect of the current lists or whether it includes a request for the inspection of any final list, who will inspect the information, the date on which they wish to inspect the information and whether they would prefer to inspect the information in a printed or data form: reg 61(11) (as so substituted). The registration officer must make a copy of the information available for inspection under supervision as soon as practicable after the date of receipt of a request that has been duly made: reg 61(12) (as so substituted). Where inspection takes place by providing a copy of the information on a computer screen or otherwise in data form, the registration officer must ensure that the manner in, and equipment on, which that copy is provided do not permit any person consulting that copy to search it by electronic means by reference to the name of any person or to copy or transmit any part of that copy by electronic or any other means: reg 61(13) (as so substituted). A person who inspects a copy of the information, whether a printed copy or in data form, may not make copies of any part of it, or record any particulars in it, otherwise than by means of handwritten notes: reg 61(14) (as so substituted). Subject to any direction by the Secretary of State under the Representation of the People Act 1983 s 52(1) (as amended) (discharge of registration duties: see PARA 156 ante), any duty on a registration officer to make information available for inspection under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61 (as substituted) imposes only a duty to provide that information in the form in which he holds it: reg 61(15) (as so substituted). The provision allowing copying that usually applies where a document is made available for inspection under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) does not apply to copies of information covered by heads (a) and (b) in the text: reg 7(6) (added by SI 2006/2910).

22 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61(6)(b) (as substituted: see note 15 supra).

23 As to the computation of time for these purposes see PARA 372 note 6 ante.

24 As to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see PARAS 220-221 ante; and as to the date of the poll at a European parliamentary election see PARA 229 ante.

25 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 11(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 24(3)(a). At a European parliamentary election, if the registration officer is not the local returning officer for any local counting area or part of such area in the area for which he is the registration officer, he must send to that officer a copy of the lists referred to in the text: Sch 2 para 24(3)(b). In relation to a Welsh Assembly election, the registration officer must continue to make a copy of the list so available until the date of the poll (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 11(6)); and any person may make a copy (whether handwritten or by other means) of the whole or any part of it (art 144(2)).

26 *Ibid* Sch 2 para 11(7)(a). If a request is made as mentioned in the text before any issue of postal ballot papers, the registration officer must before that issue supply a copy of those lists or so much of them as relates to that issue: Sch 2 para 11(8). For the meaning of 'candidate' generally see PARA 237 ante; and for the meaning of 'constituency election' in relation to a Welsh Assembly election see PARA 3 note 1 ante. As to the appointment of election agents see PARA 238 et seq ante.

27 For the meaning of 'regional election', in relation to a Welsh Assembly election, see PARA 3 note 1 ante.

28 For the meaning of 'individual candidate', in relation to a Welsh Assembly election, see PARA 237 note 23 ante.

29 For the meaning of references to a group of party list candidates for this purpose see PARA 237 note 23 ante.

30 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 11(7)(b). See note 26 supra.

31 For the meaning of 'registered party' for these purposes see PARA 237 note 30 ante. As to the submission by a registered party of lists of candidates to be members of the European parliament ('MEPs') see PARA 235 ante.

32 For the meaning of 'individual candidate', in relation to a European parliamentary election, see PARA 237 note 32 ante.

33 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 24(1).

UPDATE

372-387 Application for absent vote at elections for a particular period or for an indefinite period ... Voting by post as proxy

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

386 Proxy postal voters list

TEXT AND NOTES--As to the requirements applying to any document which is required or authorised to be given to voters or displayed in any place for the purposes of a European Parliamentary election, see SI 2004/293 reg 122A (added by SI 2009/186).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(iv) Manner of Voting at Elections/B. ABSENT VOTING/(C) Applications by Persons to Vote as Proxy for an Elector/ (c) Voting by Post as Proxy for an Elector/387. Voting by post as proxy.

387. Voting by post as proxy.

If a person is entitled to vote as proxy for an elector¹ at a parliamentary², local government³, Welsh Assembly⁴ or European parliamentary election⁵ (by being included in the relevant list⁶ in respect of that election) he may vote by post⁷. Where a person is entitled to vote by post as proxy for an elector at such an election, the elector may not apply for a ballot paper for the purpose of voting in person at the election⁸.

1 For the meaning of 'elector' for these purposes see PARA 379 note 7 ante. As to applications to vote by post as a proxy see PARA 383 et seq ante.

2 For the meaning of 'parliamentary election' see PARA 9 ante.

3 For the meaning of 'local government election' see PARA 10 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1(2). See also PARA 368 note 1 ante.

4 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

5 As to European parliamentary elections see PARA 224 et seq ante.

6 In the list kept, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 7(8) (as amended) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(8) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(8) (whichever is appropriate) (see PARA 386 ante).

7 Representation of the People Act 2000 Sch 4 para 7(1), (3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(1), (3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(1), (3).

8 Representation of the People Act 2000 Sch 4 para 7(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(2).

The Representation of the People Act 2000 Sch 4 para 7(2) does not prevent a person, at the polling station allotted to him, marking a tendered ballot paper in pursuance of the Representation of the People Act 1983 s 23(1), Sch 1 r 40(1ZC), (1ZE) (as added) (see PARA 408 post): Representation of the People Act 2000 Sch 4 para 7(10) (added by the Electoral Administration Act 2006 s 38(6)(b)). Any amendment effected by the Electoral Administration Act 2006 s 38 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

UPDATE

UPDATE

372-387 Application for absent vote at elections for a particular period or for an indefinite period ... Voting by post as proxy

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(v) Rules for Conduct of Elections/388. Rules for the conduct of elections.

(v) Rules for Conduct of Elections

388. Rules for the conduct of elections.

The proceedings at a parliamentary election¹ must be conducted in accordance with the parliamentary elections rules². These rules are applied³ for the purpose of elections of councillors for local government areas⁴ in England and Wales⁵, which are also conducted in accordance with rules made by the Secretary of State⁶. As regards the Greater London Authority⁷, Authority elections⁸ and the return of London members of the London Assembly otherwise than at an election⁹ must be conducted in accordance with rules so made¹⁰. The Secretary of State must also make provision as to the conduct of elections for the return of elected mayors or elected executive members¹¹; and an election for the return of an elected mayor must be conducted in accordance with the mayoral elections rules so made¹².

In relation to elections to the National Assembly for Wales¹³, the Secretary of State may by order make provision as to the conduct of elections for the return of Assembly members¹⁴; and the proceedings at Assembly elections¹⁵ and the return of Assembly members must be conducted in accordance with the rules so provided¹⁶.

The Secretary of State may by regulations make provision as to the conduct of elections to the European Parliament¹⁷; and proceedings at a European parliamentary election must be conducted in accordance with the European parliamentary elections rules¹⁸.

It is the general duty of returning officers at an election to do all such acts and things as may be necessary for effectively conducting the election in accordance with these rules¹⁹ but no parliamentary election may be declared invalid by reason of any act or omission by the returning officer or any other person in breach of his official duty in connection with the election or otherwise of the elections rules if the election was so conducted as to be substantially in accordance with the law as to elections and the act or omission did not affect its result²⁰.

1 For the meaning of 'parliamentary election' see PARA 9 ante. As to parliamentary elections see PARA 196 et seq ante.

2 Representation of the People Act 1983 s 23(1). For these purposes, 'parliamentary elections rules' means the parliamentary elections rules that are set out in Sch 1 (as amended): see s 202(1).

3 Ibid s 36(2). The parliamentary elections rules must be applied subject to such adaptations, alterations and exceptions as seem appropriate to the Secretary of State: s 36(2). See further note 6 infra. As to the Secretary of State see PARA 2 ante. As to the rules for combining the poll at such an election with that at another election or referendum see PARA 21 et seq ante.

4 For the meaning of 'local government area' see PARA 18 note 2 ante. As to the election of councillors for local government principal areas see PARA 204 et seq ante; as to the election of councillors for parish or community councils see PARA 207 et seq ante.

5 For the meanings of 'England' and 'Wales' see PARA 13 note 1 ante.

6 Representation of the People Act 1983 s 36(1).

In the application of the parliamentary elections rules to the election of councillors of the council of a principal area where the poll at that election is not taken together with the poll at another election, adaptations,

alterations and exceptions must be made to those rules so that the election is conducted in accordance with the rules set out in the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 (see PARA 218 et seq ante): r 3. For these purposes, 'principal area' means, in England, a county, district or London borough and, in Wales, a county or county borough: r 2(1). As to such areas and their councils see LOCAL GOVERNMENT vol 69 (2009) PARA 22 et seq; LONDON GOVERNMENT vol 29(2) (Reissue) PARAS 30, 35-39, 59 et seq.

In the application of the parliamentary elections rules to the election of councillors of the council of a parish or community where the poll at that election is not taken together with the poll at another election, adaptations, alterations and exceptions must be made to those rules so that the election is conducted in accordance with the rules set out in the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 (see PARA 218 et seq ante): r 3. A poll consequent on a parish meeting is taken by ballot in accordance with rules made by the Secretary of State; and the provisions of the rules with respect to the elections of parish councillors under the Representation of the People Act 1983 s 36 (as amended) and of the enactments mentioned in s 187(1) (as amended) (ie s 60, s 62A (as added) and s 66 (as amended), Pt II (ss 67-119) (as amended), Pt III (ss 120-186) (as amended), and s 189), subject to any adaptations, alterations or exceptions made by the first-mentioned rules, apply in the case of a poll so taken as if it were a poll for the election of parish councillors: see the Local Government Act 1972 s 99, Sch 12 para 18(5), Sch 12 para 34(5); and LOCAL GOVERNMENT vol 69 (2009) PARA 638. In the application of the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, by virtue of the Interpretation Act s 17(2)(b), to a poll consequent on a parish or community meeting, adaptations, alterations and exceptions must be made to those rules so that the poll is conducted in accordance with the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule (as amended) (see PARA 214 et seq ante): r 5. In the application of those provisions of the Representation of the People Act 1983 mentioned in s 187(1) (as amended), references to the proper officer of the authority for which the election was held must be taken as references to the returning officer (Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(b)); and references to an election under the local government Act are deemed to include a reference to a poll consequent on a parish or community meeting (r 6(g)). For the meaning of 'election under the local government Act' see PARA 10 note 2 ante. As to other modifications that apply in this case see r 6(c)-(f). As to a poll consequent on a parish or community meeting taken on a question other than any appointment to office see PARA 558 et seq post. As to parishes and their councils see LOCAL GOVERNMENT vol 69 (2009) PARA 27 et seq; and as to communities and their councils see LOCAL GOVERNMENT vol 69 (2009) PARA 41 et seq.

7 As to the Greater London Authority see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 79 et seq.

8 Representation of the People Act 1983 s 36(2A)(a) (s 36(2A), (2B) added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 4(1), (2)). For the meaning of 'Authority election' see PARA 10 ante.

9 Representation of the People Act 1983 s 36(2A)(b) (as added: see note 8 supra). For the meaning of 'London member' (of the London Assembly) see PARA 10 note 5 ante. As to filling vacancies in the offices of London members of the London Assembly see PARA 211 et seq ante.

10 Ibid s 36(2A) (as added: see note 8 supra). The rules so made need not comply with the requirements of the Representation of the People Act 1983 s 36(2) (see the text and note 3 supra) (s 36(2A) (as so added)); and the provision that may be made by such rules as regards lists of candidates submitted under the Greater London Authority Act 1999 s 4(6), Sch 2 para 5(2) (election of London members of the London Assembly: see PARA 233 ante) includes provision for or in connection with the inclusion, withdrawal, addition or removal of persons and cases where a person included in such a list is or becomes, or seeks to become, an individual candidate to be a London member of the London Assembly (Representation of the People Act 1983 s 36(2B) (as so added)). As to the rules so made under s 36(2) (as amended) and s 36(2A), (2B) (as added) see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427. For these purposes, the 'constituency members election rules' means the rules set out in r 3(1), Sch 1 (as amended); the 'London members election rules' means the rules in r 3(2), Sch 2 (as amended); the 'mayoral election rules' means the rules in r 3(3), Sch 3 (as amended); and the 'ordinary elections rules' means the rules in r 3, Sch 4: r 2(1). To avoid confusion, in this work the mayoral elections rules are referred to as the London mayoral elections rules: cf the 'local authority mayoral elections rules'; and note 12 infra. An election held under one or more of the constituency members election rules, the London members election rules, the mayoral election rules and the ordinary elections rules is known as a 'GLA election': r 2(1).

The constituency members election rules have effect for the purposes of the election of constituency members of the London Assembly, whether at an ordinary election or in the circumstances mentioned in the Greater London Authority Act 1999 s 10 (filling a vacancy in an Assembly constituency: see PARA 211 ante); but where the election is an ordinary election, those rules have effect subject to the ordinary elections rules: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1). The London members election rules, with the exception of Pt VII (rr 54-58) (list candidates and the filling of vacancies: see PARA 211 ante), have effect for the purposes of the allocation of seats for London members of the London Assembly at any ordinary election; and Pt VII has effect for the purposes of the Greater London Authority Act 1999 s 11 (filling a vacancy among the London members: see PARA 211 ante); but where the election is an ordinary election, those rules have effect subject to the ordinary elections rules: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2). The mayoral election rules have effect for the purposes of: the election of the Mayor of London; and any

election under the Greater London Authority Act 1999 s 16(2) (filling a vacancy in the office of Mayor: see PARA 211 ante), but where the election is an ordinary election, those rules have effect subject to the ordinary elections rules: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3). Where some or all of the votes cast at an ordinary election or an election under the Greater London Authority Act 1999 s 16(2) are to be counted by electronic means, the constituency members election rules, the London members election rules and the mayoral election rules have effect subject to the modifications set out in the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 6(1), Sch 6: r 6(1). The rules are also modified where an election for the return of the Mayor of London or for the return of an Assembly member is taken together with the poll at a parliamentary election, European parliamentary election or local government election (other than a GLA election) under the Representation of the People Act 1985 s 15(1), (2) (see PARA 21 et seq ante) or the poll at a local authority mayoral election or referendum in accordance with regulations made under the Local Government Act 2000 ss 44-45, 105 (as amended) (see the text and notes 11-12 infra): Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 8 (substituted by SI 2004/227). As to the rules so modified see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)-(3) (substituted by r 8 (as so substituted)), and Sch 8 (constituency members election rules where polls are combined), Sch 9 (London members election rules where polls are combined), Sch 10 (mayoral election rules where polls are combined), Sch 11 (electronic counting of votes where polls are combined); and PARA 22 et seq ante. For the meaning of 'constituency member' (of the London Assembly) see PARA 10 note 6 ante. As to ordinary elections of the Mayor of London and constituency members of the London Assembly see PARA 206 et seq ante. As to party lists of candidates to be London members see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 98; and as to individual candidates to be London members see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 99.

11 See the Local Government Act 2000 s 44(1); and LOCAL GOVERNMENT vol 69 (2009) PARA 320. For the meanings of 'elected executive member' and 'elected mayor' see LOCAL GOVERNMENT vol 69 (2009) PARA 320. As to the regulations so made see the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185. At the date at which this volume states the law, no regulations had been made in relation to the return of executive members in England and Wales. As to the rules for combining polls at such an election with that at another election or referendum see PARA 26 ante.

12 Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1). For these purposes, 'mayoral election' means an election for the return of an elected mayor; and 'mayoral elections rules' means the rules that are set out in Sch 1 (as amended): reg 2(1). To avoid confusion, in this work these rules are referred to as the 'local authority mayoral elections rules': cf the 'London mayoral elections rules'; and note 10 supra. The Representation of the People Act 1983, the Representation of the People Act 1985, the Representation of the People Act 2000, the Political Parties, Elections and Referendums Act 2000, the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) and the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, have effect, in relation to a mayoral election in England, as they have effect in relation to an election of councillors for any county electoral division or district or London borough ward and, in relation to a mayoral election in Wales, as they have effect in relation to an election of councillors for any county electoral division or county borough ward, subject to the modifications set out in the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 2: reg 3(2). However, for the purposes of the Representation of the People Act 2000 s 44(4), the Representation of the People Act 1983 Pt III (ss 120-186) (as amended) (legal proceedings: see PARA 759 et seq post) has effect in relation to the questioning of an election for the return of an elected mayor as it has effect in relation to the questioning of an election under the local government Act: see the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 6; and PARA 761 post. As to the establishment of electoral areas for the purpose of local government elections in England and Wales see PARA 73 ante; as to the election of councillors for local government principal areas see PARA 204 et seq ante. As to elections for the return of a local authority mayor see PARA 205 et seq ante.

13 As to ordinary general elections to the National Assembly for Wales see PARA 220 et seq ante.

14 See the Government of Wales Act 2006 s 13(1); and PARA 12 ante. The provisions of the Government of Wales Act 2006 are to come into force immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes until that date see the Government of Wales Act 1998 s 11(1). For the meaning of 'Assembly member' in the context of Welsh Assembly elections see PARA 12 ante. As to the rules for combining polls at such an election with that at another election or referendum see PARA 28 ante.

15 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

16 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1). The text refers to the rules provided under art 16(1), Sch 5 (as amended).

17 See the European Parliamentary Elections Act 2002 s 7(1); and PARA 13 ante. As to European parliamentary elections see PARA 224 et seq ante. As to the rules for combining polls at such an election with that at another election or referendum see PARA 28 ante.

18 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1). For these purposes, 'European parliamentary elections rules' means the rules in reg 9(1), Sch 1 (as amended): reg 2(1).

19 As to the designation and appointment of returning officers generally see PARA 355 et seq ante.

20 See PARA 355 et seq ante.

UPDATE

388-396 Rules for the conduct of elections ... Equipment of polling stations

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

388 Rules for the conduct of elections

NOTES 11, 12--SI 2002/185 regs 2, 3, 6, Sch 1 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, regs 2, 3, 6, 7, Sch 1.

NOTE 18--SI 2004/293 reg 2(1) substituted: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/A. IN GENERAL/389. Method of election.

(vi) Contested Elections

A. IN GENERAL

389. Method of election.

At a parliamentary¹ or Welsh Assembly constituency election², if the statement of persons nominated³ shows more than one person standing nominated, a poll must be taken in accordance with the appropriate election rules⁴. A poll must be taken in accordance with the appropriate rules⁵ at a local government election⁶ if the number of persons remaining validly nominated for the electoral area⁷ or London Assembly constituency⁸ after any withdrawals under the rules exceeds the number of councillors or London Assembly constituency members to be elected⁹. If the number of candidates remaining at a poll consequent on a parish meeting on a question involving appointment to office, after any withdrawals, exceeds the number of persons to be elected, the poll must be taken¹⁰.

If the number of persons remaining validly nominated at an election for the return of London members of the London Assembly or at a Welsh Assembly regional election¹¹ or at a European parliamentary election¹², after any withdrawals under the appropriate rules¹³, exceeds the number of seats available for allocation, then, unless all of those persons are named on the same party list¹⁴, a poll must be taken in accordance with the rules¹⁵.

If, after any withdrawals under the appropriate rules at a local authority or London mayoral election¹⁶, two or more candidates remain validly nominated, a poll must be taken in accordance with the rules¹⁷.

If the number of persons remaining validly nominated after any withdrawals under the appropriate rules does not exceed the number of offices available to be filled in the election, such person or persons must be declared to be elected in accordance with the appropriate rules¹⁸.

1 For the meaning of 'parliamentary election' see PARA 9 ante. As to parliamentary elections see PARA 196 et seq ante.

2 For the meaning of 'constituency election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

3 As to the statement of persons nominated see PARA 272 ante.

4 Representation of the People Act 1983 s 23(1), Sch 1 r 17(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 20(a). The text refers to the rules set out, in relation to a parliamentary election, in the Representation of the People Act 1983 Sch 1 Pt III rr 18-49 (as amended) or, in relation to a Welsh Assembly election, in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 Pt III paras 22-56 (see PARA 390 et seq post). As to the appropriate rules for use in parliamentary and Welsh Assembly constituency elections see PARA 388 ante. As to uncontested elections see PARA 477 post.

5 As to the appropriate rules for use in local government elections see PARA 388 ante.

6 Ie excluding an election for the return of London members of the London Assembly (as to which see the text and notes 11-15 infra) or an election for the Mayor of London (as to which see the text and notes 16-17

infra). For the meanings of 'local government election' and 'London member' (of the London Assembly) see PARA 10 ante. As to elections for the return of London members of the London Assembly and the London Mayor see PARA 206 et seq ante.

7 For the meaning of 'electoral area' see PARA 10 ante.

8 For the meaning of 'Assembly constituency' in the context of elections to the London Assembly see PARA 10 ante.

9 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), Sch 1 r 13(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 14(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 14(1). In relation to local government elections for principal areas, the text refers to the rules in the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 Pt 3 rr 15-49; in relation to local government elections for parishes and communities, the text refers to the rules in the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 Pt 3 rr 15-49; and, in relation to an election for the return of constituency members of the London Assembly, the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 Pt IV rr 14-44 (as amended) (see PARA 390 et seq post). At an election for the return of constituency members of the London Assembly, a contested election must be held if the number of persons remaining validly nominated for the constituency exceeds one: Sch 1 r 13(1). For the meaning of 'constituency member' in this context see PARA 10 note 6 ante. As to the election of councillors for local government principal areas see PARA 204 et seq ante; as to ordinary elections of constituency members of the London Assembly see PARA 206 et seq ante; and as to the election of councillors for parish or community councils see PARA 207 et seq ante.

10 This is the sense of the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 3(2) (see PARA 477 post). As to polls consequent on a parish meeting generally see PARA 207 et seq ante.

11 For the meaning of 'regional election', in relation to a Welsh Assembly election, see PARA 3 note 1 ante.

12 As to European parliamentary elections see PARA 224 et seq ante.

13 As to the appropriate rules for use in Welsh Assembly regional elections, elections for the return of London members of the London Assembly or European parliamentary elections see PARA 388 ante.

14 As to references to party lists in Welsh Assembly regional elections see PARA 237 note 23 ante; and as to references to party lists in elections for the return of London members of the London Assembly see PARA 262 note 24 ante. In the case of a European parliamentary election, the reference is to a registered party's list; and for the meanings of 'registered party' and 'list' in this context see PARA 237 note 30 ante.

15 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 2 r 14; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 21(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 19(1).

The text refers to the rules, in relation to an election for the return of London members of the London Assembly, in the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 Pt IV rr 15-47 (as amended) or, in relation to a Welsh Assembly election, in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 Pt III paras 22-56 or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 Pt 3 paras 20-55 (as amended) (see PARA 390 et seq post).

16 Ie, in relation to a local authority mayoral election, the local authority mayoral election rules and, in relation to the election for the Mayor of London, the London mayoral election rules (see PARA 388 ante).

17 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 14; Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 14. If only two candidates remain as referred to in the text, the poll in relation to the election of the Mayor of London is taken in accordance with the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 Pt IV rr 15-47 (as amended) or, in relation to a local authority mayoral election, in accordance with the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 Pt IV regs 15-45 (as amended) (see PARA 390 et seq post); but, if more than two candidates remain as referred to in the text, the poll is taken in accordance with the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 Pt IV rr 15-47 (as amended) and Pt V rr 48-49 or the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 Pt IV regs 15-45 (as substituted and amended) and Pt V regs 46-47 (see PARA 458 et seq post): Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 14(a), (b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 14(a), (b).

18 See PARA 477 et seq post.

UPDATE

388-396 Rules for the conduct of elections ... Equipment of polling stations

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

389-411 Method of election ... Returning officer's duty to issue postal ballot papers, etc

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

389 Method of election

NOTE 17--SI 2002/185 reg 3(1), Sch 1 rr 14-47, now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 rr 16-53.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/A. IN GENERAL/390. Poll to be taken by secret ballot.

390. Poll to be taken by secret ballot.

Polling takes place between the hours of seven in the morning and ten at night on the day of election¹, except in the case of a local authority mayoral election, when polling takes place between the hours of eight in the morning and nine at night on the day of election². At a poll consequent on a parish meeting, polling takes place between the hours of four in the afternoon and nine at night on the day fixed for the poll³. The votes at the poll at any such election⁴ must be given by ballot⁵.

The register of electors is conclusive as to certain questions in connection with a person's entitlement to vote⁶; and a person entitled to vote as an elector is entitled to vote by post or by proxy at the election if he is shown in the absent voters list for the election as so entitled⁷. A person registered as an elector or entered in the list of proxies must not be excluded from voting on the ground of legal incapacity⁸. If, however, an entry in the register shows that the person named will attain voting age on a given date and the date fixed for the poll falls before the date, the entry is conclusive that he is not entitled to be treated as an elector until the date given, and accordingly a ballot paper must not be delivered to him⁹. No misnomer or inaccurate description of any person or place named in the register affects the full operation of it with respect to that person or place in any case where the description of the person or place is such as to be commonly understood¹⁰.

No inquiry is permitted as to the right of any person to vote except so far as the voter may be asked the prescribed questions¹¹. No person who has voted at such an election may, in any legal proceeding to question the election, be required to state for whom he has voted¹². Nor may a person who has voted at a poll consequent on a parish or community meeting, in any legal proceedings to question such a poll, be required to say how or for whom he has voted¹³. It is an offence to obtain or attempt to obtain in a polling station information as to the candidate for whom a voter votes or to communicate information so obtained¹⁴. The returning officer¹⁵ must make such arrangements as he thinks fit to ensure that: (1) every person attending at a polling station (otherwise than for the purpose of voting or assisting a voter with disabilities (or a blind voter) to vote¹⁶ or as a constable on duty there)¹⁷; and (2) every person attending at the counting of the votes including those attending at the verification of ballot paper accounts at a European parliamentary election (otherwise than as a constable on duty at the counting or at any verification)¹⁸, has been given a copy in writing of the statutory provisions relating to the requirement of secrecy that apply to attendance at a polling station or at the counting of votes (as the case may be)¹⁹.

1 Representation of the People Act 1983 s 23(1), Sch 1 r 1 (amended by the Representation of the People Act 1985 s 24, Sch 4 para 73); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), Sch 1 r 3(1) (amended by SI 2001/3789); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 2 r 3(1) (amended by SI 2001/3789); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 3(1) (amended by SI 2001/3789); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 1(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 1; Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 1; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 1. Votes which are given by post must also reach either the returning officer or the polling station by the close of poll: see PARA 425 post.

The provision set out in the text applies to a parliamentary election, an Authority election or an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), a

local government election, a constituency or regional election for the return of members of the National Assembly for Wales and a European parliamentary election. For the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'Authority election' see PARA 10 ante; and for the meaning of 'election under the local government Act' see PARA 10 note 2 ante. For the meaning of 'local government election' see PARA 10 ante. As to elections in the City of London see PARA 30 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante. As to elections to the National Assembly for Wales see PARA 220 et seq ante. As to European parliamentary elections see PARA 224 et seq ante. As to the date of the poll at a parliamentary general election or by-election see PARA 202 ante; as to the date of the poll at local government elections (including elections to fill vacancies) see PARAS 213-216 ante; as to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see PARAS 220-221 ante; and as to the date of the poll at a European parliamentary election see PARA 229 ante.

It is not illegal for an employer to permit electors or their proxies to absent themselves from his employment for a reasonable time for the purpose of voting at the poll at an election without having any deduction from their salaries or wage on account of their absence but the permission must adhere to certain conditions if it is not to be taken as a form of bribery: see PARA 715 post.

2 Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 3. As to elections for the return of a local authority mayor and the date of the poll at such an election see PARA 205 ante.

3 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 1. As to polls consequent on a parish meeting see PARA 207 et seq ante; and as to the date of the poll consequent on a parish meeting on a question involving appointment to office see PARA 214 ante.

4 le including an election for the return of a local authority mayor and a poll consequent on a parish meeting on a question which involves appointment to office: see notes 1-3 supra.

5 Representation of the People Act 1983 Sch 1 r 18; Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 14, Sch 2 r 15, Sch 3 r 15; Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 15; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 22(1), (2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 20; Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 15; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 15. As to polls consequent on a parish meeting see the Local Government Act 1972 s 99, Sch 12 Pt III para 18(5), Pt V para 34(5); and LOCAL GOVERNMENT vol 69 (2009) PARA 638. As to the manner of voting at elections see PARAS 368-371 ante.

6 See PARA 162 ante.

7 See PARA 371 ante. For the purposes of the statutory provisions governing elections, a voter is defined as a person voting at an election and includes a person voting as proxy (but not necessarily a person voting by proxy): in relation to parliamentary and local government elections, see PARA 110 note 2 ante; in relation to Welsh Assembly elections, see PARA 124 note 5 ante; and in relation to European parliamentary elections, see PARA 125 note 6 ante. To indicate that an elector or his proxy is entitled to vote by post and is for that reason not entitled to vote in person, the letter 'A' is placed against the name of that elector in any copy of the register, or part of it, provided for a polling station: see PARAS 382, 387 ante.

8 See PARA 162 ante.

9 See PARA 162 ante.

10 See PARA 159 ante.

11 See PARA 403 post.

12 Representation of the People Act 1983 Sch 1 r 21; Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 17, Sch 2 r 18, Sch 3 r 18; Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 18; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 27; European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 23; Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 19; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 19.

At a parliamentary, Welsh Assembly or European parliamentary election, the legal proceedings might also be to question the return: Representation of the People Act 1983 Sch 1 r 21; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 27; European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 23.

13 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 6.

14 See PARA 742 et seq post.

15 As to returning officers for elections generally see PARA 355 et seq ante.

16 As to companions assisting voters with incapacities see PARA 407 post.

17 Representation of the People Act 1983 Sch 1 r 31(a) (Sch 1 r 31 substituted by the Representation of the People Act 1985 s 24, Sch 4 para 80); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 13(a); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 26(a), Sch 2 r 27(a), Sch 3 r 27(a) (all amended by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 27(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 36(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 32(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 28(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 28(a). As to constables on duty see PARA 402 post.

18 Representation of the People Act 1983 Sch 1 r 31(b) (as substituted: see note 17 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 13(b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 26(b), Sch 2 r 27(b), Sch 3 r 27(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 27(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 36(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 32(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 28(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 28(b).

19 Representation of the People Act 1983 Sch 1 r 31(a), (b) (as substituted: see note 17 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 13(a), (b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 26(a), (b), Sch 2 r 27(a), (b), Sch 3 r 27(a), (b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 27(a), (b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 36(a), (b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 32(a), (b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 28(a), (b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 28(a), (b). The text refers: (1) for the purposes of those attending at a polling station, to the requirement of secrecy set out in the Representation of the People Act 1983 s 66(1), (3), (6) (as amended) or, in relation to Welsh Assembly elections, the requirement set out in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(1), (3), (6) or, in relation to European parliamentary elections, the requirement set out in the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(1), (4), (7) (see PARAS 742, 744 post); and (2) for the purposes of those attending the counting of the votes (including the verification of ballot paper accounts at a European parliamentary election), to the requirement of secrecy set out in the Representation of the People Act 1983 s 66(2), (6) (as amended) or, in relation to Welsh Assembly elections, the requirement set out in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(2), (6) or, in relation to European parliamentary elections, the requirement set out in the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(2), (3), (7) (see PARA 743 post). At a poll consequent on a parish or community meeting, the provisions relating to the requirement of secrecy are subject to the adaptations, alterations and exceptions in the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(e) (as to which see PARA 388 ante); Schedule r 13(a).

UPDATE

388-396 Rules for the conduct of elections ... Equipment of polling stations

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

389-411 Method of election ... Returning officer's duty to issue postal ballot papers, etc

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

390 Poll to be taken by secret ballot

NOTES--SI 2002/185 reg 3(1), Sch 2 rr 3, 15, 18, 27 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 2 rr 3, 17, 21, 30.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/A. IN GENERAL/391. Form and printing of ballot papers.

391. Form and printing of ballot papers.

The ballot of every voter at an election¹ consists of a ballot paper² which must be in the prescribed form and must be printed in accordance with the prescribed directions³.

Those entitled to have their names inserted in the ballot paper are: (1) at a parliamentary, London Assembly constituency or Welsh Assembly constituency election, those persons shown in the statement of persons nominated as standing nominated for the constituency, and no others⁴; (2) at a local government election, those persons remaining validly nominated for the electoral area, after any withdrawals, and no others⁵; (3) at an election for the return of a local authority mayor or Mayor of London, those persons remaining validly nominated for election to the office of mayor, after any withdrawals, and no others⁶; (4) at a London Assembly London members election, after any withdrawals, each registered party whose party list includes persons who remain validly nominated as list candidates⁷ and the persons remaining validly nominated as individual candidates at that election⁸; (5) at a Welsh Assembly regional election, those persons shown in the statement of persons nominated as standing nominated (whether as individual or party list candidates), and no others⁹, and the registered political parties which have submitted a party list shown in the statement of persons nominated, and no others¹⁰; and (6) at a European parliamentary election, the registered parties, together with their candidates shown in the statement of parties and individual candidates nominated and the individual candidates so shown as standing nominated, and no others¹¹. There is authority to the effect that where the name of a candidate who had withdrawn was retained on a ballot paper, the election was avoided¹².

The ballot paper at an election¹³ must contain: (a) the names and other particulars¹⁴ of the individual candidates as shown in the statement of persons nominated, with the names in the order as shown in that statement¹⁵; and (b) in the case of a London Assembly London members election, a Welsh Assembly regional election or a European parliamentary election, the names (or descriptions) of the registered political parties together with the names of the candidates included on those parties' lists, with the descriptions (and, in respect of each such description of a registered political party, the names of the party list candidates) in the same order as in the statement of persons nominated¹⁶. At a poll consequent on a parish meeting taken on a question of appointment to any office, the ballot paper must contain full names, home addresses and, if required, descriptions of the candidates arranged alphabetically in the order of their surnames and, if there are two or more of them with the same surname, of their other names¹⁷.

¹ ie at a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), a local government election, an election for the return of a local authority mayor, a constituency or regional election for the return of members of the National Assembly for Wales and a European parliamentary election. Polls consequent on a parish meeting on a question involving appointment to office (as to which see PARA 207 et seq ante) are also considered. For the meaning of 'parliamentary election' see PARA 9 ante; for the meanings of 'Authority election' and 'local government election' see PARA 10 ante; and for the meaning of 'election under the local government Act' see PARA 10 note 2 ante. As to elections in the City of London see PARA 30 ante. As to elections for the return of a local authority mayor see PARA 205 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante. As to elections to the National Assembly for Wales see PARA 220 et seq ante. As to European parliamentary elections see PARA 224 et seq ante.

2 Representation of the People Act 1983 s 23(1), Sch 1 r 19(1); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 4(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)-(3), Sch 1 r 15(1), Sch 2 r 16(1), Sch 3 r 16(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 16(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 paras 23(1), 24(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 21(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 16(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 16(1).

3 Representation of the People Act 1983 Sch 1 r 19(2); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 4(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 15(2), Sch 2 r 16(1), (3)(a), Sch 3 r 16(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 16(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 paras 23(3), 24(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 21(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 16(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 16(2).

For the prescribed forms of ballot paper see the Representation of the People Act 1983 Sch 1 Appendix (Form of ballot paper and directions as to printing the ballot paper) (amended by the Representation of the People Act 1985 s 24, Sch 4 paras 84, 85; the Welsh Language Act 1993 s 35(4); the Registration of Political Parties Act 1998 s 13, Sch 2 paras 5, 6, Appendix; and the Electoral Administration Act 2006 ss 30(1), (3), 31(1), (9), 47, 74(2), Sch 1 paras 69, 93(1), (2), Sch 2); the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 Appendix of Forms (Form of front and back of ballot paper, directions as to printing the ballot paper), r 4, Sch 3 Appendix of Forms (Form of front and back of ballot paper, directions as to printing the ballot paper) (where such a poll is taken together with another relevant election or referendum); the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 Appendix of Forms (Form of front and back of ballot paper, directions as to printing the ballot paper), r 4, Sch 3 Appendix of Forms (Form of front and back of ballot paper, directions as to printing the ballot paper) (where such a poll is taken together with another relevant election or referendum); the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule Appendix of Forms (Form of ballot paper on a question of appointment to an office and directions as to printing the ballot paper) (amended by SI 1987/262); the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 4, Sch 5 (Form 5: ballot paper for constituency members elections and directions as to printing the ballot paper; Form 6: ballot paper for London members elections and directions as to printing the ballot paper; Form 7: ballot paper for mayoral elections and directions as to printing the ballot paper); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 4(1), Sch 1 Appendix of Forms (Form 3: ballot paper (two candidates) and directions as to printing the ballot paper; Form 4: ballot paper (three or more candidates) and directions as to printing the ballot paper); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 Appendix of Forms (Form of ballot paper: constituency election, directions as to printing the ballot paper: constituency election; Form of ballot paper: regional election, directions as to printing the ballot paper: regional election); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 Appendix of Forms (Form of ballot paper, directions as to printing the ballot paper). As to parliamentary elections taking place in Wales see also the Parliamentary Elections (Welsh Forms) Order 2005, SI 2005/1105, arts 4, 6(1)(a), Sch 2 (Form 1: Form of back of ballot paper); as to principal area council elections taking place in Wales see also the Elections (Welsh Forms) Order 1995, SI 1995/830, art 4; as to community council elections taking place in Wales see also art 5; and as to European parliamentary elections taking place in Wales see also the European Parliamentary Elections (Welsh Forms) Order 2004, SI 2004/1373, art 6, Sch 2 (Form 1: Form of back of ballot paper).

In the case of a parliamentary election, the Secretary of State may in regulations prescribe a different form of ballot paper from that in the Representation of the People Act 1983 s 23(1), Sch 1 Appendix, amend or replace the directions as to printing the ballot paper in the Appendix and, in consequence of anything done for those purposes, amend or replace in the Appendix the form of directions for the guidance of the voters in voting: Sch 1 r 19(4) (added by the Electoral Administration Act 2006 s 30(1), (2)). Provision is made also for the Secretary of State to make a pilot order for the purposes of enabling ballot papers issued at such local government elections as are specified in the order to contain photographs of the candidates and for any such scheme to be evaluated and to be applied on a permanent basis in relation to specified elections: see the Electoral Administration Act 2006 ss 32-34; and PARAS 516-518 post. As to the Secretary of State see PARA 2 ante.

Any amendment effected by ss 30, 31(1) or by Sch 1 paras 69, 93(1), (2), Sch 2 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

4 Representation of the People Act 1983 Sch 1 r 19(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 23(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 15(1). As to the statement of persons nominated see PARA 272 ante.

5 Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 16(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 16(1).

6 Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 16(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 16(2).

7 Ibid Sch 2 r 16(2)(a).

8 Ibid Sch 2 r 16(2)(b).

9 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 24(2)(a).

10 Ibid Sch 5 para 24(2)(b). A registered party so entitled has its description (see Sch 5 para 7(2); and PARA 263 ante) inserted in the ballot paper.

11 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 21(1).

12 *Wilson v Ingham* (1895) 64 LJ QB 775, DC.

13 As to a poll consequent on a parish meeting taken on a question of appointment to any office see the text and note 17 infra.

14 In the case of a Welsh Assembly regional election and a European parliamentary election, the descriptions of the individual candidates (rather than their particulars) are specified: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 24(3)(a); and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 21(2)(a).

If a request is duly made, the ballot paper must contain, against the particulars of a candidate who is the subject of a party's authorisation (see PARA 263 ante), the party's registered emblem (or, as the case may be, one of the party's registered emblems): Representation of the People Act 1983 Sch 1 r 19(2A) (Sch 1 r 19(2A), (2B) added by the Registration of Political Parties Act 1998 s 13, Sch 2 para 4); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 15(3), Sch 2 r 16(5), Sch 3 r 16(4); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 16(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 23(5); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 16(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 16(3). Except in the case of a Welsh Assembly constituency election, such a request must be made in writing to the returning officer and be received by him during the period for delivery of nomination papers (as to which see PARA 267 ante): Representation of the People Act 1983 Sch 1 r 19(2B) (as so added); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 15(4), Sch 2 r 16(6), Sch 3 r 16(5); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 16(5); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 16(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 16(4).

15 Representation of the People Act 1983 Sch 1 r 19(2)(a), (3); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 15(2)(a), (5), Sch 2 r 16(3)(b), (7), Sch 3 r 16(3)(b), (6); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 16(3)(a), (6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 paras 23(3)(a), (4), 24(3)(a), (4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 21(2)(a), (5); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 16(2)(a), (5); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 16(2)(a), (5).

In the case of a London Assembly London members election, it is specified that, after the names of the registered parties alphabetically arranged, the names of the individual candidates must be arranged in order of their surnames and, if there are two or more of them with the same surname, of their other names: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 16(7). This reiterates the arrangement that is specified for the statement of persons nominated: see PARA 272 ante. In the case of an election of a local authority elected mayor or of the Mayor of London, it is specified that the names of the candidates must be arranged alphabetically in the order of their surnames and, if there are two or more of them with the same surname, of their other names: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 16(6); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 16(6).

16 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 16(3)(b), (7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 24(3)(b), (4)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 21(2)(a), (5). In the case of a London Assembly London members election see also note 15 supra.

If a request is duly made (see PARA 263 ante), the registered political party's registered emblem (or, as the case may be, one of the party's registered emblems) must be shown on the ballot paper against the party's name or (as the case may be) description: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 16(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 24(5);

European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 21(3). Except in the case of a Welsh Assembly regional election, such a request must be made in writing to the returning officer and be received by him during the period for delivery of nomination papers (as to which see PARA 267 ante): Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 16(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 21(4).

17 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 4(2)(a).

UPDATE

388-396 Rules for the conduct of elections ... Equipment of polling stations

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

389-411 Method of election ... Returning officer's duty to issue postal ballot papers, etc

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

391 Form and printing of ballot papers

NOTES--SI 2002/185 regs 3(1), 4(1), Sch 1 r 16, Appendix of Forms, Forms 3, 4 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, regs 3(1), 4(1), Sch 1 r 18, Appendix of Forms, Forms 3, 4.

NOTE 3--SI 2005/1105 replaced: Parliamentary Elections (Welsh Forms) Order 2007, SI 2007/1014. SI 2004/1373 replaced: see European Parliamentary Elections (Welsh Forms) Order 2009, SI 2009/781, art 6(1)(a), Sch 2 (Form 1: Form of back of ballot paper). Representation of the People Act 1983 Sch 1, Forms (Form of front of ballot paper and directions as to printing the ballot paper) further amended: Political Parties and Elections Act 2009 Sch 6 para 8.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/A. IN GENERAL/392. Security measures associated with the ballot paper.

392. Security measures associated with the ballot paper.

The ballot paper to be used at a parliamentary election¹, or at local government elections for principal areas, parishes and communities², must have a number and other unique identifying mark printed on the back³ and the returning officer⁴ must prepare a list (the 'corresponding number list')⁵ containing the numbers and other unique identifying marks of all of the ballot papers which either are to be issued by him to those entitled to vote by post⁶ or are to be provided by him to each presiding officer for use at polling stations⁷. The ballot paper to be used at any other election⁸ must have a number printed on the back⁹ and must have attached a counterfoil with the same number printed on it¹⁰. At elections where voters may cast more than one vote, the ballot paper must have such other distinguishing features as may be specified¹¹.

The ballot paper to be used at any election must be capable of being folded up¹².

Every ballot paper to be used at a parliamentary election, or at local government elections for principal areas, parishes and communities, must contain an appropriate security marking (the official mark)¹³; at any other election, every ballot paper must be marked with an official mark which must perforate the ballot paper¹⁴. The official mark must be kept secret and the same mark may be used only subject to the following constraints¹⁵: (1) at a parliamentary election, an interval of not less than seven years must intervene between the use of the same official mark at elections for the same constituency¹⁶; (2) at a local government election or at a local authority mayoral election, an interval of not less than five years must intervene between the use of the same official mark for elections in the same county, county borough district, London borough, parish or community, or between the use of the same official mark at any Authority election, as the case may be¹⁷; (3) at a poll consequent on a parish meeting taken on a question of appointment to any office, the same official mark must not be used at consecutive polls in the same parish¹⁸; (4) at a Welsh Assembly election, an interval of not less than seven years must intervene between the use of the same official mark at elections for the same Assembly constituency or, in relation to the same Assembly constituency, at elections in the same Assembly electoral region¹⁹; and (5) at a European parliamentary election, an interval of not less than seven years must intervene between the use of the same official mark at elections for the same local counting area²⁰. The returning officer at a parliamentary election, or at local government elections for principal areas, parishes and communities, may use a different official mark for different purposes at the same election²¹; at any other election, it is specified that the official mark used for ballot papers issued for the purpose of voting by post must not be used at the same election for ballot papers issued for the purpose of voting in person²².

1 For the meaning of 'parliamentary election' see PARA 9 ante. As to the form and printing of ballot papers see PARA 391 ante.

2 As to the ordinary election of councillors for local government principal areas see PARA 204 et seq ante; and as to ordinary elections of councillors for parishes or communities see PARA 207 et seq ante. As to London Authority elections see the text and notes 8-11 infra. For the meanings of 'Authority election' and 'local government election' see PARA 10 ante.

3 Representation of the People Act 1983 s 23(1), Sch 1 r 19(2)(c) (amended by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 87); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 16(2)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 16(2)(c).

Any amendment effected by the Electoral Administration Act 2006 s 31 or Sch 1 paras 69, 87 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

4 As to the returning officer at parliamentary elections see PARA 355 et seq ante; and as to the returning officer appointed for the purposes of local government elections see PARA 359 et seq ante.

5 For the purposes of a parliamentary election, the list must be in such form as the Secretary of State in regulations prescribes: Representation of the People Act 1983 Sch 1 r 19A(2) (Sch 1 r 19A added by the Electoral Administration Act 2006 s 31(1), (2)). As to the commencement of this provision see note 3 supra. Accordingly, the form of the corresponding number list to be prepared by a returning officer under the Representation of the People Act 1983 Sch 1 r 19A (as added) must be in the form set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Sch 3 (Form L1: corresponding number list for use at parliamentary election taken alone) (added by SI 2006/2910): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 63A(1) (added by SI 2006/2910). As to the Secretary of State see PARA 2 ante. When a parliamentary election is combined with another poll under the Representation of the People Act 1985 s 15 (as amended) (see PARAS 21-22 ante) or under the Local Government Act 2000 s 44(2) (provision for the combination of polls at elections for the return of elected mayors and at elections for the return of elected executive members: see PARA 26 ante) or under s 45(6) (provision for the combination of polls at referendums with polls at any elections: see PARA 27 ante), the corresponding number list to be prepared by a returning officer under the Representation of the People Act 1983 Sch 1 r 19A (as added) must be in the form set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Sch 3 (Form M1: corresponding number list for use when parliamentary election combined with a relevant election or referendum) (added by SI 2006/2910): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 63A(3) (added by SI 2006/2910). The regulation refers to polls that are combined under the Local Government Act 2000 s 44(2) or s 44(6), but it is submitted that a reference to s 45(6) is intended.

For the purposes of local government elections for principal areas, the corresponding number list must be in the appropriate form, or a form to like effect (see the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 17(2), Appendix of Forms (Form L1: corresponding number list to be used at a local government election taken alone)); and where such elections are taken together with another relevant election or referendum see r 4, Sch 3 Appendix of Forms (Form M1: corresponding number list to be used when a local government election is combined with another election/referendum). For the purposes of local government elections for parishes and communities, the corresponding number list must be in the appropriate form, or a form to like effect (see the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 17(2), Sch 2 Appendix of Forms (Form L1: corresponding number list to be used at a parish or community election taken alone)); and where such elections are taken together with another relevant election or referendum see r 4, Sch 3 Appendix of Forms (Form M1: corresponding number list to be used when a parish or community election is combined with another election/referendum).

The amendments effected by the Representation of the People (England and Wales) (Amendment) (No 2) Regulations 2006, SI 2006/2910, do not have effect in relation to any election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see reg 1(2), (3).

6 I.e., in relation to a parliamentary election, in pursuance of the Representation of the People Act 1983 Sch 1 r 24(1) (as substituted) or, in relation to a local government election for a principal area, in pursuance of the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 22(1) or, in relation to a local government election for a parish or community council, in pursuance of the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 22(1) (see PARA 411 post).

7 Representation of the People Act 1983 Sch 1 r 19A(1) (as added: see note 5 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 17(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 17(1). See note 3 supra. The text refers to ballot papers to be provided by the returning officer to each presiding officer, in relation to a parliamentary election, in pursuance of the Representation of the People Act 1983 Sch 1 r 29(1) or, in relation to a local government election for a principal area, in pursuance of the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(1) or, in relation to a local government election for a parish or community council, in pursuance of the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(1) (see PARA 396 post). As to presiding officers at an election see PARA 398 post.

8 I.e. at an Authority election or an election under the local government Act (see *ibid* s 202(1); and PARA 3 note 1 ante), an election for the return of a local authority mayor, a constituency or regional election for the return of members of the National Assembly for Wales and a European parliamentary election. Polls consequent on a parish meeting on a question involving appointment to office (as to which see PARA 207 et seq ante) are also considered. For the meaning of 'election under the local government Act' see PARA 10 note 2 ante. As to elections in the City of London see PARA 30 ante. As to elections for the return of a local authority mayor see PARA 205 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh

Assembly elections see PARA 3 note 1 ante. As to elections to the National Assembly for Wales see PARA 220 et seq ante. As to European parliamentary elections see PARA 224 et seq ante.

9 Parish and Community Meetings (Polls) Rules 1987, r 5, SI 1987/1, Schedule r 4(2)(d); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)-(3), Sch 1 r 15(2)(c), Sch 2 r 16(3)(d), Sch 3 r 16(3)(d); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 16(3)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 paras 23(3)(c), 24(3)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 21(2)(c).

10 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 4(2)(e); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 15(2)(d), Sch 2 r 16(3)(e), Sch 3 r 16(3)(e); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 16(3)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 paras 23(3)(d), 24(3)(e); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 21(2)(d).

11 Generally, where the polls at elections are taken together, the ballot papers must be of a different colour for each election: see the rules cited at para 16 et seq ante.

The ballot papers at an ordinary London Authority election must be of different colours according to whether the election is to be held under the constituency member election rules, the London member election rules or the mayoral election rules: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3, Sch 4 r 2(1). Where, at an ordinary election at which two (or more) polls are to be taken together, the votes are to be counted electronically, the Greater London returning officer may determine that two or more ballot papers are to appear on the same sheet of paper: Sch 4 r 2(2). As to the wording of headings of ballot papers at ordinary elections see Sch 4 r 2(3), (4). For the meaning of the 'Greater London returning officer' see PARA 218 note 7 ante; and for the meanings of 'constituency member election rules', 'London member election rules' and 'mayoral election rules' see PARA 388 ante. In the case of an election of the Mayor of London, it is specified that the ballot paper must be of a different colour from that of any ballot papers used at any other election for which the poll is taken together with that at the election: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 16(3)(a).

Where a poll consequent on a parish or community meeting on the question of appointment to any office and a poll on any other question (as to which see PARA 558 et seq post) are taken together, ballot papers of a different colour must be used for each poll: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 4(3).

In the case of a Welsh Assembly ordinary election, where a voter is entitled to give two votes, the ballot paper for each vote must be of a different colour: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 25. At a Welsh Assembly regional election, the ballot paper must also bear a mark or other distinguishing feature by which the Assembly constituency can be identified in which the vote is to be given in relation to the ballot paper: Sch 5 para 24(3)(d).

12 Representation of the People Act 1983 Sch 1 r 19(2)(b); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 4(2)(c); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 15(2)(b), Sch 2 r 16(3)(c), Sch 3 r 16(3)(c); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 16(3)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 paras 23(3)(b), 24(3)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 21(2)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 16(2)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 16(2)(b).

13 Representation of the People Act 1983 Sch 1 r 20(1) (substituted by the Electoral Administration Act 2006 Sch 1 paras 69, 88(1), (2)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 18(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 18(1).

Any amendments effected by the Electoral Administration Act 2006 Sch 1 paras 69, 88 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

14 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 5(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 16(1), Sch 2 r 17(1), Sch 3 r 17(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 17(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 26(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 22(1). Absence of the official mark invalidates the vote: see PARA 434 et seq post.

15 Representation of the People Act 1983 Sch 1 r 20(2); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 5(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 16(2), Sch 2 r 17(2), Sch 3 r 17(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 17(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 26(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 22(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 18(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 18(2). As to the offence of disclosing an official mark see PARA 742 post.

16 Representation of the People Act 1983 Sch 1 r 20(2).

17 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 16(2), Sch 2 r 17(2), Sch 3 r 17(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 17(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 18(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 18(2).

18 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 5(2).

19 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 26(2).

20 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 22(2). For the meaning of 'local counting area' see PARA 230 note 11 ante.

21 Representation of the People Act 1983 Sch 1 r 20(3) (substituted by the Electoral Administration Act 2006 Sch 1 paras 69, 88(1), (3)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 18(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 18(3). See note 13 supra.

22 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 16(3), Sch 2 r 17(3), Sch 3 r 17(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 17(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 26(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 22(3). As to voting by post see PARA 411 et seq post. The restriction set out in the text does not apply at a poll consequent on a parish meeting taken on a question of appointment to any office (where no provision is made for postal voting). At a Welsh Assembly election, the restriction applies both at a constituency election and at a regional election (in relation to an Assembly constituency within the Assembly electoral region): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 26(3). At a regional election, a different official mark may be used in Assembly constituencies in an Assembly electoral region but only one such mark may be used in an Assembly constituency at a regional election (Sch 5 para 26(4)); and at an ordinary election the same official mark may be used at a constituency election and a regional election in relation to regional votes given in the same Assembly constituency (Sch 5 para 26(5)).

UPDATE

388-396 Rules for the conduct of elections ... Equipment of polling stations

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

389-411 Method of election ... Returning officer's duty to issue postal ballot papers, etc

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

392 Security measures associated with the ballot paper

NOTES--SI 2002/185 reg 3(1), Sch 1 rr 16, 17 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 rr 18, 20.

NOTE 5--The regulation now refers to polls that are combined under the Local Government Act 2000 s 44 or s 45: SI 2001/341 reg 63A(3) (amended by SI 2007/1025).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/A. IN GENERAL/393. Notice of poll.

393. Notice of poll.

In the statement of persons nominated¹ at an election², except a local government election³, the appropriate returning officer⁴ must include a notice of the poll, stating the day on which and hours during which the poll will be taken⁵.

At a local government election (but including, of the Authority elections, only a London Assembly constituency election), the returning officer must publish the notice of poll not later than the sixth day before the day of election⁶ and such notice must state not only the day and hours fixed for the poll⁷ but also the particulars of each candidate remaining validly nominated (the names and other particulars of the candidates, and the order of the names of the candidates, being the same as in the statement of persons nominated)⁸, and (except for London Assembly constituency elections) the number of councillors to be elected⁹ and the names of all persons signing a candidate's nomination paper¹⁰. In the case of a London Assembly London members election, the Greater London returning officer must publish the notice of poll not later than the sixth day before the day of election¹¹ and such notice must state the day and hours fixed for the poll¹², the number of seats for London members available for allocation at that election¹³, the names of each registered party whose party list includes persons who remain validly nominated as list candidates¹⁴, and particulars of each individual candidate remaining validly nominated¹⁵, with the names of the registered parties alphabetically arranged, followed by the names of the individual candidates arranged in order of their surnames and, if there are two or more of them with the same surname, of their other names¹⁶. The returning officer at a poll consequent on a parish meeting taken on a question of appointment to any office must, not later than the fifth day before the day of the poll¹⁷, give public notice of the poll which refers to the parish or meeting at which a poll was demanded¹⁸. Such notice must state the day and hours fixed for the poll¹⁹, the name of the office, the number of vacancies and the particulars of each candidate who has not withdrawn (the order of the candidates and the particulars being the same as in the ballot papers) and the name of the proposer of each candidate²⁰. At a local authority or London mayoral election, the returning officer must publish notice of the poll not later than the sixth day before the day of election²¹ stating the day and hours fixed for the poll and the particulars of each candidate remaining validly nominated²², with the names of the candidates arranged alphabetically in the order of their surnames and, if there are two or more of them with the same surname, of their other names²³.

At any election, the returning officer must also give public notice of the situation of each polling station and the description of voters entitled to vote at that station²⁴ and (at elections where election agents are appointed) he must as soon as practicable after giving such a notice give a copy of it to each of the election agents²⁵.

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for giving the notice of poll²⁶.

1 As to the statement of persons nominated see PARA 272 ante.

2 I.e. at a parliamentary election or an Authority election (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), an election for the return of a local authority mayor, a constituency or regional election for the return of members of the National Assembly for Wales and a European parliamentary election. For the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'Authority election' see PARA 10

ante; and for the meaning of 'election under the local government Act' see PARA 10 note 2 ante. As to elections in the City of London see PARA 30 ante. As to elections for the return of a local authority mayor see PARA 205 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante. As to elections to the National Assembly for Wales see PARA 220 et seq ante. As to European parliamentary elections see PARA 224 et seq ante.

3 For the meaning of 'local government election' see PARA 10 ante.

4 As to returning officers for parliamentary elections see PARA 355 et seq ante; as to returning officers for local government elections (including elections for the return of a local authority mayor) see PARA 359 et seq ante; as to the returning officer at a poll consequent on parish meeting see PARA 361 ante; and as to returning officers for European parliamentary elections see PARA 365 et seq ante. In the case of an election for the return of constituency members of the London Assembly, the appropriate returning officer is the constituency returning officer (for the meaning of which see PARA 218 note 8 ante); and in the case of an election for the return of London members of the London Assembly and for the return of an elected Mayor of London, it is the Greater London returning officer (for the meaning of which see PARA 218 note 7 ante). For the purposes of elections for the return of members of the National Assembly for Wales, 'appropriate returning officer' means, in relation to a constituency election, a constituency returning officer (for the meaning of which see PARA 18 note 2 ante) and, in relation to a regional election, a regional returning officer (for the meaning of which see PARA 18 note 2 ante): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 2(1); and PARA 242 note 7 ante.

5 Representation of the People Act 1983 s 23(1), Sch 1 r 23(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 29(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 25(1). As to the date of the poll at a parliamentary general election or by-election see PARA 202 ante; as to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see PARAS 220-221 ante; and as to the date of the poll at a European parliamentary election see PARA 229 ante. As to the hours of polling at an election see PARA 390 ante.

6 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), Sch 1 r 3(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 1; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 1. The notices of poll at an ordinary London Authority election must include the heading 'GREATER LONDON AUTHORITY ELECTION': Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3, Sch 4 r 3. As to the date of the poll at local government elections (including elections to fill vacancies) see PARAS 213-216 ante.

7 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 19(1)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 21(1)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 21(1)(a).

8 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 19(1)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 21(1)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 21(1)(c).

9 Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 21(1)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 21(1)(b).

10 Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 21(1)(d); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 21(1)(d). At a parish or community council election, the nomination paper is signed only by a proposer and seconder; at other local government elections, eight electors must also sign as assenting to the nomination: see PARA 264 ante. In the case of a candidate nominated by more than one nomination paper, the nomination paper referred to in the text must be that from which the names and other particulars of the candidate shown in the statement of persons nominated are taken: Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 21(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 21(2).

11 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 2 r 3(1). The notices of poll at an ordinary London Authority election must include the heading 'GREATER LONDON AUTHORITY ELECTION': Sch 4 r 3.

12 Ibid Sch 2 r 20(1)(a).

13 Ibid Sch 2 r 20(1)(b).

14 Ibid Sch 2 r 20(1)(c).

15 Ibid Sch 2 r 20(1)(d).

16 Ibid Sch 2 rr 16(7), 20(1).

17 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 1. As to the computation of any period of time for these purposes see PARA 219 note 5 ante. As to polls consequent on a parish meeting on a question involving appointment to office see PARA 207 et seq ante; and as to the date of such a poll see PARA 214 ante. As to returning officers appointed for such a poll see PARA 361 ante.

18 Ibid Schedule r 8.

19 Ibid Schedule r 8(a).

20 Ibid Schedule r 8(b).

21 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 3(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 3. The notices of poll at an ordinary London Authority election must include the heading 'GREATER LONDON AUTHORITY ELECTION': Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 4 r 3. As to the date of the poll at an election for the return of a local authority mayor see PARA 205 ante.

22 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 20(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 20(1).

23 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 rr 16(6), 20(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 rr 16(6), 20(1).

24 Representation of the People Act 1983 Sch 1 r 23(2) (amended by the Representation of the People Act 1985 ss 24, 28, Sch 4 para 77, Sch 5); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 8(d); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 19(2), Sch 2 r 20(2), Sch 3 r 20(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 20(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 29(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 25(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 21(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 21(3).

At a parliamentary election, the notice referred to in the text may be combined with the statement of persons nominated: Representation of the People Act 1983 Sch 1 r 23(2). In the case of a local government election (including London Authority elections) or a local authority mayoral election, the notice must be given not later than the time of the publication of the notice of the poll: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 19(2), Sch 2 r 20(2), Sch 3 r 20(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 20(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 21(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 21(3). In the case of a Welsh Assembly regional election, the constituency returning officer for each Assembly constituency in the Assembly electoral region must prepare and publish the notice of poll (which may be combined with the statement of persons nominated) setting out the situation of each polling station in the Assembly constituency for which he is returning officer and the description of voters entitled to vote there: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 29(3). At an ordinary Welsh Assembly election, the notices so prepared by a constituency returning officer for the purposes of a constituency election and a regional election may be combined: Sch 5 para 29(4). At a European parliamentary election, the notice referred to in the text is given by the local returning officer and in respect of each local counting area or part of an area contained in the electoral region: European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 25(2). For the meaning of 'local counting area' see PARA 230 note 11 ante. As to local returning officers appointed for the purposes of elections to the European Parliament see PARA 365 ante.

25 Representation of the People Act 1983 Sch 1 r 23(2) (as amended: see note 24 supra); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 19(2), Sch 2 r 20(2), Sch 3 r 20(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 20(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 29(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 25(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 21(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 21(3). In the case of a Welsh Assembly regional election, the constituency returning officer for each Assembly constituency in the Assembly electoral region must, as soon as practicable after publishing the notice of poll, give a copy of it to each of the election agents and deliver, or cause to be delivered, a copy of it to the regional returning officer: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 29(3).

26 As to polls at elections or referendums which are taken together see PARA 16 et seq ante.

UPDATE

388-396 Rules for the conduct of elections ... Equipment of polling stations

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

389-411 Method of election ... Returning officer's duty to issue postal ballot papers, etc

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

393 Notice of poll

NOTES--SI 2002/185 reg 3(1), Sch 1 rr 3, 16, 20 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 rr 3, 18, 23.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/A. IN GENERAL/394. Issue of official poll cards.

394. Issue of official poll cards.

The returning officer at a parliamentary election¹, a local government election², a local authority mayoral election³, a Welsh Assembly election⁴ or a European parliamentary election⁵ must, as soon as practicable⁶, send an official poll card to electors and their proxies⁷. However, except at parliamentary elections or at local government elections for principal areas, parishes and communities, such a card need not be sent to any person as an elector if he is placed on the absent voters list⁸ for the election or to any person as a proxy if he is entitled to vote by post as proxy⁹ at the election¹⁰. In relation to a parliamentary or European parliamentary election, a card must not be sent to any person registered, or to be registered, in pursuance of an overseas elector's declaration¹¹.

An elector's official poll card must be sent or delivered to his qualifying address and a proxy's card to his address as shown in the list of proxies¹². The official poll card must set out the name of the electoral division to which it relates (and/or, as the case may be, the election to which it relates)¹³, the elector's name, qualifying address and number on the register¹⁴, and the date and hours of the poll and situation of the elector's polling station¹⁵. In relation to a parliamentary election, the official poll card must also set out such other information as is prescribed¹⁶ and, in relation to such an election and a local government election for a principal area, parish or community, it must set out such other information as the returning officer thinks appropriate¹⁷; and different information may be so provided to different electors or descriptions of elector¹⁸.

The official poll card must be in the prescribed form or a form to the like effect¹⁹. In circumstances when the polls at elections or referendums are taken together, the official poll card may be combined²⁰.

The issue of any poll card, or any document so closely resembling an official poll card as to be calculated to deceive, is an offence at certain elections and an illegal practice²¹.

1 For the meaning of 'parliamentary election' see PARA 9 ante. As to returning officers for parliamentary elections see PARA 355 et seq ante.

2 For the meaning of 'local government election' see PARA 10 ante. As to returning officers for local government elections (including local authority mayoral elections) see PARA 359 et seq ante. In relation to a London Authority election, the appropriate returning officer is the constituency returning officer (for the meaning of which see PARA 218 note 8 ante). There is no provision for poll cards to be issued for the purposes of a poll consequent on a parish meeting (as to which see PARA 207 et seq ante).

3 As to elections for the return of a local authority mayor see PARA 205 ante; and as to returning officers for such elections see PARA 359 et seq ante.

4 I.e. the constituency returning officer at an ordinary election where an elector is entitled to give two votes, or at an Assembly election (other than an ordinary election where an elector is entitled to give two votes): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 33(1). For the meaning of 'constituency returning officer' in this context see PARA 18 note 2 ante.

5 I.e. the local returning officer for the European parliamentary election (see PARA 365 et seq ante). As to European parliamentary elections see PARA 224 et seq ante.

6 I.e. in the case of a parliamentary election or local government election, as soon as practicable after the publication of notice of the election: Representation of the People Act 1983 Sch 1 r 28(1) (substituted by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 70(1), (2)); Local Elections (Principal Areas) (England

and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 25(1). As to publication of notice of the election at a parliamentary election see PARA 203 ante; and as to publication of the notice for a local government election see PARA 218 ante.

The amendments effected by the Electoral Administration Act 2006 Sch 1 paras 69, 70 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

7 Representation of the People Act 1983 Sch 1 r 28(1) (as substituted: see note 6 supra); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)-(3), Sch 1 r 23(1), Sch 2 r 24(1), Sch 3 r 24(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 24(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 33(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 29(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 25(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 25(2). Where the poll at a parish or community election is not to be taken together with the poll at some other election, the returning officer acts only after receiving a request to issue official poll cards for that election from the council of the parish or community, such a request having to be made not later than noon on the nineteenth day before the day of election: Sch 2 r 25(1). In the case of an elector with an anonymous entry, the returning officer must issue an official poll card in the appropriate form (as to which see note 19 infra) to every such elector or to his proxy (if appointed) whether or not the local council of the parish or community makes such a request (Sch 2 r 25(5)(a)); and in the case of such an elector the official poll card must be sent in an envelope or other form of covering so as not to disclose that the elector has an anonymous entry in the register (Sch 2 r 25(5)(c)). For the meaning of 'anonymous entry' in relation to a register of electors see PARA 174 ante.

For the meaning of 'elector' by virtue of the Representation of the People Act 1983 s 23(1), Sch 1 r 28(4) see PARA 262 note 5 ante; by virtue of the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 25(5) and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 25(6) see PARA 262 note 14 ante; and by virtue of the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 29(4) see PARA 335 note 10 ante.

For these purposes, in relation to a Welsh Assembly election, 'elector' means a person who is registered as a local government elector, in relation to a constituency election, in the Assembly constituency in a register to be used at the election or, in relation to a regional election, in the Assembly electoral region in a register to be used at the election, or who, pending publication of the register, appears from the electors' lists for that register, as corrected by the registration officer, to be entitled to be so registered: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 r 33(8). Accordingly, for these purposes, the definition includes a person shown in the register of electors' lists as below voting age if it appears from it that he will be of voting age on the day fixed for the poll, but not otherwise: Sch 5 r 33(8). 'Electoral number' means a person's number in the register to be used at the election except that before publication of the register his number (if any) in the electors' lists for that register must be used instead: Sch 5 r 33(8).

8 As to the absent voters list see PARA 378 ante.

9 As to proxies entitled to vote by post see PARA 387 ante.

10 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 23(1), Sch 2 r 24(1), Sch 3 r 24(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 24(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 33(1)(i), (ii); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 29(1).

11 Representation of the People Act 1983 Sch 1 r 28(1A) (added by the Electoral Administration Act 2006 Sch 1 paras 69, 70(1), (2)); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 29(1). As to registration in pursuance of an overseas elector's declaration and a European parliamentary overseas elector's declaration see PARA 129 et seq ante.

As to the commencement of the Representation of the People Act 1983 Sch 1 r 28(1A) (as added) see note 6 supra. Until the commencement of that provision, the wording set out in the text and note 11 is cited under Sch 1 r 28(1) (amended by the Representation of the People Act 1985 ss 4, 11, Sch 2 Pt I para 6).

12 Representation of the People Act 1983 Sch 1 r 28(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 23(2), Sch 2 r 24(2), Sch 3 r 24(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 24(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 33(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 29(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 25(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 25(3).

13 Representation of the People Act 1983 Sch 1 r 28(3)(a); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 23(3)(a), Sch 2 r 24(3)(a), Sch 3 r 24(3)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 24(3)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 33(3)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 29(3)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 25(3)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 25(4)(a).

In relation to a parliamentary election, the name of the constituency is set out: Representation of the People Act 1983 Sch 1 r 28(3)(a). In relation to a local government election, the name of the council and (where appropriate) the name of the electoral division or ward to which councillors are to be elected are set out: Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 25(3)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 25(4)(a). In relation to a London Assembly constituency election, the name of the Assembly constituency for which a constituency member is to be elected is set out (Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 23(3)(a)); but, in relation to an election of London members of the London Assembly or of the London Mayor (which apply to the London Assembly area as a whole) the poll card must set out that the election is of the London members of the London Assembly at an ordinary election (Sch 2 r 24(3)(a)) or that the election is a mayoral election, as the case may be (Sch 3 r 24(3)(a)). In relation to a local authority mayoral election, the name of the local authority to which the election relates must be set out together with the fact that the election is a mayoral election: Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 24(3)(a), (b). In relation to a Welsh Assembly election, the name of the Assembly constituency or electoral region for which the election is to be held, or, in the case of an ordinary election where there are contested elections for an Assembly constituency and electoral region, both such areas, are set out: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 33(3)(a). In relation to a European parliamentary election, the name of the electoral region must be set out: European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 29(3)(a).

14 Representation of the People Act 1983 Sch 1 r 28(3)(b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 23(3)(b), Sch 2 r 24(3)(b), Sch 3 r 24(3)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 24(3)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 33(3)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 29(3)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 25(3)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 25(4)(b).

In the case of an elector at a parliamentary election with an anonymous entry, instead of containing the elector's name, qualifying address and number on the register, as mentioned in the text, the polling card must contain such matter as is prescribed: Representation of the People Act 1983 Sch 1 r 28(3A) (added by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 2, 14(1), (3)). For these purposes, 'prescribed' means prescribed by regulations: Representation of the People Act 1983 s 202(1). At the date at which this volume states the law, no such regulations had been made. As to the making of regulations under the Representation of the People Act 1983 generally see PARA 24 note 16 ante.

In the case of an elector with an anonymous entry at a local government election for a principal area, instead of containing the elector's name, qualifying address and number on the register, as mentioned in the text, the polling card must contain such matter as is specified in the appropriate form (as to which see note 19 infra): Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 25(4). In the case of an elector with an anonymous entry at a local government election for a parish or community council, instead of containing the elector's name and qualifying address, as mentioned in the text, the polling card must contain the elector's number and such other matter as is specified in the appropriate form (as to which see note 19 infra): Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 25(5) (b).

15 Representation of the People Act 1983 Sch 1 r 28(3)(c); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 23(3)(c), Sch 2 r 24(3)(c), Sch 3 r 24(3)(c); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 24(3)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 33(3)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 29(3)(c); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 25(3)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 25(4)(c). In relation to a Welsh Assembly election, the official poll card must set such other information, not relating to any candidate or registered political party, as the constituency returning officer considers appropriate: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 33(3)(d).

16 Representation of the People Act 1983 Sch 1 r 28(3)(d) (Sch 1 r 28(3)(d), (e) added by the Electoral Administration Act 2006 Sch 1 paras 69, 70(1), (3)). As to the commencement of this provision see note 6 supra. For these purposes, 'prescribed' means prescribed by regulations: Representation of the People Act 1983 s 202(1). At the date at which this volume states the law, no such regulations had been made.

17 Ibid Sch 1 r 28(3)(e) (as added: see note 16 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 25(3)(d); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 25(4)(d). See note 6 supra.

18 Representation of the People Act 1983 Sch 1 r 28(3) (amended by the Electoral Administration Act 2006 Sch 1 paras 69, 70(1), (3)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 25(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 25(4). See note 6 supra.

19 Representation of the People Act 1983 Sch 1 r 28(3); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 23(3), Sch 2 r 24(3), Sch 3 r 24(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 24(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 33(4)-(7); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 29(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 25(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 25(4).

For these purposes, 'prescribed' means prescribed by regulations: Representation of the People Act 1983 s 202(1). As to the regulations made see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 9(1), (2), Sch 3 (Form A: official poll card (to be sent to an elector voting in person)) (reg 9(1), (2), Sch 3 (Form A) substituted by SI 2006/2910); the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 9(1), (3), Sch 3 (Form A1: official postal poll card (to be sent to an elector voting by post)) (reg 9(1), (3) substituted, and Sch 3 (Form A1) added, by SI 2006/2910); the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 9(1), (4), Sch 3 (Form B: official proxy poll card (to be sent to an appointed proxy voting in person)) (reg 9(1), Sch 3 (Form B) substituted, and reg 9(4) added, by SI 2006/2910); and the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 9(1), (5), Sch 3 (Form B1: official proxy postal poll card (to be sent to an appointed proxy voting by post)) (reg 9(1) substituted, and reg 9(5), Sch 3 (Form B1) added, by SI 2006/2910).

In relation to a local government election see the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 Appendix of Forms (official poll card, official postal poll card, official proxy poll card, official proxy postal poll card), and r 4, Sch 3 Appendix of Forms (official poll card, official postal poll card, official proxy poll card, official proxy postal poll card) (where such a poll is taken together with another relevant election or referendum); and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 Appendix of Forms (official poll card, official postal poll card, official proxy poll card, official proxy postal poll card), and r 4, Sch 3 Appendix of Forms (official poll card, official postal poll card, official proxy poll card, official proxy postal poll card) (where such a poll is taken together with another relevant election or referendum). Combined poll cards for London Authority ordinary elections must be issued in the appropriate form: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3, Sch 4 r 5. As to the forms in use for such elections and for the purposes of other constituency member and mayoral elections see r 4, Sch 5 (Form 10: elector's official poll card) (amended by SI 2001/3789); and the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 5 (Form 11: proxy's official poll card) (amended by SI 2001/3789; SI 2005/2114). As to the filling of vacancies in London member seats see PARA 206 ante.

In relation to a local authority mayoral election, see the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 Appendix of Forms (Form 6: elector's official poll card); and the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 Appendix of Forms (Form 7: proxy's official poll card) (Form 7 amended by SI 2005/2114).

In relation to a Welsh Assembly election:

- 62 (1) at an ordinary election where an elector is entitled to give two votes, the official poll card issued to an elector must be in the form set out in English and Welsh in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 Appendix of Forms (Form of elector's pollcard referred to in PARAGRAPH 33(4)) (Sch 5 para 33(4));
- 63 (2) where head (1) supra does not apply, the official poll card issued to an elector must be in the form set out in English and Welsh in Sch 5 Appendix of Forms (Form of elector's pollcard referred to in PARAGRAPH 33(5)) (Sch 5 para 33(5));
- 64 (3) at an ordinary election where an elector is entitled to give two votes, the official poll card issued to the proxy of an elector must be in the form set out in English and Welsh in Sch 5 Appendix of Forms (Form of elector's pollcard referred to in PARAGRAPH 33(6)) (amended by SI 2005/2114) (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 33(6)); and
- 65 (4) at an Assembly election where head (3) supra does not apply, the official poll card issued to the proxy of an elector must be in the form set out in English and Welsh in Sch 5 Appendix of Forms (Form of elector's pollcard referred to in PARAGRAPH 33(7)) (amended by SI 2005/2114)

(National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 33(7)).

In relation to a European parliamentary election, see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 Appendix of Forms (elector's official poll card); and Sch 1 Appendix of Forms (proxy's official poll card) (amended by SI 2005/2114).

Where such elections take place in Wales see also the forms issued partly in English and partly in Welsh in the Local Elections (Principal Areas) (Welsh Forms) Order 1987, SI 1987/562, art 2, Schedule Pt III (elector's official poll card, cerdyn pleidleisio swyddogol yr etholwr; proxy's official poll card, cerdyn pleidleisio swyddogol y dirprwy) (amended by SI 1995/830; SI 2005/2114); and the Local Elections (Communities) (Welsh Forms) Order 1987, SI 1987/561, art 2, Schedule Pt III (elector's official poll card, cerdyn pleidleisio swyddogol yr etholwr; proxy's official poll card, cerdyn pleidleisio swyddogol y dirprwy) (amended by SI 1995/830; SI 2005/2114).

Where such an election is held together with another election or referendum, see the Local Elections (Communities) (Welsh Forms) Order 2004, SI 2004/1233, art 3, Schedule Pt 2 (elector's official poll card, cerdyn pleidleisio swyddogol yr etholwr; proxy's official poll card, cerdyn pleidleisio swyddogol y dirprwy) (amended by SI 2005/2114); and the Local Elections (Principal Areas) (Welsh Forms) Order 2004, SI 2004/1234, art 3, Schedule Pt 2 (elector's official poll card, cerdyn pleidleisio swyddogol yr etholwr; proxy's official poll card, cerdyn pleidleisio swyddogol y dirprwy) (amended by SI 2005/2114). See also the European Parliamentary Elections (Welsh Forms) Order 2004, SI 2004/1373, art 6, Sch 2 (Form 2: elector's official poll card; Form 3: proxy's official poll card); the Parliamentary Elections (Welsh Forms) Order 2005, SI 2005/1105, art 6, Sch 2 (Form 5: elector's official poll card, cerdyn pleidleisio swyddogol yr etholwr); and the Parliamentary Elections (Welsh Forms) Order 2005, SI 2005/1105, Sch 2 (Form 6: proxy's official poll card, cerdyn pleidleisio swyddogol y dirprwy) (amended by SI 2005/3470).

20 As to polls at elections or referendums which are taken together see PARA 16 et seq ante.

21 See PARA 705 post.

UPDATE

388-396 Rules for the conduct of elections ... Equipment of polling stations

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

389-411 Method of election ... Returning officer's duty to issue postal ballot papers, etc

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

394 Issue of official poll cards

NOTES--SI 2002/185 reg 3(1), Sch 1 r 24, Appendix of Forms, Forms 6, 7 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 27, Appendix of Forms, Forms 8, 10. See further Form 9 (official postal poll card) and Form 11 (official proxy postal poll card).

NOTES 13, 16--SI 2005/1105 replaced: SI 2007/1014.

NOTE 19--SI 1987/561, SI 2004/1233 replaced: Local Elections (Communities) (Welsh Forms) Order 2007, SI 2007/1013. SI 1987/562, SI 1995/830, SI 2004/1234 replaced: Local Elections (Principal Areas) (Welsh Forms) Order 2007, SI 2007/1015. SI 2005/1105 replaced: Parliamentary Elections (Welsh Forms) Order 2007, SI 2007/1014. SI 2004/1373 replaced: European Parliamentary Elections (Welsh Forms) Order 2009, SI 2009/781.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/B. VOTES GIVEN AT A POLLING STATION/395. Provision and allotment of polling stations.

B. VOTES GIVEN AT A POLLING STATION

395. Provision and allotment of polling stations.

At any election¹, the appropriate returning officer² must provide a sufficient number of polling stations and allot the electors³ to the polling stations in such manner as he thinks most convenient, subject to the following requirements⁴.

At a parliamentary, Welsh Assembly or European parliamentary election, the polling station allotted to the electors from any polling district must be in the polling place for that district⁵. At a local government or local authority mayoral election, the polling station allotted to electors from any parliamentary polling district wholly or partly within the electoral area⁶ (or, as the case may be, London Assembly constituency⁷) must, in the absence of special circumstances, be in the parliamentary polling place for that district unless the polling place is outside the electoral area (or, as the case may be, London Assembly constituency)⁸. At a poll consequent on a parish meeting taken on a question of appointment to any office, the polling station allotted to electors from any parliamentary polling district wholly or partly within the parish must, in the absence of special circumstances, be in the parliamentary polling place for that district, unless the polling place is outside the parish⁹.

One or more polling stations may be provided in the same room¹⁰. The returning officer must provide each polling station with such number of compartments as may be necessary in which the voters can mark their votes screened from observation¹¹.

The returning officer may use free of charge for the purpose of taking the poll: (1) a room in a school maintained or assisted by a local education authority¹² or a school in respect of which grants are made out of money provided by Parliament (or by the National Assembly for Wales, as the case may be) to the person or body of persons responsible for the management of the school¹³; or (2) a room the expense of maintaining which is payable out of any rate¹⁴. At a local government election or at a poll consequent on a parish meeting taken on a question of appointment to any office or at a local authority mayoral election, such a room may also be used for the purpose of counting the votes¹⁵. The returning officer must make good any damage done to, and defray any expense incurred by the persons having control over, any such room by reason of its being used for such purpose (or purposes, as the case may be)¹⁶.

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made as to which polling stations are to be used¹⁷.

1 le at a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), a local government election, an election for the return of a local authority mayor, a constituency or regional election for the return of members of the National Assembly for Wales and a European parliamentary election. Polls consequent on a parish meeting on a question involving appointment to office (as to which see PARA 207 et seq ante) are also considered and, for this purpose, the text should be read as if, for the reference to 'election', there were a reference to 'poll'. For the meaning of 'parliamentary election' see PARA 9 ante; for the meanings of 'Authority election' and 'local government election' see PARA 10 ante; and for the meaning of 'election under the local government Act' see PARA 10 note 2 ante. As to elections in the City of London see PARA 30 ante. As to elections for the return of a local authority mayor see PARA 205 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante. As to elections to the National Assembly for Wales see PARA 220 et seq ante. As to European parliamentary elections see PARA 224 et seq ante.

2 As to returning officers for parliamentary elections see PARA 355 et seq ante; as to returning officers for local government elections (including local authority mayoral elections) see PARA 359 et seq ante; and as to the returning officer at a poll consequent on parish meeting see PARA 361 ante. In the case of European parliamentary elections, the appropriate returning officer is the local returning officer: see PARA 365 et seq ante. In the case of an election for the return of constituency members of the London Assembly, the appropriate returning officer is the constituency returning officer (for the meaning of which see PARA 218 note 8 ante); and in the case of an election for the return of London members of the London Assembly and for the return of an elected Mayor of London, it is the Greater London returning officer (for the meaning of which see PARA 218 note 7 ante). For the purposes of elections for the return of members of the National Assembly for Wales, the appropriate returning officer is, in relation to both a constituency and regional election, a constituency returning officer (for the meaning of which see PARA 18 note 2 ante).

3 For the meaning of 'elector', in relation to a parliamentary or local government election, see PARA 110 note 2 ante; in relation to a Welsh Assembly election, see PARA 124 note 4 ante; and, in relation to European parliamentary election, see PARA 125 note 5 ante.

4 Representation of the People Act 1983 s 23(1), Sch 1 r 25(1); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 9(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)-(3), Sch 1 r 21(1), Sch 2 r 22(1), Sch 3 r 22(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 22(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 31(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 27(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 23(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 23(1). At a poll consequent on a parish meeting taken on a question of appointment to any office, the returning officer's duty to allot electors to a particular polling station applies only where more than one polling station is provided: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 9(1).

5 Representation of the People Act 1983 Sch 1 r 25(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 31(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 27(3).

6 As to the meaning of 'electoral area' see PARA 10 ante.

7 For the meaning of 'Assembly constituency' in the context of London Authority elections see PARA 10 note 6 ante.

8 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 21(3), Sch 2 r 22(3), Sch 3 r 22(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 22(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 23(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 23(3).

9 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 9(3).

10 Representation of the People Act 1983 Sch 1 r 25(2); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 9(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 21(2), Sch 2 r 22(2), Sch 3 r 22(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 22(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 31(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 27(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 23(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 23(2).

11 Representation of the People Act 1983 Sch 1 r 25(5); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 9(4); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 21(4), Sch 2 r 22(4), Sch 3 r 22(4); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 22(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 31(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 27(4); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 23(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 23(4).

The compartments provided need, however, only afford voters, if careful, reasonable facilities for secrecy: *Nicholson v Wick Magistrates* 1922 SC 374, Ct of Sess.

12 As to local education authorities see EDUCATION vol 15(1) (2006 Reissue) PARA 20 et seq.

13 Representation of the People Act 1983 Sch 1 r 22(1)(a), (i) (Sch 1 r 22(1)(i) amended by the School Standards and Framework Act 1998 s 140(3), Sch 31); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 7(1)(a); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 18(1)(a),

Sch 2 r 19(1)(a), Sch 3 r 19(1)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 19(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 28(1)(a), (2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 24(1)(a), (i); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 20(1)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 20(1)(a). As to such schools as are mentioned in the text see EDUCATION vol 15(1) (2006 Reissue) PARA 102 et seq.

14 Representation of the People Act 1983 Sch 1 r 22(1)(b); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 7(1)(b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 18(1)(b), Sch 2 r 19(1)(b), Sch 3 r 19(1)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 19(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 28(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 24(1)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 20(1)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 20(1)(b). In relation to a local authority mayoral election, and any London Authority election, the provision set out in head (2) in the text applies to a room the expense of maintaining which is met by any local authority: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 18(1)(b), Sch 2 r 19(1)(b), Sch 3 r 19(1)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 19(1)(b). At a Welsh Assembly election, the provision set out in head (2) in the text applies to a room the expense of maintaining which is payable wholly or mainly out of public funds: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 28(1)(b).

For the purposes of determining rateable occupation, a hereditament is to be treated as unoccupied if it would otherwise be treated as occupied by reason only, if it is a house, of the use of a room in it by a returning officer for the purpose of taking the poll in a parliamentary or local government election: see the Local Government Finance Act 1988 s 65(6); and RATING AND COUNCIL TAX vol 39(1B) (Reissue) PARA 13. For the meaning of 'hereditament' in this context see RATING AND COUNCIL TAX vol 39(1B) (Reissue) PARA 33 et seq. The Local Government Finance Act 1988 s 65(6) has been applied with slight modification for the purposes of both a Welsh Assembly election (see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 146) and a European parliamentary election (see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 125). At a poll consequent on a parish meeting taken on a question of appointment to any office, the use of a room in an unoccupied house for such purpose or purposes as are mentioned in the text does not render a person liable to be rated or to pay any rate for the house (Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 7(3)); and, in relation to a local authority mayoral election and any London Authority election, the use of a room in an unoccupied heridament for such purpose or purposes as are mentioned in the text does not render a person liable to any payment by way of council tax or non-domestic rate in respect of that heridament and any day on which it is so used (Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 18(3), Sch 2 r 19(3), Sch 3 r 19(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 19(2)).

15 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 7(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 18(1), Sch 2 r 19(1), Sch 3 r 19(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 19(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 20(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 20(1).

16 Representation of the People Act 1983 Sch 1 r 22(2); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 7(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 18(2), Sch 2 r 19(2), Sch 3 r 19(2A) (added by Sch 3 r 19(3), (4)); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 19(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 28(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 24(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 20(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 20(2).

At a London Authority election, the provision set out in the text applies only in the case of an election to fill a vacancy in the office of London Mayor: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 19(3).

17 As to the polling stations to be used where polls at elections or referendums are taken together see PARA 19 ante.

UPDATE

388-396 Rules for the conduct of elections ... Equipment of polling stations

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

389-411 Method of election ... Returning officer's duty to issue postal ballot papers, etc

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

395 Provision and allotment of polling stations

NOTES--SI 2002/185 reg 3(1), Sch 1 rr 19, 22 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 rr 22, 25.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/B. VOTES GIVEN AT A POLLING STATION/396. Equipment of polling stations.

396. Equipment of polling stations.

At any election¹, the appropriate returning officer² must provide each presiding officer³ with such number of ballot boxes and ballot papers as in the returning officer's opinion may be necessary⁴. Every ballot box must be so constructed that the ballot papers can be put in it, but cannot be withdrawn from it, without the box being unlocked (or, where the box has no lock, without the seal being broken)⁵.

The returning officer also must provide each polling station⁶ with:

- 462 (1) materials to enable voters to mark the ballot papers⁷;
- 463 (2) in relation to a parliamentary election or a local government election for a principal area, parish or community, a list consisting of that part of the corresponding number list⁸ which contains the numbers (but not the other unique identifying marks) corresponding to those on the ballot papers provided to the presiding officer of the polling station⁹;
- 464 (3) in relation to any election except an election that is mentioned in head (2) above, instruments for stamping on the ballot papers the official mark¹⁰;
- 465 (4) copies of the relevant register of electors or such part of it as contains the names of (or, in the case of a parliamentary election, the entries relating to) the electors allotted to the station¹¹; and
- 466 (5) the parts of any special lists prepared for the election corresponding to the relevant register of electors or the part of it provided under head (4) above¹².

The following notices must be displayed or exhibited:

- 467 (a) a notice in the specified form, giving directions for the guidance of the voters in voting¹³, must be printed in conspicuous characters and exhibited inside and outside every polling station¹⁴;
- 468 (b) in every compartment of every polling station¹⁵, there must be exhibited the statutory notice which instructs voters how many votes they may give at the election¹⁶; and
- 469 (c) (except at polls consequent on a parish meeting on a question involving appointment to office) the returning officer must also provide each polling station with at least one large version of the ballot paper which must be displayed inside the polling station for the assistance of voters who are partially-sighted¹⁷.

In the case of a London Assembly London members election or European parliamentary election, notice of the death of a candidate must also be displayed¹⁸; and, at a Welsh Assembly election, the statement of persons nominated must also be printed in conspicuous characters and exhibited inside and outside every polling station¹⁹.

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made as to the equipment of polling stations²⁰.

¹ In the case of a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), a local government election, an

election for the return of a local authority mayor, a constituency or regional election for the return of members of the National Assembly for Wales and a European parliamentary election. Polls consequent on a parish meeting on a question involving appointment to office (as to which see PARA 207 et seq ante) are also considered and, for this purpose, the text should be read as if, for the reference to 'election', there were a reference to 'poll'. For the meaning of 'parliamentary election' see PARA 9 ante; for the meanings of 'Authority election' and 'local government election' see PARA 10 ante; and for the meaning of 'election under the local government Act' see PARA 10 note 2 ante. As to elections in the City of London see PARA 30 ante. As to elections for the return of a local authority mayor see PARA 205 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante. As to elections to the National Assembly for Wales see PARA 220 et seq ante. As to European parliamentary elections see PARA 224 et seq ante.

2 As to returning officers for parliamentary elections see PARA 355 et seq ante; as to returning officers for local government elections (including local authority mayoral elections) see PARA 359 et seq ante; and as to the returning officer at a poll consequent on parish meeting see PARA 361 ante. In the case of European parliamentary elections, the appropriate returning officer is the local returning officer: see PARA 365 et seq ante. In the case of a London Authority election, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which see PARA 218 note 8 ante), although the Greater London returning officer (for the meaning of which see PARA 218 note 7 ante) also has duties where specified. For the purposes of elections for the return of members of the National Assembly for Wales, the appropriate returning officer in this context is, in relation to both a constituency and regional election, a constituency returning officer (for the meaning of which see PARA 18 note 2 ante).

3 As to the appointment of presiding officers and their clerks see PARA 398 post.

4 Representation of the People Act 1983 s 23(1), Sch 1 r 29(1); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 11(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)-(3), Sch 1 r 24(1), Sch 2 r 25(1), Sch 3 r 25(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 25(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 34(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 30(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 26(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 26(1).

At a London Authority ordinary election, the ballot papers must, as the Greater London returning officer may decide, be placed either in a single ballot box or in separate ballot boxes according to whether the votes given on them are cast in the election under the constituency members election rules, the London members election rules or the mayoral election rules (Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3, Sch 4 r 6(1)), although it is specified in the mayoral election rules that the same ballot box is to be used at an ordinary election for the ballot papers containing the constituency vote, the London vote and the mayoral vote (Sch 3 r 25(2)). As to the constituency members election rules, the London members election rules and the mayoral election rules see PARA 388 ante.

At a Welsh Assembly election, the constituency returning officer is responsible for equipping the polling stations: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34(1); and note 2 supra. Where at an ordinary election electors are entitled to give two votes the same ballot box must be used for the receipt of ballot papers in respect of votes given at each election: Sch 5 para 34(2).

5 Representation of the People Act 1983 Sch 1 r 29(2); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 11(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24(2), Sch 2 r 25(2), Sch 3 r 25(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 25(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 30(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(2).

6 As to the provision and allotment of polling stations see PARA 395 ante.

7 Representation of the People Act 1983 Sch 1 r 29(3)(a); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 11(3)(a); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24(3)(a), Sch 2 r 25(3)(a), Sch 3 r 25(4)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 25(3)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 30(3)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(3)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(3)(a).

Except at polls consequent on a parish meeting on a question involving appointment to office, the returning officer must also provide each polling station with a device (or devices, for the purposes of a Welsh Assembly election) of such description as may be prescribed for enabling voters who are blind or partially-sighted to vote without any need for assistance from the presiding officer or any companion: Representation of the People Act 1983 Sch 1 r 29(3A)(b) (r 29(3A) added by the Representation of the People Act 2000 s 13(1), (2)); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24(4)(b) (Sch 1 r 24(4) substituted by SI 2004/227); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 25(4)(b) (Sch 2 r 25(4) substituted by SI 2004/227); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 25(5)(b) (Sch 3 r 25(5) substituted by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 25(4)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34(5)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 30(4)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(5)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(5)(b). Under the Representation of the People Act 1983, 'prescribed' means prescribed by regulations: 202(1). As to the making of regulations under the Representation of the People Act 1983 generally see PARA 24 note 16 ante.

The device must be capable of allowing a ballot paper to be inserted into and removed from it (or attached to and detached from it) easily and without damage to the paper: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 12(1), (2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24(5)(a) (Sch 1 r 24(5) added by SI 2004/227); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 25(5)(a) (Sch 2 r 25(5) added by SI 2004/227); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 25(6)(a) (Sch 3 r 25(6) added by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 25(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 30(9)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(9)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(9)(a).

Except in the case of a local government or European parliamentary election, it is specified that on the right-hand side of the device there must be tabs of equal size which:

- 66 (1) must all be capable of being positioned on the ballot paper so that each one is above one of the spaces to the right of the particulars of the candidates on which the vote is to be marked (the 'relevant space') (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 12(1), (3), (4); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 25(6), (7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34(7), (8));
- 67 (2) must each be numbered, with each number on a tab being in raised form and capable of being clearly identified by touch, so that, when the device is positioned over a ballot paper, the number of each tab corresponds to that of the candidate whose particulars are to the left of the relevant space covered by the tab in question (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 12(1), (3), (5), (6); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 25(6), (8), (9); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34(7), (9), (10)); and
- 68 (3) must each be capable of being lifted so as to reveal the relevant space and so that there is sufficient room to allow a voter to mark a cross on that space (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 12(1), (3), (7); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 25(6), (10); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34(7), (11)).

At a Welsh Assembly election, under head (1) supra, the tabs must be capable of being positioned on the ballot paper so that each one is above one of the spaces, in the case of a constituency election, to the right of the particulars of the candidates or, in the case of a regional election, above the descriptions of the registered political parties or, as the case may be, the particulars of individual candidates, on which the vote is to be marked (the 'relevant space'): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34(8).

At a local government or European parliamentary election, instead of heads (1)-(3) supra, it is specified merely that the device must also: (a) keep the ballot paper firmly in place during use (European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 30(9)(b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24(5)(b) (as so added), Sch 2 r 25(5)(b) (as so added), Sch 3 r 25(6)(b) (as so added); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(9)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(9)(b)); and (b) provide suitable means for the voter to: (i) identify the spaces on the ballot paper on which he may mark his vote (European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 30(9)(c)(i); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24(5)(c)(i) (as so added), Sch 2 r 25(5)(c)(i) (as so

added), Sch 3 r 25(6)(c)(i) (as so added); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(9)(c)(i); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(9)(c)(i); (ii) identify the individual candidate (or, as the case may be, registered party) to which each such space refers (European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 30(9)(c)(ii); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24(5)(c)(ii) (as so added), Sch 2 r 25(5)(c)(ii) (as so added), Sch 3 r 25(6)(c)(ii) (as so added); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(9)(c)(ii); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(9)(c)(ii); and (iii) mark his vote on the space he has chosen (European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 30(9)(c)(iii); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24(5)(c)(iii) (as so added), Sch 2 r 25(5)(c)(iii) (as so added), Sch 3 r 25(6)(c)(iii) (as so added); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(9)(c)(iii); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(9)(c)(iii)).

8 le the list prepared, in relation to a parliamentary election, under the Representation of the People Act 1983 Sch 1 r 19A (as added) or, in relation to a local government election for a principal area, under the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 17 or, in relation to a local government election for a parish or community council, under the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 17 (see PARA 392 ante).

In relation to a parliamentary election, the form of the corresponding number list to be prepared by a returning officer for these purposes must be in the form set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Sch 3 (Form L2: corresponding number list for use in polling station at parliamentary election taken alone) (added by SI 2006/2910): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 63A(2) (added by SI 2006/2910). When a parliamentary election is combined with another poll under the Representation of the People Act 1985 s 15 (as amended) (see PARAS 21-22 ante) or under the Local Government Act 2000 s 44(2) (provision for the combination of polls at elections for the return of elected mayors and at elections for the return of elected executive members: see PARA 26 ante) or under s 45(6) (provision for the combination of polls at referendums with polls at any elections: see PARA 27 ante), the corresponding number list to be prepared by a returning officer for the purposes of the Representation of the People Act 1983 Sch 1 r 29(3)(e) (as added) must be in the form set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Sch 3 (Form M2: corresponding number list for use in polling station when parliamentary election combined with a relevant election or referendum) (added by SI 2006/2910): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 63A(4) (added by SI 2006/2910). The regulation refers to polls that are combined under the Local Government Act 2000 s 44(2) or s 44(6), but it is submitted that a reference to s 45(6) is intended. The amendments effected by the Representation of the People (England and Wales) (Amendment) (No 2) Regulations 2006, SI 2006/2910, do not have effect in relation to any election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see reg 1(2), (3).

For the purposes of local government elections for principal areas, the corresponding number list must be in the appropriate form, or a form to like effect: see the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 17(2), Appendix of Forms (Form L2: corresponding number list to be used in polling stations at a local government election taken alone); and r 4, Sch 3 Appendix of Forms (Form M2: corresponding number list to be used in polling stations when a local government election is combined with another election/referendum). For the purposes of local government elections for parishes and communities, the corresponding number list must be in the appropriate form, or a form to like effect: see the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 17(2), Appendix of Forms (Form L2: corresponding number list to be used in polling stations at a parish or community election taken alone); and r 4, Sch 3 Appendix of Forms (Form M2: corresponding number list to be used in polling stations when a parish or community election is combined with another election/referendum).

9 Representation of the People Act 1983 Sch 1 r 29(3)(e) (added by the Electoral Administration Act 2006 s 31(1), (3)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(3)(d); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(3)(d). As to security measures associated with the ballot paper see PARA 392 ante; and as to presiding officers at an election see PARA 398 post.

Any amendment effected by the Electoral Administration Act 2006 s 31 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

10 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 11(3)(b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24(3)(b), Sch 2 r 25(3)(b), Sch 3 r 25(4)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 25(3)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34(4)(b); European

Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 30(3)(b). As to the official mark see PARA 392 ante.

11 Representation of the People Act 1983 Sch 1 r 29(3)(c) (amended by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 2, 14(1), (4)); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 11(3)(c); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24(3)(c), Sch 2 r 25(3)(c), Sch 3 r 25(4)(c); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 25(3)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34(4)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 30(3)(c); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(3)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(3)(b).

For the purposes of a parliamentary election or a local government election for a principal area, parish or community, the reference in head (4) in the text to the copies of the registers of electors includes a reference to copies of any notices issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) (see PARA 175 ante), specifying appropriate alterations to the register: Sch 1 r 29(6) (added by the Electoral Administration Act 2006 s 11(6), Sch 1 paras 31, 33, 34); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(4).

The amendments effected by the Electoral Administration Act 2006 Sch 1 paras 31, 33, 34 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

12 Representation of the People Act 1983 Sch 1 r 29(3)(d); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24(3)(d), Sch 2 r 25(3)(d), Sch 3 r 25(4)(d); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 25(3)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34(4)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 30(3)(d); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(3)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(3)(c). The provision set out in head (4) in the text does not apply to polls consequent on a parish meeting on a question involving appointment to office. As to the preparation of special lists as mentioned in the text see PARAS 378, 386 ante.

13 As to the form giving directions for the guidance of the voters in voting see, in the case of a parliamentary election, the Representation of the People Act 1983 Sch 1 Appendix of Forms (Form of directions for the guidance of the voters in voting (substituted by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 93(1), (3)).

Any amendments effected by the Electoral Administration Act 2006 Sch 1 paras 69, 93 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

In the case of a local government election, see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule Appendix of Forms (Form of directions for the guidance of the voters in voting where the poll is on a question of appointment to an office) (amended by SI 1987/262); the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 Appendix of Forms (Form of directions for the guidance of the voters in voting) and r 4, Sch 3 Appendix of Forms (Form of directions for the guidance of the voters in voting) (where a poll is taken together with another relevant election or referendum); and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 Appendix of Forms (Form of directions for the guidance of the voters in voting) and r 4, Sch 3 Appendix of Forms (Form of directions for the guidance of the voters in voting) (where a poll is taken together with another relevant election or referendum).

In the case of a London Authority election, notices for the guidance of voters must be prepared by the Greater London returning officer, complying with the requirements of the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 9, Sch 12 (added by SI 2004/227), and he must provide the notices to the constituency returning officer to be exhibited outside every polling station and inside every polling station: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24A(1)(a), (b), (2), (3) (Sch 1 r 24A added by SI 2004/227), Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 25A(1)(a), (b), (2), (3) (Sch 2 r 25A added by SI 2004/227), Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 25A(1)(a), (b), (2), (3) (Sch 3 r 25A added by SI 2004/227). The Greater London returning officer may, in addition, also prepare versions in Braille or languages other than English that are accurate translations of any such notice and provide any such notice upon request to a constituency returning officer, at whose discretion they may be exhibited either outside the polling station or inside the polling station: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24A(4), (5), (6)(a), (b) (as so added), Sch 2 r 25A(4), (5), (6)(a), (b) (as so added), Sch 3 r 25A(4), (5), (6)(a), (b) (as so added). At a London Authority ordinary election, it is specified that all notices must be in the appropriate form: see Sch 4 r 6(2). Accordingly,

see Sch 5 (Form 13: Notices for guidance of voters at ordinary elections (where there are more than two candidates for the office of Mayor); Notice C--for display inside polling stations).

In relation to a local authority mayoral election, see the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 25(11)(a), Appendix of Forms (Form 8: Notice for guidance of voters).

At an ordinary Welsh Assembly election where there are contested elections for an Assembly constituency and for the Assembly electoral region in which the constituency is situated, the notice must be in the form set out in English and Welsh in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 Appendix of Forms (Form of directions for guidance of the voters in voting referred to in PARAGRAPH 34(12)): Sch 5 para 34(12). Where there is a contested election for an Assembly constituency but there is no such election for the Assembly electoral region in which the constituency is situated, or where there is a contested election for an Assembly electoral region but there is no such election for an Assembly constituency in the Assembly electoral region, the notice must be in the form set out in English and Welsh in Sch 5 Appendix of Forms (Form of directions for guidance of the voters in voting referred to in PARAGRAPH 34(13) and (14)): Sch 5 para 34(13), (14).

At a European parliamentary election, the notice must in the form specified in the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 Appendix of Forms (Form of directions for the guidance of the voters in voting).

In relation to elections taking place in Wales, see the forms prescribed for use in the appropriate language (or languages) in the Local Elections (Communities) (Welsh Forms) Order 1987, SI 1987/561, art 2, Schedule Pt I (directions for the guidance of the voters in voting, cyfarwyddyd i bleidleiswyr wrth bleidleisio); and the Local Elections (Principal Areas) (Welsh Forms) Order 1987, SI 1987/562, art 2, Schedule Pt I (directions for the guidance of the voters in voting, cyfarwyddyd i bleidleiswyr wrth bleidleisio). Where such an election is held together with another election or referendum, see the Local Elections (Communities) (Welsh Forms) Order 2004, SI 2004/1233, art 3, Schedule Pt 2 (Ffurf cyfarwyddiadau i arwain pleidleiswyr wrth bleidleisio, form of directions for guidance of the voters in voting); and the Local Elections (Principal Areas) (Welsh Forms) Order 2004, SI 2004/1234, art 3, Schedule Pt 2 (Ffurf cyfarwyddiadau i arwain pleidleiswyr wrth bleidleisio, form of directions for guidance of the voters in voting). See also the European Parliamentary Elections (Welsh Forms) Order 2004, SI 2004/1373, art 6, Sch 2 (Form 4: Form of directions for the guidance of the voters in voting; Form 5); and the Parliamentary Elections (Welsh Forms) Order 2005, SI 2005/1105, art 6, Sch 2 (Form 2: Form of directions for guidance of the voters in voting; Form 3: Form of directions for guidance of the voters in voting at combined polls).

14 Representation of the People Act 1983 Sch 1 r 29(4); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 11(4); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24A(1) (a), (b) (as added: see note 13 supra), Sch 2 r 25A(1)(a), (b) (as added: see note 13 supra), Sch 3 r 25A(1)(a), (b)) (as added: see note 13 supra); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 25(11)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34(12)-(14); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 30(5); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(6); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(6). As to the grounds on which a ballot paper may be rejected during the count see PARA 434 et seq post; and as to the treatment of rejected votes see PARA 438 et seq post.

The person who is required or authorised to give or display any document, which under or by virtue of the Representation of the People Act 1983 is required or authorised to be given to voters or displayed in any place for the purposes of a parliamentary or local government election, must, as he thinks appropriate, give or display or otherwise make available in such form as he thinks appropriate the document in Braille or in languages other than English, graphical representations of the information contained in the document and other means of making the information contained in the document accessible to persons who might not otherwise have reasonable access to the information: s 199B(1), (2) (s 199B added by the Electoral Administration Act 2006 s 36). Such a person must also, as he thinks appropriate, make available the information contained in the document in such audible form as he thinks appropriate: Representation of the People Act 1983 s 199B(3) (as so added). Although these provisions do not apply to either the nomination paper or the ballot paper (s 199B(4) (as so added)), the returning officer at a parliamentary election or a local government election may cause to be displayed at every polling station in the election an enlarged sample copy of the ballot paper (s 199B(5) (as so added)); and he must provide at every polling station in the election an enlarged handheld sample copy of the ballot paper for the assistance of voters who are partially sighted (s 199B(7) (as so added)). As to the form of the sample copies see s 199B(6), (8) (as so added). Any amendment effected by the Electoral Administration Act 2006 s 36 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

At a local government election for a principal area, parish or community, the returning officer, and at a European parliamentary election, the local returning officer, may also provide copies in Braille or in languages other than English as he considers appropriate, that are an accurate translation or reproduction of the notice referred to in head (a) in the text: European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para

30(6); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(7); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(7).

15 As to the provision of compartments in polling stations see PARA 395 ante.

16 Representation of the People Act 1983 Sch 1 r 29(5); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 11(5) (amended by SI 1987/262); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24A(1)(c) (as added: see note 13 supra), Sch 2 r 25A(1)(c) (as added: see note 13 supra), Sch 3 r 25A(1)(c) (as added: see note 13 supra); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 25(11)(b), Appendix of Forms (Form 9: notices for display in polling booths (Notice A--for use where there are only two mayoral candidates, Notice B--for use where there are three or more candidates)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34(15), (16); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 30(7); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(8); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(8).

In the case of a London Authority election, notices for the guidance of voters must be prepared by the Greater London returning officer ('GLRO'), complying with the requirements of the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 9, Sch 12 (added by SI 2004/227), and he must provide the notices to the constituency returning officer ('CRO') to be exhibited in every compartment of the polling station: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24A(1)(c), (2), (3) (as so added), Sch 2 r 25A(1)(c), (2), (3) (as so added), Sch 3 r 25A(1)(c), (2), (3) (as so added). The GLRO may, in addition, also prepare versions in Braille or languages other than English that are accurate translations of any such notice and provide any such notice upon request to a CRO, at whose discretion they may be exhibited in every compartment of the polling station: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24A(4), (5), (6)(c) (as so added), Sch 2 r 25A(4), (5), (6)(c) (as so added), Sch 3 r 25A(4), (5), (6)(c) (as so added).

In relation to elections taking place in Wales, see also the Local Elections (Communities) (Welsh Forms) Order 1987, SI 1987/561, art 2, Schedule Pt III (voting compartment notice, hysbysiad cabanau pleidleisio); the Local Elections (Principal Areas) (Welsh Forms) Order 1987, SI 1987/562, art 2, Schedule Pt III (voting compartment notice, hysbysiad cabanau pleidleisio); and the Parliamentary Elections (Welsh Forms) Order 2005, SI 2005/1105, art 6, Sch 2 (Form 4: Form of words prescribed by rule 29(5)).

17 Representation of the People Act 1983 Sch 1 r 29(3A)(a) (as added: see note 7 supra); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24(4)(a) (as substituted: see note 7 supra), Sch 2 r 25(4)(a) (as substituted: see note 7 supra), Sch 3 r 25(5)(a) (as substituted: see note 7 supra); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 25(4)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34(5)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 30(4)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(5)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(5)(a).

18 At a London members election, if, before the date appointed for the poll, proof is given to the satisfaction of the GLRO (see note 16 supra) that one of the persons named or to be named as an individual candidate in the ballot papers, or whose name appears on a party list, has died, then the GLRO must inform each CRO (see note 16 supra) of that fact (see PARA 270 ante) and the CRO must provide each polling station with a notice of the death of any such person: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 rr 13(3), 25(3)(e). In the case of a European parliamentary election, where proof has been given to the returning officer's satisfaction of the death of a candidate on a registered party's list or an individual candidate, he must request each local returning officer to provide each presiding officer with a sufficient number of notices to this effect for display in every compartment of every polling station: European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 30(8).

19 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34(17). As to the statement of persons nominated see PARA 272 ante.

20 As to the equipment of polling stations to be used where polls at elections or referendums are taken together see PARA 19 ante.

UPDATE

388-396 Rules for the conduct of elections ... Equipment of polling stations

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

389-411 Method of election ... Returning officer's duty to issue postal ballot papers, etc

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

396 Equipment of polling stations

NOTES--SI 2002/185 replaced: Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024. SI 2002/185 reg 3(1), Sch 1 r 25, Appendix of Forms, Form 8 now SI 2007/1024, reg 3(1), Sch 1 rr 19, 28, Appendix of Forms, Form 12. SI 2002/185 Sch 1, Appendix of Forms, Form 9 not replicated.

NOTE 13--SI 2001/341, Sch 3 Form L2 replaced: SI 2007/1025 Sch Form L2. SI 2001/341 reg 63A(2) (amended SI 2007/1025). The reference is now to polls that are combined under the Local Government Act 2000 s 44 or 45: SI 2001/341 reg 63A(3) (amended by SI 2007/1025). SI 1987/561, SI 2004/1233 replaced: Local Elections (Communities) (Welsh Forms) Order 2007, SI 2007/1013. SI 1987/562, SI 2004/1234 replaced: Local Elections (Principal Areas) (Welsh Forms) Order 2007, SI 2007/1015. SI 2004/1373 replaced: European Parliamentary Elections (Welsh Forms) Order 2009, SI 2009/781.

NOTE 14--1983 Act s 199B applied with modifications for the purposes of local authority mayoral elections by the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(2)-(5), Sch 2 Table 1.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/B. VOTES GIVEN AT A POLLING STATION/397. Loan of equipment provided for elections.

397. Loan of equipment provided for elections.

Any ballot boxes, fittings and compartments provided for parliamentary elections¹ out of money provided by Parliament may, on request, be lent to: (1) the returning officer at a local government election²; (2) the returning officer at a poll consequent on a parish meeting on a question involving an appointment to office³; or (3) a constituency returning officer at a Welsh Assembly election⁴, on such terms and conditions as the Secretary of State may determine⁵.

Any ballot boxes, fittings and compartments provided by, or belonging to, a local authority within the meaning of the Local Government Act 1972⁶, must, on request, and if not required for immediate use by that authority, be lent to the officer listed under head (1), (2) or (3) above at an election held under that Act, or at a poll consequent on a parish meeting on a question involving appointment to office, or at a Welsh Assembly election, on such terms and conditions as may be agreed⁷.

1 As to the provision and allotment of polling stations see PARA 395 ante; and as to the equipment of polling stations see PARA 396 ante. For the meaning of 'parliamentary election' see PARA 9 ante.

2 For the meaning of 'local government election' see PARA 10 ante. As to returning officers for local government elections (including local authority mayoral elections) see PARA 359 et seq ante.

3 As to polls consequent on a parish meeting on a question involving appointment to office see PARA 207 et seq ante; and as to the returning officer at such a poll see PARA 361 ante.

4 For the meaning of 'constituency returning officer' in the context of Welsh Assembly elections see PARA 18 note 2 ante.

5 Representation of the People Act 1983 s 47(1) (amended by the Transfer of Functions (Returning Officers' Charges) Order 1991, SI 1991/1728, art 4); Local Government Act 1972 s 99, Sch 12 para 21(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 23(1). As to the Secretary of State see PARA 2 ante. As from a day to be appointed under the Political Parties, Elections and Referendums Act 2000 s 163(2), the reference in the Representation of the People Act 1983 s 47(1) (as amended) to the Secretary of State is repealed and a reference to the Electoral Commission added in its place: see s 47(1) (as so amended; prospectively further amended by the Political Parties, Elections and Referendums Act 2000 s 158(1), Sch 21 para 6(1), (4)). At the date at which this volume states the law, no such day had been appointed. As to the Electoral Commission see PARA 31 et seq ante.

6 For the meaning of 'local authority' see LOCAL GOVERNMENT vol 69 (2009) PARA 23.

7 Representation of the People Act 1983 s 47(2) (amended by the Education Reform Act 1988 s 237, Sch 13 Pt I); Local Government Act 1972 Sch 12 para 21(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 23(2).

UPDATE

389-411 Method of election ... Returning officer's duty to issue postal ballot papers, etc

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/B. VOTES GIVEN AT A POLLING STATION/398. Appointment of presiding officers and their clerks by returning officer.

398. Appointment of presiding officers and their clerks by returning officer.

At an election¹, the appropriate returning officer² must appoint and pay³ a presiding officer to attend at each polling station⁴. The returning officer must also appoint and pay such clerks as may be necessary⁵ for the purposes of the election⁶. However, the returning officer may not appoint a person who has been employed by, or on behalf of, a candidate in or about the election⁷. The returning officer may, if he thinks fit, preside at a polling station⁸.

A presiding officer may do, by the clerks appointed to assist him, any act (including the asking of questions) which he is required or authorised to do at a polling station except order the arrest, exclusion or removal of any person from the polling station⁹.

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for the appointment of presiding officers and their clerks¹⁰.

1 le at a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), a local government election, an election for the return of a local authority mayor, a constituency or regional election for the return of members of the National Assembly for Wales and a European parliamentary election. Polls consequent on a parish meeting on a question involving appointment to office (as to which see PARA 207 et seq ante) are also considered and, for this purposes, the text should be read as if, for the reference to 'election', there were a reference to 'poll'. For the meaning of 'parliamentary election' see PARA 9 ante; for the meanings of 'Authority election' and 'local government election' see PARA 10 ante; and for the meaning of 'election under the local government Act' see PARA 10 note 2 ante. As to elections in the City of London see PARA 30 ante. As to elections for the return of a local authority mayor see PARA 205 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante. As to elections to the National Assembly for Wales see PARA 220 et seq ante. As to European parliamentary elections see PARA 224 et seq ante.

2 As to returning officers for parliamentary elections see PARA 355 et seq ante; as to returning officers for local government elections (including local authority mayoral elections) see PARA 359 et seq ante; and as to the returning officer at a poll consequent on parish meeting see PARA 361 ante. In the case of European parliamentary elections, the appropriate returning officer is the local returning officer: see PARA 365 et seq ante. In the case of an election for the return of constituency members of the London Assembly, the appropriate returning officer is the constituency returning officer (for the meaning of which see PARA 218 note 8 ante); and in the case of an election for the return of London members of the London Assembly and for the return of an elected Mayor of London, it is the Greater London returning officer (for the meaning of which see PARA 218 note 7 ante). For the purposes of elections for the return of members of the National Assembly for Wales, 'appropriate returning officer' means, in relation to a constituency election, a constituency returning officer (for the meaning of which see PARA 18 note 2 ante) and, in relation to a regional election, a regional returning officer (for the meaning of which see PARA 18 note 2 ante): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 2(1); and PARA 242 note 7 ante.

3 At a poll consequent on a parish meeting, the remuneration of a presiding officer and clerks is discretionary: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 10(1).

4 Representation of the People Act 1983 s 23(1), Sch 1 r 26(1); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 10(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)-(3), Sch 1 r 22(1), Sch 2 r 23(1), Sch 3 r 23(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 23(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 32(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 28(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 24(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 24(1).

For the purposes only of a Welsh Assembly regional election, a presiding officer is not appointed to attend at each polling station because votes are cast at the same time and place as a constituency election; however, clerks may be appointed to assist the regional returning officer in his duties (see the text and notes 5-6 *infra*): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 32(2).

An oral appointment of a presiding officer is apparently sufficient: *R v Garvey* (1887) 16 Cox CC 252.

5 Appointments are made of clerks as mentioned in the text to assist the presiding officer and to assist in counting the votes. In practice the limits set of maximum charges, to which a returning officer is subject in claiming his expenses, restrict the number of clerks who are appointed: see PARA 357 *et seq ante*.

6 Representation of the People Act 1983 Sch 1 r 26(1); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 10(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 22(1), Sch 2 r 23(1), Sch 3 r 23(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 23(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 32(1), (2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 28(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 24(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 24(1).

In the case of a London mayoral election, the constituency returning officer may also employ such technical assistants as may be necessary for the purposes of the election: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 23(1).

7 Representation of the People Act 1983 Sch 1 r 26(1); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 10(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 22(1), Sch 2 r 23(1), Sch 3 r 23(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 23(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 32(1), (2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 28(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 24(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 24(1).

In the case of a London Assembly London members election, the restriction as mentioned in the text applies to any person who has been employed in or about the election by or on behalf of a candidate or a registered party which has submitted a party list: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 23(1). In the case of a Welsh Assembly constituency or regional election, the restriction applies to any person who has been employed either by, or on behalf of, an individual or party list candidate, or by a registered political party, in or about the election: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 32(1), (2). In the case of a European parliamentary election, the restriction applies to any person who has been employed by or on behalf of a registered party or individual candidate in or about the election: European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 28(1).

8 Representation of the People Act 1983 Sch 1 r 26(2); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 10(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 22(2), Sch 2 r 23(2), Sch 3 r 23(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 23(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 32(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 28(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 24(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 24(2). The provisions of the appropriate elections rules relating to a presiding officer apply to an appropriate returning officer presiding as mentioned in the text, with the necessary modifications as to things to be done by the appropriate returning officer to the presiding officer or by the presiding officer to the appropriate returning officer: Representation of the People Act 1983 Sch 1 r 26(2); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 10(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 22(2), Sch 2 r 23(2), Sch 3 r 23(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 23(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 28(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 24(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 24(2). In the case of a Welsh Assembly election, it is the constituency returning officer who may, if he thinks fit, preside at a polling station; and the provisions of the appropriate elections rules relating to a presiding officer apply to a constituency returning officer so presiding with the necessary modifications as to things to be done by the constituency returning officer to the presiding officer or by the presiding officer to the constituency returning officer: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 32(3).

9 Representation of the People Act 1983 Sch 1 r 26(3); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 10(3); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 22(3), Sch 2 r 23(3), Sch 3 r 23(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 23(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 32(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 28(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 24(3); Local Elections

(Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 24(3). As to the presiding officer's duty to keep order in a polling station see PARA 401 post.

10 As to polls at elections or referendums which are taken together see PARA 16 et seq ante.

UPDATE

389-411 Method of election ... Returning officer's duty to issue postal ballot papers, etc

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

398-411 Appointment of presiding officers and their clerks by returning officer ... Returning officer's duty to issue postal ballot papers, etc

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

398 Appointment of presiding officers and their clerks by returning officer

NOTES--SI 2002/185 reg 3(1), Sch 1 r 23 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 26.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/B. VOTES GIVEN AT A POLLING STATION/399. Appointment of polling and counting agents by candidate or election agent.

399. Appointment of polling and counting agents by candidate or election agent.

Before the commencement of the poll at an election¹, each candidate² (or, as the case may be, election agent)³ may appoint: (1) polling agents to attend at polling stations for the purpose of detecting personation⁴; and (2) counting agents to attend at the counting of the votes (or, in the case of a European parliamentary election, at the verification of the ballot paper accounts)⁵. However, the number of counting agents to attend at the counting of the votes may be limited by the appropriate returning officer⁶ so that the number is the same in the case of each candidate and the number allowed to a candidate is not (except in special circumstances) less than the number obtained by dividing the number of clerks employed on the counting by the number of candidates⁷.

Written notice of the appointment of polling or counting agents, stating the names and addresses of the persons appointed, must be given by the candidate (or, as the case may be, the election agent) to the returning officer⁸: (a) in the case of a parliamentary or Welsh Assembly election, not later than the second day before the day of the poll⁹; (b) in the case of a local government election, local authority mayoral election or European parliamentary election, not later than the fifth day before the day of the poll¹⁰; or (c) in the case of a poll consequent on a parish meeting on a question involving appointment to office, not later than the third day before the day of the poll¹¹. If an agent dies or becomes incapable of acting, the candidate may appoint another agent in his place and must forthwith give to the returning officer written notice of the name and address of the agent so appointed¹².

A candidate may do any act or thing which any polling or counting agent of his, if appointed, would have been authorised to do or may assist any such agent in doing any such act or thing¹³. At elections where election agents may be appointed, a candidate's election agent may do or assist in doing anything which a polling or counting agent of his is authorised to do, and anything required or authorised to be done in the presence of the polling or counting agents may be done in the presence of any candidate's election agent instead of the polling agent or counting agents¹⁴.

Where any act or thing is required or authorised to be done by the appropriate rules in the presence of the polling or counting agents, the non-attendance of any agent or agents at the time and place appointed for the purpose does not, if the act or thing is otherwise duly done, invalidate the act or thing done¹⁵.

Any notice required to be given to a counting agent by the returning officer may be delivered at, or sent by post to, the address stated in the notice of appointment¹⁶.

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for the appointment of polling and counting agents¹⁷.

¹ I.e. at a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), a local government election, an election for the return of a local authority mayor, a constituency or regional election for the return of members of the National Assembly for Wales and a European parliamentary election. Polls consequent on a parish meeting on a question involving appointment to office (as to which see PARA 207 et seq ante) are also considered and, for this purpose, the text should be read as if, for the reference to 'election', there were a reference to 'poll'. For the meaning of 'parliamentary election' see PARA 9 ante; for the meanings of 'Authority

election' and 'local government election' see PARA 10 ante; and for the meaning of 'election under the local government Act' see PARA 10 note 2 ante. As to elections in the City of London see PARA 30 ante. As to elections for the return of a local authority mayor see PARA 205 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante. As to elections to the National Assembly for Wales see PARA 220 et seq ante. As to European parliamentary elections see PARA 224 et seq ante.

2 For the meaning of 'candidate' generally see PARA 237 ante; but see the text and note 3 infra.

3 At elections where election agents may be appointed, except at a local government election for a principal area, any appointment authorised by the rule set out in the text may be made and the notice of appointment given to the returning officer by the candidate's election agent, instead of by the candidate: Representation of the People Act 1983 s 23(1), Sch 1 r 30(5); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)-(3), Sch 1 r 25(8), Sch 2 r 26(9), Sch 3 r 26(9); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 26(9); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 35(7). In the case of a London Assembly London members election, the reference in the text is to each individual candidate and the election agent of each list candidate (but not to a list candidate): Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 26(1). As to party lists of candidates to be London members see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 98; and as to individual candidates to be London members see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 99.

In the case of a Welsh Assembly regional election, the reference in the text is to each individual candidate and each election agent for a group of party list candidates, in relation to each Assembly constituency in the Assembly electoral region: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 35(3). For the meanings of 'Assembly constituency', 'Assembly electoral region' and 'regional election', in relation to a Welsh Assembly election, see PARA 3 note 1 ante. For the meaning of 'individual candidate', in relation to a Welsh Assembly election, and for the meaning of references to a group of party list candidates see PARA 237 note 23 ante. As to the appointment of election agents see PARA 238 et seq ante.

In the case of a European parliamentary election, the reference in the text is to an individual candidate or the election agent (or sub-agent) of a registered party standing nominated or any person authorised in writing by such an agent or that candidate: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 31(1). In the context of a European parliamentary election, for the meaning of 'registered party' see PARA 237 note 30 ante; and for the meaning of 'individual candidate' see PARA 237 note 32 ante. As to the submission by a registered party of lists of candidates to be members of the European Parliament ('MEPs') see PARA 235 ante.

4 Representation of the People Act 1983 Sch 1 r 30(1)(a); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 12(1)(a); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 25(1), Sch 2 r 26(1), Sch 3 r 26(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 26(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 35(1)(a), (3)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 31(1)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 27(1)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 27(1)(a).

At a local government election or local authority mayoral election, the appointment of a polling agent may be by or on behalf of more than one candidate: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 25(2), Sch 2 r 26(2), Sch 3 r 26(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 26(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 27(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 27(2).

At a poll consequent on a parish meeting on a question involving appointment to office, each candidate may appoint only one polling agent to attend at each polling station for the purpose mentioned in the text: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 12(1)(a).

As to the offence of personation (which is also a corrupt practice) see PARA 733 post.

5 Representation of the People Act 1983 Sch 1 r 30(1)(b); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 12(1)(b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 25(1)(b), Sch 2 r 26(1), Sch 3 r 26(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 26(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 35(1)(b), (3)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 31(1)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 27(1)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 27(1)(b). In the case of a London Assembly London members election, the reference is to the attendance of counting agents at the local count: see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 26(1)(b).

At a local government election or local authority mayoral election, the appointment of a counting agent may be by or on behalf of more than one candidate: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 25(2), Sch 2 r 26(2), Sch 3 r 26(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 26(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 27(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 27(2). At a poll consequent on a parish meeting on a question involving appointment to office each candidate may appoint only one counting agent to attend for the purpose mentioned in the text: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 12(1)(b). At a London Assembly London members election or London mayoral or European parliamentary election, for each local count one (but no more than one) counting agent of each registered party or individual candidate may be authorised by the terms of his appointment to require a recount at that count: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 26(2A) (added by SI 2004/227); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 26(2A) (added by SI 2004/227); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 31(2).

At a Welsh Assembly regional election, where no candidate or election agent is present on the completion of the counting or any recount of votes, the right conferred on that person (if he had been present) to request a recount under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 52 (see PARA 465 post) may be exercised by a counting agent for an individual candidate or a group of party list candidates so present provided that the counting agent has been appointed for these purposes by a person who also has the right to appoint a counting agent; but not more than one such counting agent for the same individual candidate or group of party list candidates may be appointed for these purposes in relation to the same Assembly constituency: Sch 5 para 52(3). Notice in writing of such an appointment, stating the name and address of the person appointed, must be given by the person making the appointment to the constituency returning officer and must be so given at the same time as notice is given to that returning officer of that person's appointment as counting agent under Sch 5 para 35(5), (6) (see the text and notes 8-12 infra): Sch 5 para 52(4).

6 As to returning officers for parliamentary elections see PARA 355 et seq ante; as to returning officers for local government elections (including local authority mayoral elections) see PARA 359 et seq ante; and as to the returning officer at a poll consequent on parish meeting see PARA 361 ante. In the case of European parliamentary elections, the appropriate returning officer is the local returning officer: see PARA 365 et seq ante. In the case of an election for the return of constituency members of the London Assembly, the appropriate returning officer is the constituency returning officer (for the meaning of which see PARA 218 note 8 ante); and in the case of an election for the return of London members of the London Assembly and for the return of an elected Mayor of London, it is the Greater London returning officer (for the meaning of which see PARA 218 note 7 ante). For the purposes of elections for the return of members of the National Assembly for Wales, the appropriate returning officer in this context is, in relation to both a constituency and regional election, a constituency returning officer (for the meaning of which see PARA 18 note 2 ante).

At a local government election or local authority mayoral election, not more than four polling agents may be appointed to attend at any particular polling station unless the returning officer by notice allows otherwise: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 25(3), Sch 2 r 26(3), Sch 3 r 26(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 26(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 27(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 27(3). If, at such an election, the number of polling agents appointed to attend at a polling station exceeds the permitted number, the returning officer must determine which agents are permitted to attend by lot and only the agents on whom the lot falls are deemed to be duly appointed: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 25(3), Sch 2 r 26(4), Sch 3 r 26(4); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 26(4); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 27(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 27(3). At a poll consequent on a parish meeting on a question involving appointment to office, each candidate may appoint only one agent for each purpose: see notes 4-5 supra.

7 Representation of the People Act 1983 Sch 1 r 30(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 25(4), Sch 2 r 26(5), Sch 3 r 26(5); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 26(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 35(2), (4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 31(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 27(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 27(4). For the purposes of para 400 et seq post, references to polling and counting agents must be taken as references to agents whose appointments have been duly made and notified and, where the number of agents is restricted, who are within the permitted number: Representation of the People Act 1983 Sch 1 r 30(6); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 12(4); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 25(9), Sch 2 r 26(10), Sch 3 r 26(10); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 26(10); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 35(8); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 31(6); Local Elections (Principal Areas) (England and Wales) Rules

2006, SI 2006/3304, Sch 2 r 27(7); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 27(7). At a poll consequent on a parish meeting on a question involving appointment to office, each candidate may appoint only one agent for each purpose: see notes 4-5 supra.

At a local government election or local authority mayoral election, for the purposes of the calculation required as mentioned in the text, a counting agent who has been appointed for more than one candidate (as to which see note 4 supra) is a separate agent for each of the candidates by whom he has been appointed: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 25(5), Sch 2 r 26(6)(b), Sch 3 r 26(6); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 26(6); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 27(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 27(4). For the purposes of the calculation in relation to a London Assembly London members election, the calculation must also take into account a counting agent who has been appointed for more than one list candidate and is deemed for these purposes to be appointed for all the candidates on the list: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 26(6)(a).

In the case of a Welsh Assembly regional election, the reference is to the constituency returning officer, in relation to the Assembly constituency for which he is the returning officer, limiting the number of counting agents to being the same in the case of each individual candidate or election agent for a group of party list candidates, and limiting the number allowed to an individual candidate or election agent (except in special circumstances) to being not less than the number obtained by dividing the number of clerks employed on the counting by the total of the number of individual candidates and registered political parties which have submitted to a party list: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 35(4).

At a European parliamentary election, the reference is to the local returning officer limiting the number of counting agents to being the same in the case of each individual candidate or each registered party standing nominated, and limiting the number allowed to such an individual candidate or such a registered party standing nominated (except in special circumstances) to being not less than the number obtained by dividing the number of clerks employed on the verification of the ballot paper accounts or on the counting of the votes by the number obtained by adding the number of individual candidates and registered parties which stand nominated: see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 31(3).

8 Representation of the People Act 1983 Sch 1 r 30(3); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 12(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 25(6), Sch 2 r 26(7), Sch 3 r 26(7); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 26(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 35(5); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 31(4); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 27(5); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 27(5).

9 Representation of the People Act 1983 Sch 1 r 30(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 35(5). As to the date of the poll at a parliamentary general election or by-election see PARA 202 ante; and as to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see PARAS 220-221 ante. As to the computation of time for the purposes of a parliamentary election see PARA 203 note 1 ante; and for the purposes of a Welsh Assembly election see PARA 223 note 1 ante.

10 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 25(6), Sch 2 r 26(7), Sch 3 r 26(7); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 26(7); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 31(4); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 27(5); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 27(5). As to the date of the poll at local government elections (including elections to fill vacancies) see PARAS 213-216 ante; as to date of elections for the return of a local authority mayor see PARA 205 ante; and as to the date of the poll at a European parliamentary election see PARA 229 ante. As to the computation of time for the purposes of a local government election see PARA 218 ante; and for the purposes of a European parliamentary election see PARA 230 note 1 ante.

11 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 12(2). As to the date of the poll consequent on a parish meeting on a question involving appointment to office see PARA 214 ante. As to the computation of time for the purpose of such a poll see PARA 219 note 5 ante.

12 Representation of the People Act 1983 Sch 1 r 30(4); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 12(3); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 25(7), Sch 2 r 26(8), Sch 3 r 26(8); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 26(8); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 35(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 31(5); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 27(6); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 27(6).

13 Representation of the People Act 1983 Sch 1 r 30(8); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 12(6); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 25(11), Sch 2 r 26(12), Sch 3 r 26(12); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 26(12); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 35(10); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 31(8); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 27(9); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 27(9).

14 Representation of the People Act 1983 Sch 1 r 30(9); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 25(12), Sch 2 r 26(13), Sch 3 r 26(13); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 26(13); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 35(11); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 31(9); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 27(10).

In the case of a Welsh Assembly election, the reference in the text is to the election agent for an individual candidate or for a group of party list candidates: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 35(11).

In the case of a European parliamentary election, the reference in the text is to an election agent (or sub-agent) of a registered party standing nominated or the election agent (or sub-agent) of an individual candidate: European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 31(9).

15 Representation of the People Act 1983 Sch 1 r 30(10); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 12(7); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 25(13), Sch 2 r 26(14), Sch 3 r 26(14); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 26(14); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 35(12); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 31(10); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 27(11); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 27(10).

16 Representation of the People Act 1983 Sch 1 r 30(7); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 12(5); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 25(10), Sch 2 r 26(11), Sch 3 r 26(11); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 26(11); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 35(9); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 31(7); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 27(8); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 27(8).

17 As to polls at elections or referendums which are taken together see PARA 16 et seq ante.

UPDATE

389-411 Method of election ... Returning officer's duty to issue postal ballot papers, etc

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

398-411 Appointment of presiding officers and their clerks by returning officer ... Returning officer's duty to issue postal ballot papers, etc

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

399 Appointment of polling and counting agents by candidate or election agent

NOTES--SI 2002/185 reg 3(1), Sch 1 r 26 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 29.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/B. VOTES GIVEN AT A POLLING STATION/400. Sealing of ballot boxes.

400. Sealing of ballot boxes.

Immediately before the commencement of the poll, the presiding officer¹ must show the ballot box empty to such persons, if any, as are present in the polling station, so that they may see that it is empty, and must then lock it up (if it has a lock) and in any case place his seal on it in such manner as to prevent its being opened without breaking the seal, and must place it in his view for the receipt of ballot papers, and keep it so locked and sealed (or keep it so sealed, as the case may be)².

¹ As to the presiding officer see PARA 398 ante.

² Representation of the People Act 1983 s 23(1), Sch 1 r 34; Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 16; Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)-(3), Sch 1 r 29, Sch 2 r 30, Sch 3 r 30; Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 30; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 39; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 35; Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 32; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 32.

At a London Assembly election and at a Welsh Assembly election, where candidates may have more than one vote to cast (see PARAS 368-369 ante), this provision applies to each ballot box proposed to be used for the purposes of the poll: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 29, Sch 2 r 30, Sch 3 r 30; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 39.

UPDATE

389-411 Method of election ... Returning officer's duty to issue postal ballot papers, etc

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

398-411 Appointment of presiding officers and their clerks by returning officer ... Returning officer's duty to issue postal ballot papers, etc

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

400 Sealing of ballot boxes

NOTE 2--SI 2002/185 reg 3(1), Sch 1 r 30 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 34.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/B. VOTES GIVEN AT A POLLING STATION/401. Keeping of order in polling station; adjournment in case of riot.

401. Keeping of order in polling station; adjournment in case of riot.

It is the duty of the presiding officer¹ to keep order at his polling station². If a person misconducts himself in the polling station, or fails to obey the lawful orders of the presiding officer, he may immediately, by order of the presiding officer, be removed from the polling station by a constable in or near that station, or by any other person authorised in writing by the appropriate returning officer³ to remove him; and the person so removed may not, without the permission of the presiding officer, again enter the polling station during the day⁴. Any person so removed, may, if charged with the commission in the polling station of an offence, be dealt with as a person taken into custody by a constable for an offence without a warrant⁵. However, the powers of keeping order so conferred are not to be exercised so as to prevent a voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station⁶.

Where the proceedings at any polling station are interrupted or obstructed by riot or open violence, the presiding officer must adjourn the proceedings until the following working day⁷ and forthwith give notice to the appropriate returning officer⁸. The hours of the poll on the day to which it is adjourned are the same as for the original day and references to the close of the poll are to be construed accordingly⁹.

1 As to the presiding officer see PARA 398 ante.

2 Representation of the People Act 1983 s 23(1), Sch 1 r 33(1); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 15(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)-(3), Sch 1 r 28(1), Sch 2 r 29(1), Sch 3 r 29(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 29(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 38(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 34(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 31(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 31(1). As to polling stations see PARA 348 et seq ante.

3 As to returning officers for parliamentary elections see PARA 355 et seq ante; as to returning officers for local government elections (including local authority mayoral elections) see PARA 359 et seq ante; and as to the returning officer at a poll consequent on parish meeting see PARA 361 ante. In the case of European parliamentary elections, the appropriate returning officer is the local returning officer: see PARA 365 et seq ante. In the case of a London Authority election, and for the purposes of elections for the return of members of the National Assembly for Wales, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which in relation to a London Authority election see PARA 218 note 8 ante; and for the meaning of which in relation to a Welsh Assembly election see PARA 18 note 2 ante). As to the functions of returning officers where the poll at an election is taken together with the poll at another election or referendum see PARA 18 ante. For the meaning of 'parliamentary election' see PARA 9 ante; for the meanings of 'Authority election' and 'local government election' see PARA 10 ante; and for the meaning of 'election under the local government Act' see PARA 10 note 2 ante. As to elections in the City of London see PARA 30 ante. As to elections for the return of a local authority mayor see PARA 205 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante. As to elections to the National Assembly for Wales see PARA 220 et seq ante. As to European parliamentary elections see PARA 224 et seq ante.

4 Representation of the People Act 1983 Sch 1 r 33(2); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 15(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 28(2), Sch 2 r 29(2), Sch 3 r 29(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 29(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 38(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 34(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 31(2); Local Elections

(Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 31(2). The power to order the removal of any person may be exercised only by the presiding officer and not by one of the clerks appointed to assist him: see PARA 398 ante.

5 Representation of the People Act 1983 Sch 1 r 33(3); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 15(3); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 28(3), Sch 2 r 29(3), Sch 3 r 29(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 29(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 38(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 34(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 31(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 31(3).

6 Representation of the People Act 1983 Sch 1 r 33(4); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 15(4); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 28(4), Sch 2 r 29(4), Sch 3 r 29(4); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 29(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 38(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 34(4); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 31(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 31(4).

7 As to the computation of time for the purposes of a parliamentary election see PARA 203 note 1 ante; for the purposes of a local government election see PARA 218 ante; for the purposes of a poll consequent on a parish or community meeting see PARA 219 note 5 ante; for the purposes of a Welsh Assembly election see PARA 223 note 1 ante; and for the purposes of a European parliamentary election see PARA 230 note 1 ante.

8 Representation of the People Act 1983 Sch 1 r 42(1); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 24(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 37(1), Sch 2 r 38(1), Sch 3 r 38(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 38(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 47(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 43(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 42(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 42(1). In the case of a Welsh Assembly regional election, the reference is to notice being given, in the case of an ordinary election where voters are entitled to give two votes at the polling station, to the constituency and to the regional returning officer, but otherwise, in the case of constituency election, to the constituency returning officer or, in the case of a regional election, to the constituency returning officer for the Assembly constituency in which the polling station is situated and to the regional returning officer: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 47(1). For the meaning of 'regional returning officer' see PARA 18 note 2 ante. Apart from this one reference, the appropriate returning officer in this context is the constituency returning officer: see note 3 supra.

9 Representation of the People Act 1983 Sch 1 r 42(2); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 24(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 37(2), Sch 2 r 38(2), Sch 3 r 38(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 38(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 47(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 43(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 42(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 42(2). As to the normal procedure on close of poll see PARA 410 post. In relation to a London Authority election, as soon as practicable after being informed of the adjournment of a poll, the constituency returning officer must inform the Greater London returning officer of that fact and of the cause of its adjournment: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 37(3), Sch 2 r 38(3), Sch 3 r 38(3). For the meaning of 'Greater London returning officer' see PARA 218 note 7 ante.

UPDATE

389-411 Method of election ... Returning officer's duty to issue postal ballot papers, etc

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

398-411 Appointment of presiding officers and their clerks by returning officer ... Returning officer's duty to issue postal ballot papers, etc

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

401 Keeping of order in polling station; adjournment in case of riot

NOTES--SI 2002/185 reg 3(1), Sch 1 rr 29, 38 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 rr 33, 44.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/B. VOTES GIVEN AT A POLLING STATION/402. Admission to polling station.

402. Admission to polling station.

The presiding officer¹ must regulate the number of voters² to be admitted to the polling station at the same time³. He must exclude all other persons⁴ except the candidates (and, at elections where election agents are appointed, their election agents)⁵, the polling agents appointed to attend at the polling station⁶, the clerks appointed to attend the polling station⁷, the constables on duty, the companions of voters with disabilities and (in the case of a parliamentary election, or at a local government election for a principal area, parish or community) persons who are entitled to attend by virtue of any of the provisions⁸ which allow Electoral Commission representatives and accredited observers to attend electoral proceedings and observe working practices⁹.

Each voter must vote at the polling station allotted to him¹⁰ with the exception of constables on duty and persons employed by the appropriate returning officer¹¹ in connection with the election, who may be admitted to vote in person elsewhere than at his own polling station, but only on production and surrender of a certificate as to his employment which must be in the prescribed form, or a form to like effect¹². The certificate must be signed by an officer of police of or above the rank of inspector or by the returning officer, as the case may be¹³. The certificate when surrendered must forthwith be cancelled¹⁴.

The returning officer must make such arrangements as he thinks fit to ensure that every person attending at a polling station (otherwise than for the purpose of voting or assisting a voter who has an incapacity or as a constable on duty there) has been given a copy in writing of the statutory provisions relating to the requirement of secrecy that apply to such attendance¹⁵.

1 As to the presiding officer see PARA 398 ante.

2 I.e., in the case of a parliamentary election, or at a local government election for a principal area, parish or community, the total number of voters and persons under the age of 18 who accompany them: see the Representation of the People Act 1983 s 23(1), Sch 1 r 32(1A) (as added); the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 30(2); and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 30(2).

3 Representation of the People Act 1983 Sch 1 r 32(1A) (added by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 84); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 14; Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)-(3), Sch 1 r 27(1), Sch 2 r 28(1), Sch 3 r 28(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 28(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 37(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 33(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 30(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 30(2).

4 I.e. all persons other than the voters and, in the case of a parliamentary election, or at a local government election for a principal area, parish or community, the persons under the age of 18 who accompany them to the polling station: see the Representation of the People Act 1983 Sch 1 r 32(1) (as substituted: see note 9 infra); the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 30(1); and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 30(1).

5 There is no provision for election agents at a poll consequent on a parish meeting on a question involving appointment to office but, where a poll is taken on such a question, the candidates may be accompanied by their spouses or civil partners: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 14 (amended by SI 2005/2114). As to the appointment of election agents see PARA 238 et seq ante.

At a Welsh Assembly regional election, it is specified that not more than one party list candidate may be admitted at the same time to a polling station on behalf of the same group of party list candidates: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 37(2).

At a European parliamentary election, the reference is to the candidates and the election agents of any registered party standing nominated and any individual candidate: European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 33(1).

6 This provision implies that polling agents are appointed to attend specific polling stations. As to the appointment of polling agents see PARA 399 ante. Not more than one polling agent may be admitted at the same time to a polling station on behalf of the same candidate: Representation of the People Act 1983 Sch 1 r 32(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 27(2), Sch 2 r 28(2), Sch 3 r 28(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 28(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 30(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 30(3). At a Welsh Assembly election, it is specified that not more than one polling agent is to be admitted at the same time to a polling station on behalf of the same individual candidate or, at a regional election, on behalf of the same group of party list candidates: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 37(3). At a European parliamentary election, it is specified that not more than one polling agent is to be admitted at the same time to a polling station on behalf of the same registered party standing nominated and any individual candidate: European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 33(2). At a poll consequent on a parish or community meeting, a candidate may appoint only one polling agent: see PARA 399 ante.

7 See PARA 398 ante. In the case of a London Assembly London members election, technical assistants may attend as well as clerks: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 28(1).

8 le by virtue of any of the Political Parties, Elections and Referendums Act 2000 ss 6A-6D (as added) (see PARA 48 ante).

9 Representation of the People Act 1983 Sch 1 r 32(1) (substituted by the Electoral Administration Act 2006 Sch 1 paras 69, 84); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 14 (as amended: see note 5 supra); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 27(1), Sch 2 r 28(1), Sch 3 r 28(1) (all amended by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 28(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 37(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 33(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 30(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 30(1). As to the Electoral Commission see PARA 31 et seq ante. As to the companions of voters with disabilities see PARA 407 post.

At a Welsh Assembly election, the list of people not to be excluded also includes, in the case of a constituency election, the constituency returning officer and, in the case of a regional election, the regional returning officer or the constituency returning officer for the Assembly constituency in which the polling station is situated: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 37(1). For the meanings of 'constituency returning officer' and 'regional returning officer' for the purposes of elections for the return of members of the National Assembly for Wales see PARA 18 note 2 ante.

For the purposes of a London Authority election or European parliamentary election, the list of people not to be excluded also includes authorised representatives of the Electoral Commission (as to which see PARA 48 ante): Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 27(1), Sch 2 r 28(1), Sch 3 r 28(1) (all as so amended); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 33(1).

10 As to the manner of voting at elections see PARA 368 ante.

11 As to returning officers for parliamentary elections see PARA 355 et seq ante; as to returning officers for local government elections (including local authority mayoral elections) see PARA 359 et seq ante; and as to the returning officer at a poll consequent on parish meeting see PARA 361 ante. In the case of European parliamentary elections, the appropriate returning officer is the local returning officer: see PARA 365 et seq ante. In the case of a London Authority election, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which see PARA 218 note 8 ante).

12 Representation of the People Act 1983 Sch 1 r 32(3); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 27(3), Sch 2 r 28(3), Sch 3 r 28(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 28(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 37(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 33(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 30(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 30(4). There is no such provision at a poll consequent on a parish meeting.

For the purposes of the Representation of the People Act 1983, 'prescribed' means prescribed by regulations: s 202(1). As to the making of regulations under the Representation of the People Act 1983 generally see PARA 24 note 16 ante. As to the regulations made see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 63(1), Sch 3 (Form F: certificate of employment). In relation to a local government election for a principal area see the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 Appendix of Forms (Form of certificate of employment) and r 4, Sch 3 Appendix of Forms (Form of certificate of employment) (where such a poll is taken together with another relevant election or referendum); in relation to a local government election for a parish or community council, see the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 Appendix of Forms (Form of certificate of employment) and r 4, Sch 3 Appendix of Forms (Form of certificate of employment) (where such a poll is taken together with another relevant election or referendum); and, in relation to an Authority election, see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 4, Sch 5 (Form 14: certificate of employment). In relation to a local authority mayoral election, see the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 Appendix of Forms (Form 10: certificate of employment). In relation to a Welsh Assembly election, see the form set out in English and Welsh in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(2), Sch 2 para 13, Appendix of Forms (Form of certificate of employment). The certificate must be signed, in the case of a constable, by an officer of a police force of or above the rank of inspector: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 13. In relation to a European parliamentary election, see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 Appendix of Forms (certificate of employment).

For the purposes of elections which take place in Wales see also the forms issued partly in English and partly in Welsh in the European Parliamentary Elections (Welsh Forms) Order 2004, SI 2004/1373, art 5, Sch 1 (Form 1: certificate of employment); and the Parliamentary Elections (Welsh Forms) Order 2005, SI 2005/1105, arts 4-5, Sch 1 (Form 1: certificate of employment). Where an election in Wales is held together with another election or referendum see the Local Elections (Communities) (Welsh Forms) Order 2004, SI 2004/1233, art 3, Schedule Pt I (Form of certificate of employment, ffurflen tystysgrif cyflogaeth); and the Local Elections (Principal Areas) (Welsh Forms) Order 2004, SI 2004/1234, art 3, Schedule Pt I (Form of certificate of employment, ffurflen tystysgrif cyflogaeth).

13 Representation of the People Act 1983 Sch 1 r 32(3); Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 63(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 27(3), Sch 2 r 28(3), Sch 3 r 28(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 28(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 37(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 33(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 30(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 30(4).

14 Representation of the People Act 1983 Sch 1 r 32(4); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 27(4), Sch 2 r 28(4), Sch 3 r 28(4); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 28(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 37(5); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 33(4); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 30(5); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 30(5).

15 See PARAS 390 ante, 742-744 post.

UPDATE

389-411 Method of election ... Returning officer's duty to issue postal ballot papers, etc

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

398-411 Appointment of presiding officers and their clerks by returning officer ... Returning officer's duty to issue postal ballot papers, etc

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

402 Admission to polling station

NOTES--SI 2002/185 reg 3(1), Sch 1 r 28, Appendix of Forms, Form 10 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 32, Appendix of Forms, Form 13.

NOTE 12--SI 2004/1233 replaced: Local Elections (Communities) (Welsh Forms) Order 2007, SI 2007/1013. SI 2004/1234 replaced: Local Elections (Principal Areas) (Welsh Forms) Order 2007, SI 2007/1015. SI 2005/1105 replaced: Parliamentary Elections (Welsh Forms) Order 2007, SI 2007/1014. SI 2004/1373 replaced: European Parliamentary Elections (Welsh Forms) Order 2009, SI 2009/781.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/B. VOTES GIVEN AT A POLLING STATION/403. Questions to be put to person applying for a ballot paper.

403. Questions to be put to person applying for a ballot paper.

The presiding officer¹ may, and, if required by a candidate or his election or polling agent², must, put to any person applying for a ballot paper or applying as proxy³ at the time of his application, but not afterwards, any of the questions that are so prescribed⁴. A ballot paper must not be delivered to any person required to answer any of the questions so prescribed unless he has answered the questions or question satisfactorily⁵. No inquiry, except as so authorised, is permitted as to the right of any person to vote⁶. Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for the questions that may be put to a person applying for a ballot paper⁷.

If any person knowingly and wilfully makes a false answer to any of the questions so prescribed, he is guilty of an indictable offence and may be punished accordingly⁸.

1 As to the presiding officer see PARA 398 ante.

2 There is no provision for election agents at parish or community council elections (see PARA 238 note 3 ante) or at a poll consequent on a parish meeting on a question involving appointment to office. As to polling agents see PARA 399 ante. At a European parliamentary election, the reference is to a candidate or the election or polling agent of a registered party standing nominated or of a individual candidate: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 36(1).

3 There is no provision for voting by proxy at a poll consequent on a parish meeting on a question involving appointment to office. As to voting by proxy see PARA 371 et seq ante.

4 Representation of the People Act 1983 s 23(1), Sch 1 r 35(1) (Sch 1 r 35 substituted by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 74); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 17(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)-(3), Sch 1 r 30(1), (2), Sch 2 r 31(1), (2), Sch 3 r 31(1), (2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 31(1), (2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 40(1), (3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 36(1), (2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 33(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 33(1). The function set out in the text may be discharged by a clerk appointed to assist the presiding officer: see PARA 398 ante.

The prescribed questions are set out, in relation to a parliamentary election, in the Representation of the People Act 1983 Sch 1 r 35(1) (as substituted) and the questions that must be put by the presiding officer if the candidate or his election or polling agent so requires are marked therein by a letter 'R': Sch 1 r 35(1) (as so substituted). In the case of an elector who is added to the register in pursuance of a notice issued under s 13B(3B) (as added) or s 13(3D) (as added) (see PARA 175 ante), the references to reading from the register that are made in the instructions to the presiding officer must be taken as references to reading from the notice: see Sch 1 r 35(2) (as so substituted).

In relation to a local government election for a principal area, the specified questions are set out in the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 33(1) and the questions that must be put by the presiding officer if the candidate or his election or polling agent so requires are marked therein by a letter 'R': Sch 2 r 33(1). In relation to a local government election for a parish or community council, the specified questions are set out in the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 33(1) and the questions that must be put by the presiding officer if the candidate or his election or polling agent so requires are marked therein by a letter 'R': Sch 2 r 33(1). In the case of an elector at a local government election for a principal area, parish or community who is added to the register in pursuance of a notice issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added), the references to reading from the register that are made in the instructions to the presiding officer must be taken as references to reading from the notice: see the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 33(2); and the Local Elections (Parishes and

Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 33(2). In relation to a poll consequent on a parish meeting where the poll is on a question of appointment to an office see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 17(1). In relation to a London Authority election see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 30(1), (2), Sch 2 r 31(1), (2), Sch 3 r 31(1), (2) (Sch 1 r 30(2), Sch 2 r 31(2), Sch 3 r 31(2) amended by SI 2005/2114). In relation to a local authority mayoral election see the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 31(1), (2) (Sch 1 r 31(2) amended by SI 2005/2114).

In relation to a Welsh Assembly election, the prescribed questions are set out in English and in Welsh: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 40(1), (3). Where at an ordinary election a voter is entitled to give two votes at the polling station and where the presiding officer has asked any of the questions that apply generally, further questions that may be asked are set out, in the case of a person applying for a ballot paper, in Sch 5 para 40(2); and, in the case of a person applying as proxy, in Sch 5 para 40(4)-(6) (Sch 5 para 40(5), (6) amended by SI 2005/2114).

In relation to a European parliamentary election, the prescribed questions are set out in the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 36(1), (2) (Sch 1 r 36(2) amended by SI 2005/2114).

For the purposes of elections which take place in Wales see also the form of the questions in Welsh set out in the Local Elections (Communities) (Welsh Forms) Order 1987, SI 1987/561, art 2, Schedule Pt I (Questions to be put to a person applying as an elector for a ballot paper, Questions to be put to a person applying as a proxy for a ballot paper, Further questions to be put to a person applying as a proxy for a ballot paper) (amended by SI 2005/2114); and the Local Elections (Principal Areas) (Welsh Forms) Order 1987, SI 1987/562, art 2, Schedule Pt I (Questions to be put to a person applying as an elector for a ballot paper, Questions to be put to a person applying as a proxy for a ballot paper, Further questions to be put to a person applying as a proxy for a ballot paper) (amended by SI 2005/2114). Where an election in Wales is held together with another election or referendum see the Local Elections (Communities) (Welsh Forms) Order 2004, SI 2004/1233, art 3, Schedule Pt I (Questions to be put to a person applying as an elector for a ballot paper, Questions to be put to a person applying as a proxy for a ballot paper, Further questions to be put to a person applying as a proxy for a ballot paper) (amended by SI 2005/2114); and the Local Elections (Principal Areas) (Welsh Forms) Order 2004, SI 2004/1234, art 3, Schedule Pt I (Questions to be put to a person applying as an elector for a ballot paper, Questions to be put to a person applying as a proxy for a ballot paper, Further questions to be put to a person applying as a proxy for a ballot paper) (amended by SI 2005/2114). See also the European Parliamentary Elections (Welsh Forms) Order 2004, SI 2004/1373, arts 4-5, Sch 1 (Form 2: form of words prescribed by sub-paragraph (i) of rule 36(1)(a); Form 3: form of words prescribed by sub-paragraph (i) of rule 36(1)(b); Form 4: form of words for first question prescribed by rule 36(2)) (Form 4 amended by SI 2005/2114); and the Parliamentary Elections (Welsh Forms) Order 2005, SI 2005/1105, arts 4-5, Sch 1 (Form 2: form of words prescribed by rule 35(1)(a)(ii); Form 3: form of words prescribed by rule 35(1)(b)(i); Form 4: form of words prescribed by rule 35(2)) (Form 4 amended by SI 2005/2114).

Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 69, 74 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

5 Representation of the People Act 1983 Sch 1 r 35(3) (as substituted: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 17(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 30(3), Sch 2 r 31(3), Sch 3 r 31(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 31(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 40(7); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 36(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 33(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 33(3).

As to the names under which persons are registered and may vote (and whether any difference between them is allowed) see *R v Thwaites* (1853) 1 E & B 704 at 711 per Crompton J.

6 Representation of the People Act 1983 Sch 1 r 35(4) (as substituted: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 17(3); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 30(4), Sch 2 r 31(4), Sch 3 r 31(4); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 31(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 40(8); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 36(4); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 33(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 33(4).

7 As to polls at elections or referendums which are taken together see PARA 16 et seq ante.

8 See the Perjury Act 1911 s 5 (false statutory declarations and other false statements without oath); and CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(2) (2006 Reissue) PARA 717.

UPDATE

389-411 Method of election ... Returning officer's duty to issue postal ballot papers, etc

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

398-411 Appointment of presiding officers and their clerks by returning officer ... Returning officer's duty to issue postal ballot papers, etc

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

403 Questions to be put to person applying for a ballot paper

NOTES--SI 2002/185 reg 3(1), Sch 1 r 31 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 35.

NOTE 4--SI 1987/561, SI 2004/1233 replaced: Local Elections (Communities) (Welsh Forms) Order 2007, SI 2007/1013. SI 1987/562, SI 2004/1234 replaced: Local Elections (Principal Areas) (Welsh Forms) Order 2007, SI 2007/1015. SI 2005/1105 replaced: Parliamentary Elections (Welsh Forms) Order 2007, SI 2007/1014. SI 2004/1373 replaced: European Parliamentary Elections (Welsh Forms) Order 2009, SI 2009/781.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/B. VOTES GIVEN AT A POLLING STATION/404. Voting procedure.

404. Voting procedure.

In relation to a parliamentary election, or at a local government election for a principal area, parish or community¹, immediately before delivery of a ballot paper to a voter² who applies for one³:

- 470 (1) the number and name of the elector⁴ as stated in the copy of the register of electors must be called out⁵ unless the elector in question has an anonymous entry in the register⁶, in which case he must first show the presiding officer his official poll card and then only his number will be called out⁷;
- 471 (2) the number of the elector must be marked, on the version of the corresponding number list supplied to the polling station⁸, beside the number of the ballot paper to be issued to him⁹;
- 472 (3) a mark must be placed in the register of electors against the number of the elector to note that a ballot paper has been received but without showing the particular ballot paper which has been received¹⁰;
- 473 (4) as from a day to be appointed in relation to a parliamentary election¹¹, the voter must sign the corresponding number list mentioned in head (2) above¹² beside the number of the elector marked on the list in accordance with head (2) above¹³; and
- 474 (5) in the case of a person applying for a ballot paper as proxy, a mark must also be placed against his name in the list of proxies¹⁴.

The presiding officer at such an election must also keep a list of persons to whom ballot papers are delivered in consequence of an alteration to the register¹⁵ which takes effect on the day of the poll¹⁶.

In relation to other types of election¹⁷, a ballot paper must be delivered to a voter¹⁸ who applies for one and, immediately before delivery¹⁹:

- 475 (a) the ballot paper must be stamped with the official mark²⁰;
- 476 (b) the number and name of the elector²¹ as stated in the copy of the register of electors must be called out²²;
- 477 (c) the number of the elector must be marked on the counterfoil²³;
- 478 (d) a mark must be placed in the register of electors against the number of the elector to denote that a ballot paper has been received but without showing the particular ballot paper which has been received²⁴; and
- 479 (e) in the case of a person applying for a ballot paper as proxy, a mark must also be placed against his name in the list of proxies²⁵.

In relation to any type of election, the voter, on receiving the ballot paper, must forthwith proceed into one of the compartments in the polling station and there secretly mark his paper²⁶. The voter must then fold his paper up in such a way as to conceal his vote and he must then show to the presiding officer²⁷ the back of the paper, so as to disclose the official mark (or, in the case of a parliamentary election or local government election for a principal area, parish and community, so as to disclose the number and other unique identifying mark), and put the

ballot paper so folded up in the ballot box in the presence²⁸ of the presiding officer²⁹. The voter must vote without undue delay and must leave the polling station as soon as he has put his ballot paper into the ballot box³⁰.

It is an offence to interfere or attempt to interfere with a voter when he is recording his vote³¹.

1 For the meaning of 'parliamentary election' see PARA 9 ante. As to the ordinary election of councillors for local government principal areas see PARA 204 et seq ante; and as to ordinary elections of councillors for parishes or communities see PARA 207 et seq ante. As to London Authority elections see the text and notes 17-25 infra. For the meanings of 'Authority election' and 'local government election' see PARA 10 ante.

2 For the purposes of the statutory provisions governing elections, a voter is defined as a person voting at an election and includes a person voting as proxy (but not necessarily a person voting by proxy): see PARA 110 note 2 ante. As to voting by proxy see PARA 371 et seq ante. To indicate that an elector or his proxy is entitled to vote by post and is for that reason not entitled to vote in person, the letter 'A' is placed against the name of that elector in any copy of the register, or part of it, provided for a polling station: see PARAS 382, 387 ante.

3 Representation of the People Act 1983 s 23(1), Sch 1 r 37(1) (Sch 1 r 37(1)-(3) substituted, and Sch 1 r 37(4)-(6) added, by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 75); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 35(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 35(1).

Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 69, 75 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. Furthermore, until a day to be appointed under the Electoral Administration Act 2006 s 77(2), Sch 1 para 75 has no effect in so far as it relates to the substitution of the Representation of the People Act 1983 Sch 1 r 37(1)(d) and the addition of Sch 1 r 37(4): see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, arts 3, 6, Sch 1 para 12(d), Sch 2 para 1. At the date at which this volume states the law, no such day had been appointed.

4 For the meaning of 'elector' see PARA 110 note 2 ante.

5 Representation of the People Act 1983 Sch 1 r 37(1)(a) (as substituted: see note 3 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 35(1)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 35(1)(a). In the case of an elector who is added to the register in pursuance of a notice issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) (see PARA 175 ante), the reference in the text to the copy of the register of electors is to be read as a reference to the copy of the notice issued under s 13B(3B) (as added) or s 13(3D) (as added): see Sch 1 r 37(3)(a) (as so substituted); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 35(3)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 35(3)(a). See note 3 supra.

6 For the meaning of 'anonymous entry' in relation to a register of electors see PARA 174 ante.

7 Representation of the People Act 1983 Sch 1 r 37(1)(a), (2) (as substituted: see note 3 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 35(1)(a), (2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 35(1)(a), (2). See note 3 supra.

8 In the list mentioned, in relation to a parliamentary election, under the Representation of the People Act 1983 Sch 1 r 29(3)(e) (as added) or, in relation to a local government election for a principal area, under the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(3)(d) or, in relation to a local government election for a parish or community council, under the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(3)(d) (see PARA 396 ante).

The form of the corresponding number list to be prepared by a returning officer for the purposes of the Representation of the People Act 1983 Sch 1 r 29(3)(e) (as added), Sch 1 r 37(1)(b) (as substituted) and Sch 1 r 37(1)(d) (prospectively substituted) (see the text and notes 11-13 infra) must be in the form set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Sch 3 (Form L2: corresponding number list for use in polling station at parliamentary election taken alone) (added by SI 2006/2910): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 63A(2) (added by SI 2006/2910). When a parliamentary election is combined with another poll under the Representation of the People Act 1985 s 15 (as amended) (see PARAS 21-22 ante) or under the Local Government Act 2000 s 44(2) (provision for the combination of polls at elections for the return of elected mayors and at elections for the return of elected executive members: see PARA 26 ante) or under s 45(6)

(provision for the combination of polls at referendums with polls at any elections: see PARA 27 ante), the corresponding number list to be prepared by a returning officer for the purposes of the Representation of the People Act 1983 Sch 1 r 29(3)(e) (as added) must be in the form set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Sch 3 (Form M2: corresponding number list for use in polling station when parliamentary election combined with a relevant election or referendum) (added by SI 2006/2910): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 63A(4) (added by SI 2006/2910). The regulation refers to polls that are combined under the Local Government Act 2000 s 44(2) or s 44(6), but it is submitted that a reference to s 45(6) is intended. The amendments effected by the Representation of the People (England and Wales) (Amendment) (No 2) Regulations 2006, SI 2006/2910, do not have effect in relation to any election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see reg 1(2), (3).

As to the form of the corresponding number list mentioned in the text used for the purposes of a local government election for a principal area, parish or community see PARA 396 ante.

9 Representation of the People Act 1983 Sch 1 r 37(1)(b) (as substituted: see note 3 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 35(1)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 35(1)(b). See note 3 supra.

10 Representation of the People Act 1983 Sch 1 r 37(1)(c) (as substituted: see note 3 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 35(1)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 35(1)(c). In the case of an elector who is added to the register in pursuance of a notice issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) (see PARA 175 ante), the reference in the text to placing a mark in the register of electors is to be read as a reference to placing a mark on the copy of the notice issued under s 13B(3B) (as added) or s 13(3D) (as added): see Sch 1 r 37(3)(b) (as so substituted); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 35(3)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 35(3)(b). See note 3 supra.

11 At the date at which this volume states the law, no such day had been appointed. As to the commencement of these provisions see note 3 supra.

12 See note 8 supra.

13 Representation of the People Act 1983 Sch 1 r 37(1)(d) (prospectively substituted: see note 3 supra). The provision set out in Sch 1 r 37(1)(d) (prospectively substituted) does not apply to a voter to whom Sch 1 r 38 (as amended) applies (ie a voter with an incapacity who votes with the assistance of the presiding officer: see PARA 406 post) or to a voter to whom Sch 1 r 39 (as substituted and amended) applies (ie a voter with an incapacity who votes with the assistance of a companion: see PARA 407 post): Sch 1 r 37(4) (prospectively added: see note 3 supra). See also note 11 supra.

14 Ibid Sch 1 r 37(1)(e) (as substituted: see note 3 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 35(1)(d); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 35(1)(d). See note 3 supra.

15 Ie by virtue of the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) (see PARA 175 ante).

16 Ibid Sch 1 r 41A (added by the Electoral Administration Act 2006 s 11(6), Sch 1 paras 31, 33, 38); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 41; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 41.

The amendments effected by the Electoral Administration Act 2006 Sch 1 paras 31, 33, 38 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

17 Ie a local government election other than for a principal area, parish or community, a Welsh Assembly election or a European parliamentary election. For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante. As to European parliamentary elections see PARA 224 et seq ante.

18 For the purposes of the statutory provisions governing elections, a voter is defined as a person voting at an election and includes a person voting as proxy (but not necessarily a person voting by proxy): in relation to Welsh Assembly elections see PARA 124 note 5 ante; and in relation to European parliamentary elections see PARA 125 note 6 ante. To indicate that an elector or his proxy is entitled to vote by post and is for that reason not entitled to vote in person, the letter 'A' is placed against the name of that elector in any copy of the register, or part of it, provided for a polling station: see PARAS 382, 387 ante.

19 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 19(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)-(3), Sch 1 r 32(1), Sch 2 r 33(1), Sch 3 r 33(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 33(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 42(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 38(1).

20 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 19(1)(a); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 32(1)(a), Sch 2 r 33(1)(a), Sch 3 r 33(1)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 33(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 42(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 38(1)(a). As to the official mark see PARA 392 ante.

21 For the meaning of 'elector', in relation to a Welsh Assembly election, see PARA 124 note 4 ante; and, in relation to European parliamentary election, see PARA 125 note 5 ante. As to the number of an elector see PARA 160 ante.

22 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 19(1)(b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 32(1)(b), Sch 2 r 33(1)(b), Sch 3 r 33(1)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 33(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 42(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 38(1)(b).

At an ordinary London Authority election, the same copy of the register of electors may be used for each election and one mark may be placed in that register to denote that a ballot paper has been received in respect of each election; except that, where a ballot paper has been issued in respect of one election only, a different mark must be placed in the register so as to identify the election in respect of which the ballot paper was issued: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3, Sch 4 r 7. For the meaning of 'Authority election' see PARA 10 ante.

At an ordinary Welsh Assembly election, the same copy of the register of electors may be used for a constituency election and a regional election and one mark may be placed in that register under head (d) in the text or in the list of proxies under head (e) in the text to denote that a ballot paper has been received in respect of each election except that, where a ballot paper has been issued in respect of one election only, a different mark must be placed in the register or, as the case may be, list so as to identify the election in respect of which the ballot paper was issued: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 42(4). For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

23 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 19(1)(c); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 32(1)(c), Sch 2 r 33(1)(c), Sch 3 r 33(1)(c); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 33(1)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 42(1)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 38(1)(c).

24 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 19(1)(d); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 32(1)(d), Sch 2 r 33(1)(d), Sch 3 r 33(1)(d); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 33(1)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 42(1)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 38(1)(d). As to an ordinary Welsh Assembly election see note 22 supra.

25 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 32(1)(e), Sch 2 r 33(1)(e), Sch 3 r 33(1)(e); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 33(1)(e); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 42(1)(e); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 38(1)(e). As to an ordinary Welsh Assembly election see note 22 supra. There is no provision for voting by proxy at a poll consequent on a parish meeting on a question involving appointment to office and accordingly head (e) in the text does not apply in that case.

26 Representation of the People Act 1983 Sch 1 r 37(5) (as added: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 19(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 32(2), Sch 2 r 33(2), Sch 3 r 33(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 33(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 42(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 38(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 35(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 35(4).

As to the mark (or, as the case may be, marks) to be made on a ballot paper see the directions for the guidance of the voters in voting; and PARA 396 note 13 ante. As to the grounds on which a ballot paper may be rejected during the count see PARA 434 et seq post; and as to the treatment of rejected votes see PARA 438 et seq post.

27 As to the presiding officer see PARA 398 ante.

28 The ballot paper can presumably be validly placed in the ballot box notwithstanding the absence of the presiding officer: see PARA 398 ante.

29 Representation of the People Act 1983 Sch 1 r 37(5) (as added: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 19(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 32(2), Sch 2 r 33(2), Sch 3 r 33(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 33(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 42(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 38(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 35(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 35(4). As to security measures associated with the ballot paper see PARA 392 ante.

30 Representation of the People Act 1983 Sch 1 r 37(6) (as added: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 19(3); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 32(3), Sch 2 r 33(3), Sch 3 r 33(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 33(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 42(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 38(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 35(5); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 35(5).

31 See PARA 744 post.

UPDATE

389-411 Method of election ... Returning officer's duty to issue postal ballot papers, etc

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

398-411 Appointment of presiding officers and their clerks by returning officer ... Returning officer's duty to issue postal ballot papers, etc

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

404 Voting procedure

NOTES--SI 2002/185 reg 3(1), Sch 1 r 33 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 37.

NOTE 8--SI 2001/341 Sch 3 Form L2 replaced: SI 2007/1025 Sch Form L2. SI 2001/341 reg 63A(2) amended: SI 2007/1025. SI 2001/341 Sch 3 Form M2 replaced: SI 2007/1025 Sch Form M2. The reference is now to polls that are combined under the Local Government Act 2000 s 44 or 45: SI 2001/341 reg 63A(3) (amended by SI 2007/1025).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/B. VOTES GIVEN AT A POLLING STATION/405. Challenge of voter.

405. Challenge of voter.

A person is not to be prevented from voting at a parliamentary election¹, or at local government elections for principal areas, parishes or communities², by reason only that a candidate³ or his election or polling agent⁴ declares that he has reasonable cause to believe that the person has committed an offence of personation⁵ or by reason only that the person is arrested on the grounds that he is suspected of committing or of being about to commit such an offence⁶.

In relation to any other type of election⁷, if, at the time a person applies for a ballot paper for the purpose of voting in person or after he has applied for a ballot paper for that purpose and before he has left the polling station⁸, a candidate or his election or polling agent⁹ declares to the presiding officer¹⁰ that he has reasonable cause to believe that the applicant has committed an offence of personation and undertakes to substantiate the charge in a court of law, the presiding officer may order a constable to arrest the applicant¹¹, and the order of the presiding officer is sufficient authority for the constable so to do¹². The person who has been challenged must not by reason of it be prevented from voting¹³. A person arrested is to be dealt with as a person taken into custody by a constable for an offence without a warrant¹⁴.

1 For the meaning of 'parliamentary election' see PARA 9 ante.

2 As to the ordinary election of councillors for local government principal areas see PARA 204 et seq ante; and as to ordinary elections of councillors for parishes or communities see PARA 207 et seq ante. As to London Authority elections see the text and notes 7-14 infra. For the meanings of 'Authority election' and 'local government election' see PARA 10 ante.

3 For the meaning of 'candidate' generally see PARA 237 ante.

4 In the context of a local government election for a parish or community council, at which a candidate need not have an election agent (see PARA 238 note 3 ante), the reference is to a candidate's polling agent only: see the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 34. As to the appointment of election agents generally see PARA 238 et seq ante; and as to polling agents see PARA 399 ante.

5 As to the offence of personation see PARA 733 post.

6 Representation of the People Act 1983 s 23(1), Sch 1 r 36 (substituted by the Electoral Administration Act 2006 s 74(1), Sch 1 paras 104, 132); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 34; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 34. The Police and Criminal Evidence Act 1984 s 24A (as added and amended) (arrest without warrant: other persons) does not permit a person other than a constable to arrest inside a polling station a person who commits or is suspected of committing an offence of personation: see PARA 733 post.

7 I.e. at an Authority election or an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), an election for the return of a local authority mayor, a constituency or regional election for the return of members of the National Assembly for Wales and a European parliamentary election. Polls consequent on a parish meeting on a question involving appointment to office (as to which see PARA 207 et seq ante) are also considered and, for this purpose, the text should be read as if, for the reference to 'election', there were a reference to 'poll'. For the meaning of 'election under the local government Act' see PARA 10 note 2 ante. As to elections in the City of London see PARA 30 ante. As to elections for the return of a local authority mayor see PARA 205 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante. As to elections to the National Assembly for Wales see PARA 220 et seq ante. As to European parliamentary elections see PARA 224 et seq ante.

8 As to voting procedure see PARA 404 ante.

9 There is no provision for election agents at a poll consequent on a parish meeting on a question involving appointment to office. Consequently, in that context, the reference is to a candidate or his polling agent only: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 18(1).

At a European parliamentary election, the reference is to a candidate or the election or polling agent of a registered party standing nominated or of a individual candidate: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 37(1).

10 As to the presiding officer see PARA 398 ante.

11 This power may be exercised only by the presiding officer and not by one of the clerks appointed to assist him: see PARA 398 ante.

12 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 18(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)-(3), Sch 1 r 31(1), Sch 2 r 32(1), Sch 3 r 32(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 32(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 41(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 37(1).

The Police and Criminal Evidence Act 1984 s 26 (repeal of statutory powers of arrest: see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(2) (2006 Reissue) PARA 927) does not apply to the power of arrest in the Representation of the People Act 1983 Sch 1 r 36 (as substituted) (see the text and notes 1-6 supra): Representation of the People Act 1985 s 25(1). As from a day to be appointed under the Electoral Administration Act 2006 s 77(2), the Representation of the People Act 1985 s 25(1) is repealed by the Electoral Administration Act 2006 s 74(2), Sch 2. At the date at which this volume states the law, no such day had been appointed.

13 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 18(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 31(2), Sch 2 r 32(2), Sch 3 r 32(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 32(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 41(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 37(2).

14 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 18(3); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 31(3), Sch 2 r 32(3), Sch 3 r 32(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 32(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 41(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 37(3).

UPDATE

389-411 Method of election ... Returning officer's duty to issue postal ballot papers, etc

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

398-411 Appointment of presiding officers and their clerks by returning officer ... Returning officer's duty to issue postal ballot papers, etc

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

405 Challenge of voter

NOTES 12-14--SI 2002/185 reg 3(1), Sch 1 r 32 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 36.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/B. VOTES GIVEN AT A POLLING STATION/406. Votes marked by the presiding officer in assisting voters with incapacities.

406. Votes marked by the presiding officer in assisting voters with incapacities.

On the application of a voter¹ who is incapacitated by blindness or other disability or other physical cause (as the case may be)² from voting in the manner directed by the rules, or who declares orally that he is unable to read, the presiding officer³ must, in the presence of the polling agents⁴, cause the vote of the voter to be marked on a ballot paper in the manner directed by the voter, and the ballot paper to be placed in the ballot box⁵.

The name and number⁶ on the register of electors of every voter whose vote is marked in pursuance of this rule, and the reason why it is so marked, must be entered on a list which is called the 'list of votes marked by the presiding officer'⁷. However, in the case of a person voting as proxy for an elector, this is subject to the proviso that the number to be entered together with the name of the voter must be the number of the elector⁸.

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for voting with the assistance of the presiding officer⁹.

1 For the purposes of the statutory provisions governing elections, a voter is defined as a person voting at an election and includes a person voting as proxy (but not necessarily a person voting by proxy): in relation to parliamentary and local government elections see PARA 110 note 2 ante; in relation to Welsh Assembly elections see PARA 124 note 5 ante; and in relation to European parliamentary elections see PARA 125 note 6 ante.

2 The reference to 'blindness or other disability' applies in relation to a parliamentary election (see the Representation of the People Act 1983 s 23(1), Sch 1 r 38(1) (as amended)), a local government election for a principal area (see the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 36(1)) and a local government election for a parish or community council (see the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 36(1)). Otherwise, the reference is to 'blindness or other physical cause'. As to the meaning of 'disability' see PARA 372 note 8 ante.

3 As to the presiding officer see PARA 398 ante. This function of the presiding officer may be discharged by one of the clerks appointed to assist him: see PARA 398 ante.

4 As to polling agents see PARA 399 ante. The non-attendance of the polling agents does not invalidate any act or thing done, if the act or thing is otherwise duly done: see PARA 399 ante.

5 Representation of the People Act 1983 Sch 1 r 38(1) (amended by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 77); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 20(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)-(3), Sch 1 r 33(1), Sch 2 r 34(1), Sch 3 r 34(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 34(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 43(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 39(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 36(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 36(1).

Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 69, 77 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

6 As to the number of an elector see PARA 160 ante.

7 Representation of the People Act 1983 Sch 1 r 38(2); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 20(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 33(2), Sch 2 r 34(2), Sch 3 r 34(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI

2002/185, Sch 1 r 34(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 43(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 39(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 36(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 36(2).

In the case of a person in respect of whom a notice has been issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) (see PARA 175 ante), Sch 1 r 38(2) (in the case of a parliamentary election), the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 36(2) (in the case of a local government election for a principal area) and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 36(2) (in the case of a local government election for a parish or community council) each applies as if instead of referring to the name and number of every voter on the register of electors it referred to the name and number relating to every voter in respect of whom a notice has been issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added): Sch 1 r 38(3) (added by the Electoral Administration Act 2006 s 11(6), Sch 1 paras 31, 33, 35); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 36(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 36(3). The amendments effected by the Electoral Administration Act 2006 Sch 1 paras 31, 33, 35 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

At an ordinary London Authority election, and at any London mayoral election, the same list of votes marked by the presiding officer may be used for each election and, where it is so used, an entry in that list must be taken to mean that the ballot papers were so marked in respect of each election, unless the list identifies the election at which the ballot paper was so marked: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3, Sch 3 r 34(4), Sch 4 r 8. For the meaning of 'Authority election' see PARA 10 ante.

At an ordinary Welsh Assembly election where voters are entitled to give two votes at the polling station, the same list of votes marked by the presiding officer may be used for the constituency and regional elections at which the voters are entitled to vote and, where it is so used, an entry in that list is to be taken to mean that the ballot papers were so marked in respect of each election, unless the list identifies the election at which the ballot paper was so marked: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 43(4). For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

8 Representation of the People Act 1983 Sch 1 r 38(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 33(3), Sch 2 r 34(3), Sch 3 r 34(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 34(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 43(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 39(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 36(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 36(2). There is no provision for voting by proxy at a poll consequent on a parish meeting on a question involving appointment to office and accordingly the provision that is set out in the text does not apply in that case. As to voting by proxy see PARA 371 et seq ante.

9 As to polls at elections or referendums which are taken together see PARA 16 et seq ante.

UPDATE

389-411 Method of election ... Returning officer's duty to issue postal ballot papers, etc

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

398-411 Appointment of presiding officers and their clerks by returning officer ... Returning officer's duty to issue postal ballot papers, etc

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

406 Votes marked by the presiding officer in assisting voters with incapacities

NOTES 5-8--SI 2002/185 reg 3(1), Sch 1 r 34 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 38.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/B. VOTES GIVEN AT A POLLING STATION/407. Companions assisting voters with incapacities.

407. Companions assisting voters with incapacities.

If a voter¹ at an election² makes an application to the presiding officer³ to be allowed, on the ground of blindness or other disability or other physical cause (as the case may be)⁴ or inability to read, to vote with the assistance of another person by whom he is accompanied (called the 'companion'), the presiding officer must require the voter to declare, orally or in writing, whether he is so incapacitated by his blindness or other disability or incapacity (as the case may be), or by his inability to read, as to be unable to vote without assistance⁵.

If the presiding officer is satisfied that the voter is so incapacitated, and is also satisfied by a written declaration made by the companion (called the 'declaration made by the companion of a voter with disabilities')⁶ that the companion is a qualified person and has not previously assisted more than one voter with disabilities to vote at the election, he must grant the application, and then anything required to be done to or by the voter in connection with the giving of his vote may be done to, or with the assistance of, the companion⁷. The name and number in the register of electors of every voter⁸ whose vote is given by a companion, together with the name and address of the companion, must be entered on a list (called the 'list of voters with disabilities assisted by companions')⁹. However, in the case of a person voting as proxy for an elector, this is subject to the proviso that the number to be entered together with the name of the voter must be the number of the elector¹⁰. The declaration made by the companion must be in the prescribed form¹¹ and must be made before the presiding officer at the time when the voter applies to vote with the assistance of a companion and must forthwith be given to the presiding officer who must attest and retain it¹². No fee or other payment is to be charged in respect of the declaration¹³.

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for voting with the assistance of a companion¹⁴.

1 For the purposes of the statutory provisions governing elections, a voter is defined as a person voting at an election and includes a person voting as proxy (but not necessarily a person voting by proxy): in relation to parliamentary and local government elections see PARA 110 note 2 ante; in relation to Welsh Assembly elections see PARA 124 note 5 ante; and in relation to European parliamentary elections see PARA 125 note 6 ante.

2 I.e. at a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), a local government election, an election for the return of a local authority mayor, a constituency or regional election for the return of members of the National Assembly for Wales and a European parliamentary election. Polls consequent on a parish meeting on a question involving appointment to office (as to which see PARA 207 et seq ante) are also considered and, for this purpose, the text should be read as if, for the reference to 'election', there were a reference to 'poll'. For the meaning of 'parliamentary election' see PARA 9 ante; for the meanings of 'Authority election' and 'local government election' see PARA 10 ante; and for the meaning of 'election under the local government Act' see PARA 10 note 2 ante. As to elections in the City of London see PARA 30 ante. As to elections for the return of a local authority mayor see PARA 205 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante. As to elections to the National Assembly for Wales see PARA 220 et seq ante. As to European parliamentary elections see PARA 224 et seq ante.

3 As to the presiding officer see PARA 398 ante. This function of the presiding officer may be discharged by one of the clerks appointed to assist him: see PARA 398 ante.

4 The reference to 'blindness or other disability' applies in relation to a parliamentary election (see the Representation of the People Act 1983 s 23(1), Sch 1 r 39(1) (as substituted and amended)), a local government

election for a principal area (see the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 37(1)) and a local government election for a parish or community council (see the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 37(1)). Otherwise, the reference is to 'blindness or other physical cause'. As to the meaning of 'disability' see PARA 372 note 8 ante.

5 Representation of the People Act 1983 Sch 1 r 39(1) (Sch 1 r 39 substituted by the Representation of the People Act 2000 s 13(1), (3); and the Representation of the People Act 1983 Sch 1 r 39(1) amended by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 78); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 21(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)-(3), Sch 1 r 34(1), Sch 2 r 35(1), Sch 3 r 35(1) (Sch 1 r 34, Sch 2 r 35, Sch 3 r 35 substituted by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 35(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 44(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 40(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 37(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 37(1).

Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 69, 78, 80 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

At a poll consequent on a parish meeting on a question involving appointment to office, the provision set out in the text applies only to voters with blindness and all references to other physical incapacities or an inability to read must be ignored in that case (although a voter who is unable to read may vote at such a poll with the assistance of the presiding officer: see PARA 406 ante). Also, it is not specified in such a case that the declaration is to be made orally or in writing: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 21(1).

6 For these purposes, a person is a voter with disabilities if he has made such a declaration as is mentioned in the text; and a person is qualified to assist a voter with disabilities to vote if that person is a person who is entitled to vote as an elector at the election or is the father, mother, brother, sister, spouse, civil partner, son or daughter of the voter and has attained the age of 18 years: Representation of the People Act 1983 Sch 1 r 39(3) (as substituted (see note 4 supra); and amended by the Civil Partnership Act 2004 s 261(1), Sch 27 para 85(1), (4)); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 34(3) (as substituted (see note 4 supra); and amended by SI 2005/2114); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 35(3) (as substituted (see note 4 supra); and amended by SI 2005/2114); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 35(3) (as substituted (see note 4 supra); and amended by SI 2005/2114); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 35(3) (amended by SI 2005/2114); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 44(3) (amended by SI 2005/2114); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 40(3) (amended by SI 2005/2114); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 37(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 37(3). However, for the purposes of a poll consequent on a parish meeting on a question involving appointment to office, it is specified that a person is qualified to assist a blind voter to vote if that person is either a person who is entitled to vote at the poll or the father, mother, brother, sister, spouse, civil partner, son or daughter of the blind voter and has attained the age of 18 years: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 21(3) (amended by SI 2005/2114). The written declaration made by the companion at such a poll is known as the 'declaration made by the companion of a blind voter': see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 21(2). See note 4 supra. For the meaning of 'elector', in relation to a parliamentary or local government election, see PARA 110 note 2 ante; in relation to a Welsh Assembly election, see PARA 124 note 4 ante; and, in relation to European parliamentary election, see PARA 125 note 5 ante.

7 Representation of the People Act 1983 Sch 1 r 39(2) (as substituted: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 21(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 34(2), Sch 2 r 35(2), Sch 3 r 35(2) (all as substituted: see note 4 supra); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 35(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 44(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 40(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 37(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 37(2).

8 As to the number of an elector and the form and content of registers of electors see PARA 160 ante.

In the case of a person in respect of whom a notice has been issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) (see PARA 175 ante), Sch 1 r 39(4) (as substituted) (in the case of a parliamentary election), the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 37(4) (in the case of a local government election for a principal area) and the Local Elections

(Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 37(4) (in the case of a local government election for a parish or community council) each applies as if instead of referring to the name and number of every voter in the register of electors it referred to the name and number relating to every voter in respect of whom a notice has been issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added): Sch 1 r 39(4A) (added by the Electoral Administration Act 2006 s 11(6), Sch 1 paras 31, 33, 36); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 37(5); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 37(5).

The amendments effected by the Electoral Administration Act 2006 Sch 1 paras 31, 33, 36 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

9 Representation of the People Act 1983 Sch 1 r 39(4) (as substituted: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 21(4); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 34(4), Sch 2 r 35(4), Sch 3 r 35(4) (all as substituted: see note 4 supra); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 35(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 44(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 40(4); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 37(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 37(4). For the purposes of a poll consequent on a parish meeting on a question involving appointment to office, the list referred to in the text is known as the 'list of blind voters assisted by companions': see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 21(4). See note 3 supra.

At an ordinary London Authority election, the same list of voters with disabilities assisted by companions may be used for each election and, where it is so used, an entry in that list must be taken to mean that the votes were so given in respect of each election, unless the list identifies the election at which the vote was so given: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3, Sch 4 r 9. At an ordinary Welsh Assembly election, where voters are entitled to give two votes at the polling station, the same list of voters with disabilities assisted by companions may be used for the constituency and regional elections at which the voters are entitled to vote and, where it is so used, an entry in that list must be taken to mean that the votes were so given in respect of each election, unless the list identifies the election at which a vote was so given: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 44(8).

10 Representation of the People Act 1983 Sch 1 r 39(4) (as substituted: see note 4 supra); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 34(5), Sch 2 r 35(5), Sch 3 r 35(5) (all as substituted: see note 4 supra); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 35(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 44(5); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 40(4); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 37(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 37(4). There is no provision for voting by proxy at a poll consequent on a parish meeting on a question involving appointment to office and accordingly the provision that is set out in the text does not apply in that case. As to voting by proxy see PARA 371 et seq ante.

11 Representation of the People Act 1983 Sch 1 r 39(5)(a) (as substituted: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 21(5)(a); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 34(6)(a), Sch 2 r 35(6)(a), Sch 3 r 35(6)(a) (all as substituted: see note 4 supra); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 35(6)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 44(6)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 40(5)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 37(6)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 37(6)(a).

The prescribed form is set out, in relation to a parliamentary election, in the Representation of the People Act 1983 Sch 1 Appendix of Forms (Form of declaration to be made by the companion of a voter with disabilities) (amended by the Representation of the People Act 2000 s 13(1), (5)(a), (b); and the Electoral Administration Act 2006 Sch 1 paras 69, 80). As to the commencement of the amendment made by the Electoral Administration Act 2006 see note 5 supra. In relation to a local government election for a principal area see the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 Appendix of Forms (Form of declaration to be made by the companion of a voter with disabilities); and where such elections are taken together with another relevant election or referendum see r 4, Sch 3 Appendix of Forms (Form of declaration to be made by the companion of a voter with disabilities). In relation to a local government election for a parish or community council see the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 Appendix of Forms (Form of declaration to be made by the companion of a voter with disabilities); and where such elections are taken together with another relevant election or referendum see r 4, Sch 3 Appendix of Forms (Form of declaration to be made by the companion of a voter with disabilities). In relation to an Authority

election see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 4, Sch 5 (Form 15: declaration to be made by the companion of a voter with disabilities) (Form 15 amended by SI 2004/227). In relation to a poll consequent on a parish meeting on a question involving appointment to office see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule Appendix of Forms (Form of declaration to be made by the companion of a blind voter). In relation to a local authority mayoral election see the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 Appendix of Forms (Form 11: declaration to be made by the companion of a voter with disabilities). In relation to a Welsh Assembly election see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 Appendix of Forms (Form of declaration to be made by the companion of a voter with disabilities) (amended by SI 2005/2114). In relation to a European parliamentary election see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 Appendix of Forms (Form of declaration to be made by the companion of a voter with disabilities).

For the purposes of elections which take place in Wales see the form set out in Welsh, to be used as the applicant requires, in the Local Elections (Communities) (Welsh Forms) Order 1987, SI 1987/561, art 2, Schedule Pt I (declaration to be made by the companion of a blind voter, datganiad a wneir gan gydymaith pleidleisiwr dall); and the Local Elections (Principal Areas) (Welsh Forms) Order 1987, SI 1987/562, art 2, Schedule Pt I (declaration to be made by the companion of a blind voter, datganiad a wneir gan gydymaith pleidleisiwr dall). Where an election in Wales is held together with another election or referendum see the Local Elections (Communities) (Welsh Forms) Order 2004, SI 2004/1233, art 3, Schedule Pt I (Form of declaration to be made by the companion of a voter with disabilities, ffurflen datganiad i'w wneud gan gydymaith pleidleisiwr gydag anabledau); and the Local Elections (Principal Areas) (Welsh Forms) Order 2004, SI 2004/1234, art 3, Schedule Pt I (Form of declaration to be made by the companion of a voter with disabilities, ffurflen datganiad i'w wneud gan gydymaith pleidleisiwr gydag anabledau). See also the European Parliamentary Elections (Welsh Forms) Order 2004, SI 2004/1373, art 5, Sch 1 (Form 5: Form of declaration to be made by the companion of a voter with disabilities, ffurf ar gyfer y datganiad i'w wneud gan gydymaith pleidleisiwr/wraig ag anabledau; Form 6: Form of declaration to be made by the companion of a voter with disabilities, ffurf ar ddatganiad i'w wneud gan gydymaith pleidleisiwr/wraig sydd ag anabledau (combined polls)); and the Parliamentary Elections (Welsh Forms) Order 2005, SI 2005/1105, arts 4-5, Sch 1 (Form 6: Form of declaration to be made by the companion of a voter with disabilities, ffurflen datganiad i'w wneud gan gydymaith pleidleisiwr gydag anabledau).

12 Representation of the People Act 1983 Sch 1 r 39(5)(b) (as substituted: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 21(5)(b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 34(6)(b), Sch 2 r 35(6)(b), Sch 3 r 35(6)(b) (all as substituted: see note 4 supra); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 35(6)(b), (c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 44(6)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 40(5)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 37(6)(b), (c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 37(6)(b), (c).

13 Representation of the People Act 1983 Sch 1 r 39(6) (as substituted: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 21(6); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 34(7), Sch 2 r 35(7), Sch 3 r 35(7) (all as substituted: see note 4 supra); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 35(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 44(7); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 40(6); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 37(7); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 37(7).

14 As to polls at elections or referendums which are taken together see PARA 16 et seq ante.

UPDATE

389-411 Method of election ... Returning officer's duty to issue postal ballot papers, etc

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

398-411 Appointment of presiding officers and their clerks by returning officer ... Returning officer's duty to issue postal ballot papers, etc

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

407 Companions assisting voters with incapacities

NOTES--SI 2002/185 reg 3(1), Sch 1 r 35, Appendix of Forms, Form 11 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 39, Appendix of Forms, Form 14.

NOTE 11--SI 1987/561, SI 2004/1233 replaced: Local Elections (Communities) (Welsh Forms) Order 2007, SI 2007/1013. SI 1987/562, SI 2004/1234 replaced: Local Elections (Principal Areas) (Welsh Forms) Order 2007, SI 2007/1015. SI 2005/1105 replaced: Parliamentary Elections (Welsh Forms) Order 2007, SI 2007/1014. SI 2004/1373 replaced: European Parliamentary Elections (Welsh Forms) Order 2009, SI 2009/781.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/B. VOTES GIVEN AT A POLLING STATION/408. Tendered ballot papers.

408. Tendered ballot papers.

If a person who represents himself to be a particular elector¹ named on the register² (and not named in the absent voters list³) or who represents himself to be a particular person named in the list of proxies⁴ as proxy for an elector (and not entitled to vote by post as proxy⁵) applies for a ballot paper after another person has voted in person either as the elector or his proxy, the applicant, on satisfactorily answering the questions permitted by law to be asked at the poll⁶, is entitled to mark a ballot paper (called a 'tendered ballot paper') in the same manner as any other voter⁷. Additionally, but only in relation to a parliamentary election or a local government election for a principal area, parish or community⁸, if a person applies for a ballot paper representing himself to be a particular elector and he is named both on the register⁹ and in the postal voters list, or if such a person is named both as a proxy in the list of proxies and in the proxy postal voters list, and that person claims that he did not make an application to vote by post at the election or to vote by post as proxy (as the case may be)¹⁰, then that person, on satisfactorily answering the questions permitted by law to be asked at the poll, is entitled to mark a ballot paper (a 'tendered ballot paper') in the same manner as any other voter¹¹. Also, if before the close of the poll but after the last time at which a person may apply for a replacement postal ballot paper, a person either represents himself to be a particular elector named on the register¹² who is also named in the postal voters list or represents himself to be a particular person named as a proxy in the list of proxies who is also named in the proxy postal voters list, and claims that he has lost or has not received his postal ballot paper¹³, then that person, on satisfactorily answering the questions permitted by law to be asked at the poll, is entitled to mark a ballot paper (a 'tendered ballot paper') in the same manner as any other voter¹⁴.

A tendered ballot paper must be of a colour differing from the other ballot papers and, instead of being put into the ballot box, it must be given to the presiding officer¹⁵ and endorsed by him¹⁶ with the name of the voter and his number in the register of electors¹⁷, and set aside in a separate packet¹⁸. The name of the voter and his number on the register of electors¹⁹ must be entered on a list (called the 'tendered votes list') and, in the case of a parliamentary election, the voter must also sign the tendered votes list opposite the entry relating to him²⁰. However, in the case of a person voting as proxy for an elector, this is subject to the proviso that the number to be endorsed or entered together with the name of the voter is the number of that elector²¹.

1 For the meaning of 'elector', in relation to a parliamentary or local government election, see PARA 110 note 2 ante; in relation to a Welsh Assembly election, see PARA 124 note 4 ante; and, in relation to European parliamentary election, see PARA 125 note 5 ante.

2 As to the registers of electors see PARA 156 et seq ante.

The Representation of the People Act 1983 s 23(1), Sch 1 r 40 (as amended) (in the case of a parliamentary election), the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 rr 38, 39 (in the case of a local government election for a principal area) and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 rr 38, 39 (in the case of a local government election for a parish or community council) each apply also to an elector who has an anonymous entry in the register of electors, subject to minor modifications (see notes 17, 19 infra) (Representation of the People Act 1983 Sch 1 r 40(4A) (added by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 2, 14(1), (5)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 39(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 39(4)) and to an

elector who is added to the register in pursuance of a notice issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) (see PARA 175 ante), subject to minor modifications (see notes 9, 12, 17, 19 infra) (Sch 1 r 40(4B) (added by the Electoral Administration Act 2006 s 11(6), Sch 1 paras 31, 33, 37); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 39(5); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 39(5)). Accordingly, in each case, the reference in the text to an 'elector named on the register' must be read, in the case of an elector who is added to the register in pursuance of a notice issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) as a reference to an elector in respect of whom such a notice has been issued: Sch 1 r 40(4B)(a) (as so added); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 39(5)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 39(5)(a). For the meaning of 'anonymous entry' in relation to a register of electors see PARA 174 ante.

The amendments effected by the Electoral Administration Act 2006 Sch 1 paras 31, 33, 37 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

3 As to the absent voters list see PARA 378 ante.

4 As to the list of proxies see PARA 378 ante.

5 As to the entitlement to vote by post as proxy see PARAS 382, 386 ante.

6 As to the questions that may be put to person applying for a ballot paper see PARA 403 ante. It would appear that the application is not complete until the questions have been answered and that the onus is on the applicant to demand that they be put: *Lyons v Cunningham* (1920) 55 ILT 35 at 38.

7 Representation of the People Act 1983 Sch 1 r 40(1) (amended by the Representation of the People Act 1985 ss 11, 28, Sch 2 para 7, Sch 5); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)-(3), Sch 1 r 35(1), Sch 2 r 36(1), Sch 3 r 36(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 36(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 45(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 41(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 38(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 38(1). To indicate that an elector or his proxy is entitled to vote by post and is for that reason not entitled to vote in person, the letter 'A' is placed against the name of that elector in any copy of the register, or part of it, provided for a polling station: see PARAS 382, 387 ante. There is no provision for absent voting at a poll consequent on a parish meeting on a question involving appointment to office and accordingly, in that case, if a person representing himself to be a particular elector named on the register applies for a ballot paper after another person has voted as the elector, the applicant, on satisfactorily answering the questions permitted by law to be asked at the poll, is entitled, subject to the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 22(2)-(3) (see the text and notes 15-20 infra), to mark a ballot paper (a 'tendered ballot paper') in the same manner as any other voter: Schedule r 22(1). As to voting by proxy see PARA 371 et seq ante; and as to the provisions relating to ballot papers generally see PARA 391 et seq ante.

8 For the meaning of 'parliamentary election' see PARA 9 ante. As to the ordinary election of councillors for local government principal areas see PARA 204 et seq ante; and as to ordinary elections of councillors for parishes or communities see PARA 207 et seq ante. For the meaning of 'local government election' see PARA 10 ante.

9 The reference in the text to an elector named on the register must be read, in the case of an elector who is added to the register in pursuance of a notice issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) (see PARA 175 ante) as a reference to an elector in respect of whom such a notice has been issued: Sch 1 r 40(4B)(a) (as added: see note 2 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 39(5)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 39(5)(a). See note 2 supra.

10 Representation of the People Act 1983 Sch 1 r 40(1ZA), (1ZB) (Sch 1 r 40(1ZA)-(1ZC) added by the Electoral Administration Act 2006 s 38(1)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 38(2), (3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 38(2), (3).

Any amendment effected by the Electoral Administration Act 2006 s 38 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

11 Representation of the People Act 1983 Sch 1 r 40(1ZC) (as added: see note 10 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 38(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 38(4). See note 10 supra.

12 The reference in the text to an elector named on the register must be read, in the case of an elector who is added to the register in pursuance of a notice issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) (see PARA 175 ante) as a reference to an elector in respect of whom such a notice has been issued: Sch 1 r 40(4B)(a) (as added: see note 2 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 39(5)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 39(5)(a). See note 2 supra.

13 Representation of the People Act 1983 Sch 1 r 40(1ZD) (Sch 1 r 40(1ZD), (1ZE) added by the Electoral Administration Act 2006 s 38(2)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 38(5); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 38(5). See note 10 supra.

14 Representation of the People Act 1983 Sch 1 r 40(1ZE) (as added: see note 13 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 38(6); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 38(6). See note 10 supra.

15 As to the presiding officer see PARA 398 ante. This function of the presiding officer may be discharged by one of the clerks appointed to assist him: see PARA 398 ante. If the applicant puts his vote in the ballot box instead of giving it to the presiding officer the vote is bad: *York County East Riding, Buckrose Division, Case* (1886) 4 O'M & H 110 at 115.

16 The omission to make the endorsement is not a fatal objection to the vote: *Stepney Division, Tower Hamlets Case* (1886) 4 O'M & H 34 at 43.

17 As to the number of an elector see PARA 160 ante. The reference to the name of the voter in the Representation of the People Act 1983 Sch 1 r 40(2) (in the case of a parliamentary election), in the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 39(1) (in the case of a local government election for a principal area) and in the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 39(1) (in the case of a local government election for a parish or community council) must be ignored in the case of an elector who has an anonymous entry in the register of electors but otherwise a reference to a person named on a register must be construed as a reference to a person whose number appears on the register: Representation of the People Act 1983 Sch 1 r 40(4A)(a), (b) (as added: see note 2 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 39(4)(a), (b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 39(4)(a), (b). The reference in those same provisions (as they apply) to his number in the register of electors must be read, in the case of an elector who is added to the register in pursuance of a notice issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) (see PARA 175 ante) as a reference to the number relating to him on such a notice: Sch 1 r 40(4B)(b) (as added: see note 2 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 39(5)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 39(5)(b). See note 2 supra. As to anonymous entries in a register of electors see PARA 174 ante.

18 Representation of the People Act 1983 Sch 1 r 40(2); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 22(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 35(2), Sch 2 r 36(2), Sch 3 r 36(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 36(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 45(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 41(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 39(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 39(1). A tendered vote is not counted by the returning officer: in relation to the counting of votes at a parliamentary or local government election (except a London Authority election) see PARA 432 post; in relation to a London Authority election see PARA 443 post; in relation to a local authority or London mayoral election see PARA 451 post; in relation to a Welsh Assembly election see PARA 461 post; and in relation to a European parliamentary election see PARA 471 post. As to the adding of the vote on a scrutiny see PARA 842 post.

19 The reference to the name of the voter in the Representation of the People Act 1983 Sch 1 r 40(3) (in the case of a parliamentary election), in the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 39(2) (in the case of a local government election for a principal area) and in the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 39(2) (in the case of a local government election for a parish or community council) must be ignored in the case of an elector who has an anonymous entry in the register of electors; but otherwise a reference to a person named on the tendered voters list must be construed as a reference to a person whose number appears on the list: Representation of the People Act 1983 Sch 1 r 40(4A)(a), (b) (as added: see note 2 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 39(4)(a), (b); Local Elections (Parishes

and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 39(4)(a), (b). The reference in those same provisions (as they apply) to his number on the register of electors must be read, in the case of an elector who is added to the register in pursuance of a notice issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) (see PARA 175 ante) as a reference to the number relating to him on such a notice: Sch 1 r 40(4B)(c) (as added: see note 2 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 39(5)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 39(5)(c). See note 2 supra.

20 Representation of the People Act 1983 Sch 1 r 40(3) (amended by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 81(1), (3)); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 22(3); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 35(3), Sch 2 r 36(3), Sch 3 r 36(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 36(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 45(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 41(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 39(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 39(2).

Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 69, 81 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

At an ordinary London Authority election and at any London mayoral election, the same tendered voters list may be used for each election and, where it is so used, an entry in that list must be taken to mean that tendered ballot papers were marked in respect of each election, unless the list identifies the election at which a tendered ballot paper was marked: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3, Sch 3 r 36(5), Sch 4 r 10. For the meaning of 'Authority election' see PARA 10 ante. At an ordinary Welsh Assembly election, where voters are entitled to give two votes at the polling station, the same tendered voters list may be used for the constituency and regional elections at which the voters are entitled to vote and, where it is so used, an entry in that list must be taken to mean that tendered ballot papers were so marked in respect of each election, unless the list identifies the election at which a tendered ballot paper was so marked: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 45(5). For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

21 Representation of the People Act 1983 Sch 1 r 40(4); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 35(4), Sch 2 r 36(4), Sch 3 r 36(4); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 36(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 45(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 41(4); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 39(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 39(3). There is no provision for voting by proxy at a poll consequent on a parish meeting on a question involving appointment to office and accordingly the provision that is set out in the text does not apply in that case.

UPDATE

389-411 Method of election ... Returning officer's duty to issue postal ballot papers, etc

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

398-411 Appointment of presiding officers and their clerks by returning officer ... Returning officer's duty to issue postal ballot papers, etc

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

408 Tendered ballot papers

NOTES--SI 2002/185 reg 3(1), Sch 1 r 36 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 rr 40, 41.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/B. VOTES GIVEN AT A POLLING STATION/409. Spoilt ballot papers.

409. Spoilt ballot papers.

A voter¹ who has inadvertently dealt with his ballot paper at an election² in such manner that it cannot be conveniently used as a ballot paper³ may, on delivering it to the presiding officer⁴ and proving to his satisfaction the fact of the inadvertence, obtain another ballot paper in place of the ballot paper so delivered (called a 'spoilt ballot paper')⁵. The spoilt ballot paper must be immediately cancelled⁶.

1 For the purposes of the statutory provisions governing elections, a voter is defined as a person voting at an election and includes a person voting as proxy (but not necessarily a person voting by proxy): in relation to parliamentary and local government elections see PARA 110 note 2 ante; in relation to Welsh Assembly elections see PARA 124 note 5 ante; and in relation to European parliamentary elections see PARA 125 note 6 ante.

2 In a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), a local government election, an election for the return of a local authority mayor, a constituency or regional election for the return of members of the National Assembly for Wales and a European parliamentary election. Polls consequent on a parish meeting on a question involving appointment to office (as to which see PARA 207 et seq ante) are also considered and, for this purpose, the text should be read as if, for the reference to 'election', there were a reference to 'poll'. For the meaning of 'parliamentary election' see PARA 9 ante; for the meanings of 'Authority election' and 'local government election' see PARA 10 ante; and for the meaning of 'election under the local government Act' see PARA 10 note 2 ante. As to elections in the City of London see PARA 30 ante. As to elections for the return of a local authority mayor see PARA 205 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante. As to elections to the National Assembly for Wales see PARA 220 et seq ante. As to European parliamentary elections see PARA 224 et seq ante.

3 As to the provisions relating to ballot papers generally see PARA 391 et seq ante.

4 As to the presiding officer see PARA 398 ante. This function of the presiding officer may be discharged by one of the clerks appointed to assist him: see PARA 398 ante.

5 Representation of the People Act 1983 s 23(1), Sch 1 r 41; Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 23; Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)-(3), Sch 1 r 36, Sch 2 r 37, Sch 3 r 37; Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 37; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 46; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 42; Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 40; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 40.

6 Representation of the People Act 1983 Sch 1 r 41; Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 23; Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 36, Sch 2 r 37, Sch 3 r 37; Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 37; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 46; European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 42; Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 40; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 40.

UPDATE

389-411 Method of election ... Returning officer's duty to issue postal ballot papers, etc

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

398-411 Appointment of presiding officers and their clerks by returning officer ... Returning officer's duty to issue postal ballot papers, etc

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

409 Spoilt ballot papers

NOTES 5, 6--SI 2002/185 reg 3(1), Sch 1 r 37 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 42.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/B. VOTES GIVEN AT A POLLING STATION/410. Procedure on close of poll at a polling station.

410. Procedure on close of poll at a polling station.

As soon as practicable after the close of the poll at an election¹, the presiding officer² must, in the presence of the polling agents³, make up into separate packets, sealed with his own seal and the seals of such polling agents as desire to affix their seals⁴:

- 480 (1) each ballot box in use at his station, sealed so as to prevent the introduction of additional ballot papers and unopened (but, if the boxes are capable of being locked, with the key attached)⁵;
- 481 (2) the unused and spoilt ballot papers, placed together⁶;
- 482 (3) the tendered ballot papers⁷;
- 483 (4) the marked copies of the register of electors⁸ and of the list of proxies⁹;
- 484 (5) (in the case of a parliamentary election or a local government election for a principal area, parish or community council) the completed corresponding number lists¹⁰ or (in the case of any other election) the counterfoils of the used ballot papers¹¹;
- 485 (6) the certificates as to employment on duty on the day of the poll¹²; and
- 486 (7) the tendered votes list¹³, the list of voters with disabilities assisted by companions¹⁴, the list of votes marked by the presiding officer¹⁵, a statement of the number of voters whose votes are so marked by the presiding officer under the heads 'disability (or 'physical incapacity', as the case may be) and 'unable to read', the declarations made by the companions of voters with disabilities and (in the case of a parliamentary election or a local government election for a principal area, parish or community council) the list maintained by the presiding officer of persons to whom ballot papers were delivered in consequence of an alteration to the register which took effect on the day of the poll¹⁶.

The materials mentioned in head (4) above must be in one packet but must not be in the same packet as the materials mentioned in heads (5) and (6) above¹⁷.

The presiding officer must deliver the packets or cause them to be delivered to the appropriate returning officer¹⁸ to be taken charge of by him; but if the packets are not delivered by the presiding officer personally to the returning officer, the arrangements for their delivery require the approval of the returning officer¹⁹.

The packets must be accompanied by a statement (the 'ballot paper account') made by the presiding officer showing the number of ballot papers entrusted to him, and accounting for them under the heads of ballot papers issued and not otherwise accounted for, unused ballot papers, spoilt ballot papers, and tendered ballot papers²⁰.

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for the procedure on the close of a poll²¹.

1 In the case of a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), a local government election, an election for the return of a local authority mayor, a constituency or regional election for the return of members of the National Assembly for Wales and a European parliamentary election. Polls consequent on a parish meeting on a question involving appointment to office (as to which see PARA 207 et seq ante) are also

considered and, for this purpose, the text should be read as if, for the reference to 'election', there were a reference to 'poll'. For the meaning of 'parliamentary election' see PARA 9 ante; for the meanings of 'Authority election' and 'local government election' see PARA 10 ante; and for the meaning of 'election under the local government Act' see PARA 10 note 2 ante. As to elections in the City of London see PARA 30 ante. As to elections for the return of a local authority mayor see PARA 205 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante. As to elections to the National Assembly for Wales see PARA 220 et seq ante. As to European parliamentary elections see PARA 224 et seq ante.

2 As to the presiding officer see PARA 398 ante. This function of the presiding officer may be discharged by one of the clerks appointed to assist him: see PARA 398 ante.

3 The non-attendance of the polling agents will not, if the act or thing is otherwise duly done, invalidate the act or thing done: see PARA 399 ante.

4 Representation of the People Act 1983 s 23(1), Sch 1 r 43(1); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 25(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)-(3), Sch 1 r 38(1), Sch 2 r 39(1), Sch 3 r 39(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 39(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 48(1), (2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 44(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 43(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 43(1). At an ordinary Welsh Assembly election where electors have been entitled to give two votes at the polling station, minor modifications are made to the provisions to ensure that the documents relating to the two elections are kept separate: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 48(1); and notes 6, 7, 9 infra.

5 Representation of the People Act 1983 Sch 1 r 43(1)(a); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(1)(a); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 38(1)(a), Sch 2 r 39(1)(a), Sch 3 r 39(1)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 39(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 48(1)(a), (2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 44(1)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 43(1)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 43(1)(a).

6 Representation of the People Act 1983 Sch 1 r 43(1)(b); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(1)(b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 38(1)(b), Sch 2 r 39(1)(b), Sch 3 r 39(1)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 39(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 48(1)(b), (c), (2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 44(1)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 43(1)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 43(1)(b). As to spoilt ballot papers see PARA 409 ante. At an ordinary Welsh Assembly election, where electors have been entitled to give two votes at the polling station, separate packets must be made up and sealed for: (1) the unused and spoilt ballot papers, placed together, relating to the constituency election (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 48(1)(b)); and (2) the unused and spoilt ballot papers, placed together, relating to the regional election (Sch 5 para 48(1)(c)).

7 Representation of the People Act 1983 Sch 1 r 43(1)(c); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(1)(c); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 38(1)(c), Sch 2 r 39(1)(c), Sch 3 r 39(1)(c); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 39(1)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 48(1)(d), (e), (2)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 44(1)(c); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 43(1)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 43(1)(c). As to tendered ballot papers see PARA 408 ante. At an ordinary Welsh Assembly election, where electors have been entitled to give two votes at the polling station, separate packets must be made up and sealed for: (1) the tendered ballot papers relating to the constituency election (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 48(1)(d)); and (2) the tendered ballot papers relating to the regional election (Sch 5 para 48(1)(e)).

8 In including, in the case of a parliamentary election or a local government election for a principal area, parish or community, any marked copy notices of alteration to the register issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) (see PARA 175 ante): Sch 1 r 43(1)(d) (amended by the Electoral Administration Act 2006 s 11(6), Sch 1 paras 31, 33, 39(a)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 43(1)(d); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 43(1)(d).

The amendments effected by the Electoral Administration Act 2006 Sch 1 paras 31, 33, 39, 69, 79 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

9 Representation of the People Act 1983 Sch 1 r 43(1)(d) (as amended: see note 8 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(1)(d); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 38(1)(d), Sch 2 r 39(1)(d), Sch 3 r 39(1)(d); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 39(1)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 42(1)(f), (2)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 44(1)(d); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 43(1)(d); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 43(1)(d). There is no provision for voting by proxy at a poll consequent on a parish meeting on a question involving appointment to office and accordingly the reference to the list of proxies in head (4) in the text does not apply in that case. As to the list of proxies see PARA 378 ante.

10 Representation of the People Act 1983 Sch 1 r 43(1)(da) (added by the Electoral Administration Act 2006 s 31(1), (4)(a)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 43(1)(e); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 43(1)(e). The text refers to the lists prepared, in relation to a parliamentary election, under the Representation of the People Act 1983 Sch 1 r 19A (as added) or, in relation to a local government election for a principal area, under the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 17 or, in relation to a local government election for a parish and community council, under the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 17 (the corresponding number list: see PARA 392 ante), including the parts which were completed in accordance with, respectively, the Representation of the People Act 1983 Sch 1 r 37(1)(b) (as substituted) and Sch 1 r 37(1)(d) (prospectively substituted), the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 35(1)(b) and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 35(1)(b) (see PARA 404 ante), which are together referred to in the relevant elections rules as the 'completed corresponding number lists': Representation of the People Act 1983 Sch 1 r 43(1)(da) (as so added); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 43(1)(e); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 43(1)(e). As to the elections rules which relate to a parliamentary election, a local government election for a principal area and a local government election for a parish or community council see PARA 388 ante.

Any amendment effected by the Electoral Administration Act 2006 ss 31, 74(2), Sch 2 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007 (see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1); and the amendment effected by the Electoral Administration Act 2006 s 31(4) has no effect to the extent that it relates to the Representation of the People Act 1983 Sch 1 r 37(1)(d) (prospectively substituted) (see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 3, Sch 1 para 14(p)).

11 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(1)(e); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 38(1)(e), Sch 2 r 39(1)(e), Sch 3 r 39(1)(e); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 39(1)(e); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 48(1)(g)-(i), (2)(e), (f); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 44(1)(e). At an ordinary Welsh Assembly election, where electors have been entitled to give two votes at the polling station, separate packets must be made up and sealed for: (1) the counterfoils of the used ballot papers relating to the constituency election (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 48(1)(g)); and (2) the counterfoils of the used ballot papers relating to the regional election (Sch 5 para 48(1)(h)).

12 Representation of the People Act 1983 Sch 1 r 43(1)(e) (amended by the Electoral Administration Act 2006 ss 31(1), (4)(b), 74(2), Sch 2); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(1)(e); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 38(1)(e), Sch 2 r 39(1)(e), Sch 3 r 39(1)(e); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 39(1)(e); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 48(1)(g)-(i), (2)(e), (f); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 44(1)(e); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 43(1)(f); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 43(1)(f). There is no provision for certificates as to employment on duty at a poll consequent on a parish meeting on a question involving appointment to office and accordingly head (6) in the text does not apply in that case. As to certificates of employment on duty on the day of the poll see PARA 402 ante. As to the commencement of the amendment of the Representation of the People Act 1983 effected by the Electoral Administration Act 2006 see note 9 supra.

13 As to the tendered votes list see PARA 408 ante.

14 As to the list of voters with disabilities assisted by companions see PARA 407 ante.

15 As to the list of votes marked by the presiding officer see PARA 406 ante.

16 Representation of the People Act 1983 Sch 1 r 43(1)(f) (amended by the Representation of the People Act 2000 s 13(1), (4); and the Electoral Administration Act 2006 s 47, Sch 1 paras 31, 33, 39(b), 69, 79); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(1)(f); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 38(1)(f), Sch 2 r 39(1)(f), Sch 3 r 39(1)(f) (all amended by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 39(1)(f); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 48(1)(j), (2) (g); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 44(1)(f); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 43(1)(g); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 43(1)(g). In the case of a parliamentary election or a local government election for a principal area, parish or community council, the heading 'disability' replaces that of 'physical incapacity' in the statement of the number of voters whose votes are so marked by the presiding officer; and the list referred to in the text of persons to whom ballot papers were delivered in consequence of an alteration to the register which took effect on the day of the poll is a reference to the list maintained by the presiding officer, in relation to a parliamentary election, under the Representation of the People Act 1983 Sch 1 r 41A (as added) or, in relation to a local government election for a principal area, under the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 41 or, in relation to a local government election for a parish and community council, under the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 41 (see PARA 404 ante); Representation of the People Act 1983 Sch 1 r 43(1)(f) (as so amended); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 43(1)(g); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 43(1)(g). As to the commencement of the amendment of the Representation of the People Act 1983 effected by the Electoral Administration Act 2006 see note 8 supra.

At a poll consequent on a parish meeting on a question involving appointment to office, the provision set out in the text applies only to voters with blindness and all references to other physical incapacities must be ignored in that case, albeit that the statement of the number of voters whose votes are marked by the presiding officer contains the head 'physical incapacity' rather than 'blindness': see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(1)(f).

As to declarations made by the companions of voters with disabilities see PARA 407 ante.

17 Representation of the People Act 1983 Sch 1 r 43(2) (amended by the Electoral Administration Act 2006 s 31(1), (4)(c)); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 38(3), Sch 2 r 39(3), Sch 3 r 39(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 39(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 44(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 43(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 43(2). The provision set out in the text does not apply at a Welsh Assembly election because special provision is made for the number and contents of the packets: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 48(1), (2); and notes 6, 7, 9 supra. At a poll consequent on a parish meeting on a question involving appointment to office, there is no provision either for voting by proxy (see note 8 supra) or for certificates as to employment on duty (see note 9 supra) and accordingly the provision referred to in the text is limited in such a case to requiring that the marked copy of the register of electors must not be in the same packet as the counterfoils of the used ballot papers: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(2). At a London Authority election, the contents of the packets of: (1) the unused and spoilt ballot papers (placed together); (2) the tendered ballot papers; and (3) the counterfoils of the used ballot papers and the certificates as to employment on duty on the day of the poll, must not be combined with the contents of the packets made under the corresponding rule that applies at other Assembly elections, nor may the ballot paper account (as to which see the text and note 20 infra) be so combined: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 38(2), Sch 2 r 39(2), Sch 3 r 39(2). As to the commencement of the amendment of the Representation of the People Act 1983 effected by the Electoral Administration Act 2006 see note 9 supra.

18 As to returning officers for parliamentary elections see PARA 355 et seq ante; as to returning officers for local government elections (including local authority mayoral elections) see PARA 359 et seq ante; and as to the returning officer at a poll consequent on parish meeting see PARA 361 ante. In the case of European parliamentary elections, the appropriate returning officer is the local returning officer: see PARA 365 et seq ante. In the case of a London Authority election, and for the purposes of elections for the return of members of the National Assembly for Wales, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which in relation to a London Authority election see PARA 218 note 8 ante; and for the meaning of which in relation to a Welsh Assembly election see PARA 18 note 2 ante). As to the functions of returning officers where the poll at an election is taken together with the poll at another election or referendum see PARA 18 ante.

19 Representation of the People Act 1983 Sch 1 r 43(1); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 38(1), Sch 2 r 39(1), Sch 3 r 39(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 39(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 48(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 44(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 43(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 43(1).

20 Representation of the People Act 1983 Sch 1 r 43(3); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(3); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 38(4) (a)-(d), Sch 2 r 39(4)(a)-(d), Sch 3 r 39(4)(a)-(d); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 39(3)(a)-(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 48(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 44(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 43(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 43(3).

Where the Greater London returning officer determines, in accordance with the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3, Sch 4 r 2(2) (see PARA 392 note 11 ante), that ballot papers are to be combined, ballot paper accounts must also be combined: Sch 4 r 11. For the meaning of 'Greater London returning officer' see PARA 218 note 7 ante.

The packets at a Welsh Assembly election must be accompanied by a separate statement relating to each Assembly election at an ordinary Welsh Assembly election where electors have been entitled to give two votes at the polling station, or, otherwise, by a statement relating to the Welsh Assembly election: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 48(4)(a), (b).

21 As to polls at elections or referendums which are taken together see PARA 16 et seq ante.

UPDATE

389-411 Method of election ... Returning officer's duty to issue postal ballot papers, etc

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

398-411 Appointment of presiding officers and their clerks by returning officer ... Returning officer's duty to issue postal ballot papers, etc

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

410 Procedure on close of poll at a polling station

NOTES--SI 2002/185 reg 3(1), Sch 1 r 39 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 45.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/C. VOTES GIVEN BY POSTAL BALLOT/(A) Issue of Postal Ballot Papers/411. Returning officer's duty to issue postal ballot papers, etc.

C. VOTES GIVEN BY POSTAL BALLOT

(A) ISSUE OF POSTAL BALLOT PAPERS

411. Returning officer's duty to issue postal ballot papers, etc.

The returning officer at a parliamentary election, or at a local government election for a principal area, parish or community council¹, must, in accordance with regulations², issue to those entitled to vote by post³ a ballot paper⁴ and a postal voting statement in the prescribed form⁵, together with such envelopes for their return as may be prescribed⁶. The returning officer must also issue to those entitled to vote by post such information as he thinks appropriate about how to obtain translations into languages other than English of any directions to or guidance for voters sent with the ballot paper⁷, a translation into Braille of such directions or guidance⁸, graphical representations of such directions or guidance⁹, or the directions or guidance in any other form (including any audible form)¹⁰. In the case of a ballot paper issued to a person resident in the United Kingdom¹¹, the returning officer must ensure that the return of the ballot paper and postal voting statement is free of charge to the voter¹²; and, in any other case but in relation to a parliamentary election only, regulations may provide that the returning officer must so ensure¹³.

At any other election¹⁴, the returning officer¹⁵ must, in accordance with the statutory requirements¹⁶, issue to those entitled to vote by post a postal ballot paper¹⁷ and a declaration of identity in the appropriate form or forms to like effect¹⁸, together with such envelopes for their return (whether free of charge or otherwise) as may be so prescribed¹⁹.

Where the polls at elections are taken together, the proceedings on the issue and receipt of postal ballot papers in respect of each election may, if the returning officers agree, be taken together²⁰.

1 For the meaning of 'parliamentary election' see PARA 9 ante; and for the meaning of 'local government election' see PARA 10 ante. As to the ordinary election of councillors for local government principal areas see PARA 204 et seq ante; and as to ordinary elections of councillors for parishes or communities see PARA 207 et seq ante. As to returning officers for parliamentary elections see PARA 355 et seq ante; and as to returning officers for local government elections see PARA 359 et seq ante.

2 In accordance with regulations made under the Representation of the People Act 1983. See note 5 infra. As to the making of regulations under the Representation of the People Act 1983 generally see PARA 24 note 16 ante.

3 As to applications made for absent voting see PARA 372 et seq ante.

4 Representation of the People Act 1983 Sch 1 r 24(1)(a) (Sch 1 r 24(1), (2) substituted, and Sch 1 para 24(3)-(5) added, by the Electoral Administration Act 2006 s 37); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 22(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 22(1).

Any amendment effected by the Electoral Administration Act 2006 s 37 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

5 Representation of the People Act 1983 Sch 1 r 24(1)(b) (as substituted: see note 4 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 22(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 22(1). The form of the postal voting statement must include provision for the form to be signed and for stating the date of birth of the elector or proxy, as the case may be: Representation of the People Act 1983 Sch 1 r 24(3) (as added: see note 4 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 22(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 22(3). As to the commencement of the amendments of the Representation of the People Act 1983 effected by the Electoral Administration Act 2006 see note 4 supra. For the meaning of 'elector' see PARA 110 note 2 ante.

At a parliamentary election taken alone, the form of the postal voting statement to be used is set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 66(a), Sch 3 (Form G: form of postal voting statement (for use at parliamentary elections)) (reg 66 amended, and Forms G-J substituted, by SI 2006/2910); at a parliamentary election where the proceedings on the issue and receipt of postal ballot papers are taken together with those proceedings at another election, the form of the postal voting statement to be used is set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 66(b), Sch 3 (Form H: form of postal voting statement (for use where there is a joint issue and receipt of postal ballot papers)) (reg 66 as so amended; and Form H as so substituted); and at a parliamentary election where the poll is taken together with the poll at another election, but where the proceedings on the issue and receipt of postal ballot papers are not, the form of the postal voting statement to be used is set out in reg 66(c), Sch 3 (Form J: form of postal voting statement (for use when a parliamentary poll is combined with another poll but the postal ballot papers are not combined)) (reg 66 as so amended; Form J as so substituted). The forms set out in Sch 3 (as amended) or forms substantially to the like effect may be used with such variations as the circumstances may require. reg 4(2). At a parliamentary election in Wales, the forms prescribed as the versions partly in Welsh and partly in English which must be used instead are set out in the Parliamentary Elections (Welsh Forms) Order 2005, SI 2005/1105, art 6(1)(i), Sch 2 (Form 10: declaration of identity; Form 11: declaration of identity; Form 12: declaration of identity).

For the purposes of a local government election for a principal area, a postal voting statement must be in the appropriate form (or a form to like effect): see the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 Appendix of Forms (Form of postal voting statement). Where such an election is taken together with another relevant election or referendum see r 4, Sch 3 Appendix of Forms (Form of postal voting statement (for use where there is a joint issue and receipt of postal ballot papers); Form of postal voting statement (for use when a local government poll is combined with another poll but the postal ballot papers are not combined)). For the purposes of a local government election for a parish and community council, the appropriate form (or a form to like effect) must be used: see the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 Appendix of Forms (Form of postal voting statement). Where such an election is taken together with another relevant election or referendum see r 4, Sch 3 Appendix of Forms (Form of postal voting statement (for use where there is a joint issue and receipt of postal ballot papers); Form of postal voting statement (for use when a parish or community poll is combined with another poll but the postal ballot papers are not combined)). Where an election in Wales is taken together with the poll at a relevant election or referendum see the forms set out partly in Welsh and partly in English in the Local Elections (Communities) (Welsh Forms) Order 2004, SI 2004/1233, art 4, Schedule Pt 2 (Form of declaration of identity, ffurflen adnabod); and the Local Elections (Principal Areas) (Welsh Forms) Order 2004, SI 2004/1234, art 4, Schedule Pt 2 (Form of declaration of identity, ffurflen adnabod).

6 Representation of the People Act 1983 Sch 1 r 24(1) (as substituted: see note 4 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 22(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 22(1). As to the commencement of the amendment of the Representation of the People Act 1983 effected by the Electoral Administration Act 2006 see note 4 supra.

The requirement is only for the returning officer to issue the ballot papers in accordance with the statutory scheme and his responsibilities do not go beyond that: *Knight v Nicholls* [2004] EWCA Civ 68, [2004] 1 WLR 1653, [2004] LGR 524 (considering what is now the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 22). As to the issue of delivery see further PARA 417 post.

7 Representation of the People Act 1983 Sch 1 r 24(2)(a) (as substituted: see note 4 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 22(2)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 22(2)(a). As to the commencement of the amendment of the Representation of the People Act 1983 effected by the Electoral Administration Act 2006 see note 4 supra.

8 Representation of the People Act 1983 Sch 1 r 24(2)(b) (as substituted: see note 4 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 22(2)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 22(2)(b). As to the commencement of the amendment of the Representation of the People Act 1983 effected by the Electoral Administration Act 2006 see note 4 supra.

9 Representation of the People Act 1983 Sch 1 r 24(2)(c) (as substituted: see note 4 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 22(2)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 22(2)(c). As to the commencement of the amendment of the Representation of the People Act 1983 effected by the Electoral Administration Act 2006 see note 4 supra.

10 Representation of the People Act 1983 Sch 1 r 24(2)(d) (as substituted: see note 4 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 22(2)(d); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 22(2)(d). As to the commencement of the amendment of the Representation of the People Act 1983 effected by the Electoral Administration Act 2006 see note 4 supra.

11 For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

12 Representation of the People Act 1983 Sch 1 r 24(4) (as added: see note 4 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 22(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 22(4). As to the commencement of this provision see note 4 supra.

13 Representation of the People Act 1983 Sch 1 r 24(5) (as added: see note 4 supra). As to the commencement of this provision see note 4 supra.

14 In an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), an election for the return of a local authority mayor, a constituency or regional election for the return of members of the National Assembly for Wales, and a European parliamentary election. For the meaning of 'Authority election' see PARA 10 ante; and for the meaning of 'election under the local government Act' see PARA 10 note 2 ante. As to elections in the City of London see PARA 30 ante. As to elections for the return of a local authority mayor see PARA 205 ante. For the meanings of 'Assembly election', 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante. As to elections to the National Assembly for Wales see PARA 220 et seq ante. As to European parliamentary elections see PARA 224 et seq ante. There is no provision for absent voting at a poll consequent on a parish meeting on a question involving appointment to office.

15 As to returning officers for local authority mayoral elections see PARA 359 et seq ante. In the case of European parliamentary elections, the appropriate returning officer is the local returning officer: see PARA 365 et seq ante. In the case of a London Authority election, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which for these purposes see PARA 218 note 8 ante); and in the case of elections for the return of members of the National Assembly for Wales, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which in relation to a Welsh Assembly election see PARA 18 note 2 ante). As to the functions of returning officers where the poll at an election is taken together with the poll at another election or referendum see PARA 18 ante.

16 At an election to return a local authority mayor, the reference is to regulations made under the Representation of the People Act 1983: see the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 21. At a London Authority election, the constituency returning officer must, as soon as practicable, send the specified items to those entitled to vote by post, at the addresses shown in the absent voters list (as to which see PARA 378 ante): see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)-(3), Sch 1 r 20(1), Sch 2 r 21(1), Sch 3 r 21(1) (Sch 1 r 20(1), Sch 2 r 21(1), Sch 3 r 21(1) all substituted by SI 2004/227). In the case of a Welsh Assembly election, the constituency returning officer must as soon as practicable send the specified items to those entitled to vote by post, at the address shown in the absent voters list or the list of postal proxies (as to which see PARA 378 ante): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 30(1). In the case of a European parliamentary election, the reference in the text is to the requirements set out in the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2: see reg 9(1), Sch 1 para 26.

17 In the case of a person who at an ordinary Welsh Assembly election is entitled to give two votes by post, the reference to a ballot paper must be construed as a reference to both ballot papers: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 30(2).

18 For the purposes of a London Authority election, the appropriate form is set out in the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3, Sch 5 (Form 8: declaration of identity (constituency and mayoral elections otherwise than at ordinary elections)) (amended by SI 2004/227). See also the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 5 (Form 9A: declaration of identity (GLA election combined with a relevant election or referendum)-(joint issue and receipt of postal ballots)) (added by SI 2004/227); and the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 5 (Form 9B: declaration of identity (GLA election combined with a relevant election or referendum)-(separate issue and

receipt of postal ballots)) (added by SI 2004/227). Where the polls at an ordinary London Authority election are taken together, a joint declaration of identity must be issued in the appropriate form: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 4, Sch 4 r 4(b). As to the form prescribed for this purpose see Sch 5 (Form 9: declaration of identity (ordinary elections)) (amended by SI 2004/227).

However, in place of the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3, Sch 5 (Form 8) PARA 2 (ie except in the case of an election for the return of London members) and Sch 5 (Form 9) PARAS 2-4, the form may include such alternative information as the Greater London returning officer may decide, relating to:

- 69 (1) the system of voting at the Greater London Authority ('GLA') election;
- 70 (2) how many votes a voter has at each GLA election; and
- 71 (3) the marks to be used and the manner in which they should be used, in order to ensure that a vote is counted for any candidate,

and which complies with r 9, Sch 12 para 4 (as added) (requirements for notices for the guidance of voters: see PARA 396 ante), as though that information were to be included in a notice: Sch 1 r 20(3), (4), Sch 2 r 21(3), (4), Sch 3 r 21(3), (4) (Sch 1 r 20, Sch 2 r 21, Sch 3 r 21 all substituted by SI 2004/227). Where the Greater London returning officer has decided to provide such alternative information, he must notify the constituency returning officer of the information that is so to appear in the form: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 20(5), Sch 2 r 21(5), Sch 3 r 21(5) (all as so substituted). For the meaning of 'Greater London returning officer' see PARA 218 note 7 ante.

For the purposes of an election to return a local authority mayor, see the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 Appendix of Forms (Form 5: declaration of identity) (Form 5 amended by SI 2004/225).

For the purposes of a Welsh Assembly election, the declaration of identity sent with the postal ballot paper to a postal voter must be: (a) at an ordinary election where a postal voter is entitled to give two votes and where the polls at the elections are not held together with the poll at another election, in the form set out in English and Welsh in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 3(a), Appendix of Forms (Form of declaration of identity referred to in PARAGRAPH 3(a)); (b) at an Assembly election where the poll at the election is not held together with the poll at another election (and where head (a) supra does not apply), in the form set out in English and Welsh in Sch 3 para 3(b), Appendix of Forms (Form of declaration of identity referred to in PARAGRAPH 3(b)); (c) at an Assembly election (whether or not at an ordinary election where a postal voter is entitled to give two votes) where the proceedings on the issue and receipt of postal ballot papers are taken together with those proceedings at another election under Sch 3 para 2 (issue and receipt of postal ballot papers when polls combined: see PARA 20 ante), in the form set out in English and Welsh in Sch 3 para 3(c), Appendix of Forms (Form of declaration of identity referred to in PARAGRAPH 3(c)); (d) at an ordinary election where a postal voter is entitled to give two votes, the polls at which are taken together with the poll at another election in any part of an Assembly constituency, but where the proceedings on the issue and receipt of postal ballot papers are not taken together under Sch 3 para 2, for use in that part of the constituency in which polls at more than one election are taken together, in the form set out in English and Welsh in Sch 3 para 3(d), Appendix of Forms (Form of declaration of identity referred to in PARAGRAPH 3(d)); and (e) at an Assembly election, the poll at which is taken together with the poll at another election in any part of an Assembly constituency, but where the proceedings on the issue and receipt of postal ballot papers are not taken together under Sch 3 para 2, for use in that part of the constituency in which polls at more than one election are taken together (and where head (d) supra does not apply), in the form set out in English and Welsh in Sch 3 para 3(e), Appendix of Forms (Form of declaration of identity referred to in PARAGRAPH 3(e)).

For the purposes of a European parliamentary election, the reference in the text is to the form prescribed by the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 28. Accordingly, at a European parliamentary election in England and Wales taken alone, the form of the declaration of identity for these purposes is set out in Sch 2 para 28(a), Appendix of Forms (Form B: declaration of identity); at a European parliamentary election in England and Wales where the proceedings on the issue and receipt of postal ballot papers are taken together with those proceedings at a relevant election or referendum, the form is set out in Sch 2 para 28(b), Appendix of Forms (Form C: declaration of identity); and at a European parliamentary election in England and Wales where the poll is taken together with the poll at a relevant election or referendum, but where the proceedings on the issue and receipt of postal ballot papers are not, the form is set out in Sch 2 para 28(c), Appendix of Forms (Form D: declaration of identity).

19 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 20(1), (2), Sch 2 r 21(1), (2), Sch 3 r 21(1), (2) (all as substituted: see note 16 supra); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 21; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 30(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 26. As to the returning officer's duty to issue postal ballot papers, etc see the case law cited in note 6 supra. As to the marking of the envelopes and the addresses to be used see PARA 416 post.

20 As to the issue and receipt of postal ballot papers when polls are combined see PARA 20 ante.

UPDATE

389-411 Method of election ... Returning officer's duty to issue postal ballot papers, etc

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

398-411 Appointment of presiding officers and their clerks by returning officer ... Returning officer's duty to issue postal ballot papers, etc

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

411-418 Returning officer's duty to issue postal ballot papers, etc ... Sealing up of counterfoils of postal ballot papers and security of special lists

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

411 Returning officer's duty to issue postal ballot papers, etc

NOTE 5--SI 2004/1233 replaced: Local Elections (Communities) (Welsh Forms) Order 2007, SI 2007/1013. SI 2004/1234 replaced: Local Elections (Principal Areas) (Welsh Forms) Order 2007, SI 2007/1015. SI 2005/1105 replaced: Parliamentary Elections (Welsh Forms) Order 2007, SI 2007/1014.

NOTES 16, 18, 19--SI 2002/185 reg 3(1), Sch 1 r 21, Appendix of Forms, Form 5 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 rr 19, 24, Appendix of Forms, Form 7.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/C. VOTES GIVEN BY POSTAL BALLOT/(A) Issue of Postal Ballot Papers/412. Notification of requirement of secrecy at proceedings relating to the issue of postal ballot papers.

412. Notification of requirement of secrecy at proceedings relating to the issue of postal ballot papers.

The returning officer at an election¹ must make such arrangements as he thinks fit to ensure that every person attending the proceedings in connection with the issue² of postal ballot papers³ has been given a copy in writing of the statutory provisions relating to the requirement of secrecy that apply to those proceedings⁴.

1 As to the returning officers and elections referred to in the text see PARA 411 notes 1, 14-15 ante. At a Welsh Assembly regional election, the functions connected with the issue and receipt of postal ballot papers are to be exercised in relation to each Assembly constituency in an Assembly electoral region by the returning officer for such a constituency: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 4. For the meanings of 'Assembly constituency' and 'Assembly electoral region' for these purposes see PARA 3 note 1 ante.

2 As to proceedings on the issue of postal ballot papers see PARAS 411 ante, 413 et seq post. For the purposes of Welsh Assembly elections, 'issue' includes the original and any subsequent issue: *ibid* Sch 3 para 1.

3 For these purposes, 'postal ballot paper' means a ballot paper issued to a postal voter; and 'postal voter' means an elector or proxy who is entitled to vote by post: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 64; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 1; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 26(1).

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 70; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 7; European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 32. The text refers to the requirement of secrecy set out in the Representation of the People Act 1983 s 66(4), (6) (as amended) or, in relation to Welsh Assembly elections, in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(4), (6) or, in relation to European parliamentary elections, in the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(5), (7) (see PARA 745 post).

UPDATE

411-418 Returning officer's duty to issue postal ballot papers, etc ... Sealing up of counterfoils of postal ballot papers and security of special lists

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/C. VOTES GIVEN BY POSTAL BALLOT/(A) Issue of Postal Ballot Papers/413. Time of issue of postal ballot papers, etc.

413. Time of issue of postal ballot papers, etc.

The postal ballot paper¹ and postal voting statement (or, in the case of an election that is not a parliamentary or local government election, the declaration of identity)² must be issued by the returning officer³ as soon as practicable after the registration officer⁴ has granted the application to vote by post⁵, except where a person is shown in the records kept of those entitled (for a defined period or for an indefinite period) to an absent vote at elections⁶ or to vote by post as proxy at elections⁷, in which two cases no postal ballot paper and postal voting statement (or declaration of identity, as the case may be) may be issued until after 5 pm on the eleventh day before the date of the poll⁸.

At a parliamentary or local government election, an elector or a proxy voter who is shown in the postal voters list or proxy postal voters list may make a request, at any time between the first issue of postal ballots⁹ and the close of the poll, that the returning officer confirm¹⁰: (1) whether a mark is shown in the marked copy of the postal voters list or proxy postal voters list in a place corresponding to the number of the elector to denote that a postal vote has been returned¹¹; and (2) whether the number of the ballot paper issued to the elector or his proxy has been recorded on either of the lists of provisionally rejected votes kept by the returning officer¹². Such a request must be made by any method specified¹³, and must include any evidence of the voter's identity requested¹⁴, by the returning officer¹⁵. Where a request is duly received in this way, the returning officer must satisfy himself that the request has been made by the elector or his proxy and, where he is so satisfied, provide confirmation of the matters under heads (1) and (2) above¹⁶.

1 For the meaning of 'postal ballot paper' see PARA 412 note 3 ante.

2 As to the postal voting statement and declaration of identity see PARA 411 ante.

3 As to the returning officer's duty to issue postal ballot papers, etc see PARA 411 ante; as to the returning officers and elections referred to in the text see PARA 411 notes 1, 14-15 ante; and in relation to the returning officer's functions connected with the issue and receipt of postal ballot papers at a Welsh Assembly regional election see also PARA 412 note 1 ante. As to the marking of the envelopes and the addresses to be used see PARA 416 post.

4 As to electoral registration officers and the areas for which they act see PARA 154 et seq ante.

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 71(2) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 8(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 33(2). As to applications to vote by post see PARA 372 et seq ante.

For the purposes of extending the rights of citizens and nationals of accession states who (subject to the requirement of registration) may vote at local government and European parliamentary elections, the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 71 applies with modifications: see the Local and European Parliamentary Elections (Registration of Citizens of Accession States) Regulations 2003, SI 2003/1557, reg 7, Sch 2 para 1(1), (5).

6 I.e. the record kept for the purposes of a parliamentary or local government election under the Representation of the People Act 2000 s 12, Sch 4 para 3(4) or for the purposes of a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(4) or for the purposes of a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(4) (whichever is appropriate) (see PARA 375 ante).

7 le the record kept, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 7(6) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(6) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(6) (whichever is appropriate) (see PARA 384 ante).

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 71(1) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 8(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 33(1). See note 5 supra.

9 le under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 71 (as amended) (see the text and notes 1-8 supra).

10 Ibid reg 84A(1) (reg 84A added by SI 2006/2910).

11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84A(1)(a) (as added: see note 10 supra). As to the returning officer's duty to mark the postal voters list where a postal vote has been returned and the proxy postal voters list where a proxy postal vote has been returned see PARA 425 post.

12 Ibid reg 84A(1)(b) (as added: see note 10 supra). The text refers to the lists of provisionally rejected votes kept by the returning officer under reg 87(2), (3) (as amended) (see PARA 430 post).

13 Ibid reg 84A(2)(a) (as added: see note 10 supra).

14 Ibid reg 84A(2)(b) (as added: see note 10 supra).

15 Ibid reg 84A(2) (as added: see note 10 supra).

16 Ibid reg 84A(3) (as added: see note 10 supra).

UPDATE

411-418 Returning officer's duty to issue postal ballot papers, etc ... Sealing up of counterfoils of postal ballot papers and security of special lists

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/C. VOTES GIVEN BY POSTAL BALLOT/(A) Issue of Postal Ballot Papers/414. Proceedings on the issue of postal ballot papers.

414. Proceedings on the issue of postal ballot papers.

No person may be present at the proceedings on the issue of postal ballot papers¹ at an election² other than the returning officer and his clerks³. The following procedure must be followed:

- 487 (1) each postal ballot paper issued in relation to a Welsh Assembly or European parliamentary election must be stamped with the official mark⁴;
- 488 (2) in the case of a parliamentary or local government election, the number of the elector⁵ as stated in the register must be marked on the corresponding number list⁶, next to the number and unique identifying mark of the ballot paper issued to that elector⁷; and, in the case of any other election, the number of the elector as stated in the register must be marked on the counterfoil attached to the ballot paper⁸;
- 489 (3) a mark must be placed, in the case of a parliamentary or local government election, in the postal voters list or proxy postal voters list and, in the case of a Welsh Assembly or European parliamentary election, in the absent voters list⁹ or the list of postal proxies¹⁰, against the number of the elector to denote that a ballot paper has been issued to the elector or his proxy, but without showing the particular ballot paper issued¹¹; and
- 490 (4) the number of a postal ballot paper must be marked on the postal voting statement (or, in the case of an election that is not a parliamentary or local government election, the declaration of identity) sent with that paper¹².

Where the poll at one election is taken with the poll at another election, special provision is made¹³.

1 For the meaning of 'postal ballot paper' see PARA 412 note 3 ante.

2 As to the elections referred to in the text see PARA 411 notes 1, 14 ante.

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 67 (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 5; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 29. As to the returning officers referred to in the text see PARA 411 notes 1, 15 ante; and in relation to the returning officer's functions connected with the issue and receipt of postal ballot papers at a Welsh Assembly regional election see also PARA 412 note 1 ante.

In relation to a parliamentary or local government election, the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 67 (as amended) is without prejudice to the provisions of the Political Parties, Elections and Referendums Act 2000 ss 6A-6E (as added) (Electoral Commission representatives and accredited observers to attend electoral proceedings and observe working practices: see PARA 48 ante); Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 67 (as so amended).

4 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 9(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 34(1). As to the official mark see PARA 392 ante.

5 For the meaning of 'elector', in relation to a parliamentary or local government election, see PARA 110 note 2 ante; in relation to a Welsh Assembly election, see PARA 124 note 4 ante; and, in relation to European parliamentary election, see PARA 125 note 5 ante. As to the number of an elector see PARA 160 ante.

6 As to the corresponding number list see PARA 392 ante.

7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 72(2) (amended by SI 2006/2910). As to the number and unique identifying mark of the ballot paper referred to in the text see PARA 392 ante.

8 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 9(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 34(2). At a Welsh Assembly election, the name and number of the elector as stated in the register must be called out before such number is marked on the counterfoil: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 9(1).

9 For these purposes, 'absent voters list' means the list kept for the purposes of a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 10 or for the purposes of a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 5 (see PARA 378 ante); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 2(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 26(1).

10 For these purposes, 'list of postal proxies' means the list kept, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(8) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(8) (whichever is appropriate) (see PARA 386 ante); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 1; European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 26(1).

11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 72(3) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 9(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 34(3). At a Welsh Assembly election, where postal ballot papers for more than one election are issued together at an ordinary election or at a combined poll under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 2 (see PARA 20 ante), one mark must be placed in the absent voters list or the list of postal proxies to denote that ballot papers have been issued in respect of all of those elections, except that where ballot papers are not so issued a different mark must be placed in the absent voters list or list of postal proxies to identify the election in respect of which the ballot paper was issued: Sch 3 para 9(3)(a).

12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 72(4) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 9(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 34(4). At a Welsh Assembly election, where postal ballot papers for more than one election are issued together at an ordinary election or at a combined poll under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 2 (see PARA 20 ante), the number of each ballot paper must be marked on the declaration of identity: Sch 3 para 9(3)(b). As to the postal voting statement and declaration of identity see PARA 411 ante.

13 See the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 72(5), (6) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 9(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 34(5), (6). As to the issue and receipt of postal ballot papers when polls are combined see PARA 20 ante.

UPDATE

411-418 Returning officer's duty to issue postal ballot papers, etc ... Sealing up of counterfoils of postal ballot papers and security of special lists

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/C. VOTES GIVEN BY POSTAL BALLOT/(A) Issue of Postal Ballot Papers/415. Refusal to issue more than one postal ballot paper to each elector.

415. Refusal to issue more than one postal ballot paper to each elector.

Where the returning officer at an election¹ is satisfied that two or more entries, in the case of a parliamentary or local government election, in the postal voters list or proxy postal voters list or, in the case of a Welsh Assembly or European parliamentary election, in the absent voters list² or the list of postal proxies³, or in each of those lists, relate to the same elector⁴, he must not issue more than one ballot paper⁵ in respect of the same elector in respect of any one election⁶.

1 As to the returning officers and elections referred to in the text see PARA 411 notes 1, 14-15 ante; and in relation to the returning officer's functions connected with the issue and receipt of postal ballot papers at a Welsh Assembly regional election see also PARA 412 note 1 ante.

2 For the meaning of 'absent voters list' for these purposes see PARA 414 note 9 ante.

3 For the meaning of 'list of postal proxies' for these purposes see PARA 414 note 10 ante.

4 For the meaning of 'elector', in relation to a parliamentary or local government election, see PARA 110 note 2 ante; in relation to a Welsh Assembly election, see PARA 124 note 4 ante; and, in relation to European parliamentary election, see PARA 125 note 5 ante.

5 For the meaning of 'postal ballot paper' see PARA 412 note 3 ante.

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 73 (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 10; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 35.

UPDATE

411-418 Returning officer's duty to issue postal ballot papers, etc ... Sealing up of counterfoils of postal ballot papers and security of special lists

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/C. VOTES GIVEN BY POSTAL BALLOT/(A) Issue of Postal Ballot Papers/416. Envelopes to be issued to postal voter.

416. Envelopes to be issued to postal voter.

An envelope marked with the letter 'B' (a 'covering envelope'¹) must be issued to a postal voter² by the returning officer at an election³ for the return of the postal ballot paper⁴ and the postal voting statement (or, in the case of an election that is not a parliamentary or local government election, the declaration of identity) issued to him⁵. The returning officer must also issue to a postal voter a smaller envelope (a 'ballot paper envelope'⁶) which must be marked with the letter 'A', the words 'ballot paper envelope' (and the words 'amlen papur pleidleisio', in the case of a Welsh Assembly election), and the number of the ballot paper or, as the case may be, ballot papers (unless, at a parliamentary or local government election, the envelope has a window through which the number on the ballot paper or ballot papers can be displayed)⁷.

In the case of a parliamentary or local government election, the address to which the postal ballot paper, postal voting statement and the envelopes are to be sent is, in the case of an elector⁸, the address shown in the postal voters list or, in the case of a proxy at such an election, the address shown in the proxy postal voters list⁹. In the case of a European parliamentary election, the address to which the postal ballot paper, declaration of identity and the envelopes are to be sent is, in the case of an elector¹⁰, the address shown in the absent voters list¹¹ or, in the case of a proxy at such an election, the address shown in the list of postal proxies¹².

Where the poll at one election is taken with the poll at another election, special provision is made for the marking of the envelopes used¹³.

1 'Covering envelope' means the envelope referred to in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 74, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 11 or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 r 36 (as the case may be): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 64; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 1; European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 26(1).

2 For the meaning of 'postal voter' see PARA 412 note 3 ante.

3 As to the returning officers and elections referred to in the text see PARA 411 notes 1, 14-15 ante; and in relation to the returning officer's functions connected with the issue and receipt of postal ballot papers at a Welsh Assembly regional election see also PARA 412 note 1 ante.

4 Or ballot papers, as the case may be. There will be more than one ballot paper at a Welsh Assembly ordinary election or generally when the proceedings on the issue and receipt of postal ballot papers at more than one election have been taken together (as to which see PARA 20 ante). For the meaning of 'postal ballot paper' see PARA 412 note 3 ante.

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 74(1), (2) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 11(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 r 36(1), (2). The text refers to: (1) the ballot paper and the postal voting statement which are issued to a postal voter, in the case of a parliamentary election, under the Representation of the People Act 1983 s 23(1), Sch 1 r 24 (as substituted) or, in the case of a local government election, under the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 22 or the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 22; or (2) to the ballot paper and the declaration of identity which are issued to a postal voter under the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), Sch 1 r 20(1), (2) (as substituted), r 3(2), Sch 2 r 21(1), (2) (as substituted) or r 3(3), Sch 3 r 21(1), (2) (as substituted) or, in the case of an election of a local authority mayor, under the Local Authorities (Mayoral

Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 21 or, in the case of a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 30(1) or, in the case of a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 26 (whichever is appropriate) (see PARA 411 ante). As to the postal voting statement and declaration of identity see PARA 411 ante.

6 'Ballot paper envelope' means the envelope referred to in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 74, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 11 or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 r 36 (as the case may be): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 64; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 1; European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 26(1).

7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 74(3) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 11(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 36(3).

8 For the meaning of 'elector', in relation to a parliamentary or local government election, see PARA 110 note 2 ante.

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 72(7) (added by SI 2002/1871; and amended by SI 2006/752; SI 2006/2910).

Where a person has an anonymous entry in the register, the items specified in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 72(7) (as added and amended) must be sent (as the case may be) to the address to which postal ballot papers should be sent as shown in the record kept for the purposes of a parliamentary or local government election under the Representation of the People Act 2000 s 12, Sch 4 para 3(4) (see PARA 375 ante) or in the record kept under Sch 4 para 7(6) (see PARA 384 ante) or as given in pursuance of an application made under Sch 4 para 4(1) (as amended) (see PARA 376 ante) or made under Sch 4 para 7(4)(b) (see PARA 383 ante): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 72(8) (added by SI 2006/2910). For the meaning of 'anonymous entry', in relation to a register of electors, see PARA 174 ante.

No specific provision as to the address to which the postal ballot paper etc is to be sent is made in the case of a Welsh Assembly election.

10 For the meaning of 'elector', in relation to European parliamentary election, see PARA 125 note 5 ante.

11 For the meaning of 'absent voters list' for these purposes see PARA 414 note 9 ante.

12 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 34(7). For the meaning of 'list of postal proxies' for these purposes see PARA 414 note 10 ante.

13 See the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 74(4); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 11(3); and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 36(4). As to the issue and receipt of postal ballot papers when polls are combined see PARA 20 ante.

UPDATE

411-418 Returning officer's duty to issue postal ballot papers, etc ... Sealing up of counterfoils of postal ballot papers and security of special lists

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

416 Envelopes to be issued to postal voter

NOTE 5--SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541. SI 2002/185 reg 3(1), Sch 1 r 21 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 rr 19, 24.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/C. VOTES GIVEN BY POSTAL BALLOT/(A) Issue of Postal Ballot Papers/417. Delivery of postal ballot papers by returning officer.

417. Delivery of postal ballot papers by returning officer.

For the purposes of delivering postal ballot papers¹, the returning officer at an election² may use: (1) a universal postal service provider³; (2) a commercial delivery firm⁴; or (3) clerks appointed by a returning officer to aid a presiding officer⁵. Except where head (3) above applies, postage must be pre-paid on the envelopes addressed to the postal voters⁶; and where the address provided by the postal voter for the receipt of the postal ballot paper is within the United Kingdom⁷, return postage must be pre-paid on all covering envelopes also⁸. Where the services of a universal postal service provider or commercial delivery firm are to be used, envelopes addressed to postal voters must be counted and delivered by the returning officer with such form of receipt to be endorsed by that provider or firm as may be arranged⁹. The returning officer is required only to deliver the postal ballot papers in accordance with this statutory scheme and he is not required to deliver the postal ballot papers into the hands of the electors¹⁰.

1 For the meaning of 'postal ballot paper' see PARA 412 note 3 ante. There will be more than one ballot paper at a Welsh Assembly ordinary election or generally when the proceedings on the issue and receipt of postal ballot papers at more than one election have been taken together (as to which see PARA 20 ante). As to the marking of the envelopes and the addresses to be used see PARA 416 ante.

2 As to the returning officers and elections referred to in the text see PARA 411 notes 1, 14-15 ante; and in relation to the returning officer's functions connected with the issue and receipt of postal ballot papers at a Welsh Assembly regional election see also PARA 412 note 1 ante.

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 76(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 12(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 38(1)(a). For these purposes, 'universal postal service provider' has the meaning given in the Postal Services Act 2000 to a 'universal service provider' (see POST OFFICE); Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 64; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 2(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 26(1). For the purposes of a European parliamentary election taking place in the combined region, the Gibraltar Post Office may be used: see Sch 2 para 38(1)(a), (2).

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 76(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 12(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 38(1)(b).

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 76(1)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 12(1)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 38(1)(c). As to the appointment of presiding officers and their clerks see PARA 398 ante.

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 76(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 12(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 38(3). For the meaning of 'postal voter' see PARA 412 note 3 ante.

7 For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 76(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 12(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 38(4).

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 76(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 12(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 38(2).

10 *Knight v Nicholls* [2004] EWCA Civ 68, [2004] 1 WLR 1653, [2004] LGR 524 (election not void due to undelivered postal ballot papers; duty of returning officer satisfied by delivery to mail provider). On its true construction, the statutory scheme (as to which see PARA 411 ante) requires the returning officer only to deliver the postal ballot papers to an authorised carrier in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended); because the regulations intend the voter to take the risk of non-delivery, a 'safety-net' is provided in the form of the provisions relating to lost postal ballot papers (as to which see PARA 421 post): *Knight v Nicholls* supra.

UPDATE

411-418 Returning officer's duty to issue postal ballot papers, etc ... Sealing up of counterfoils of postal ballot papers and security of special lists

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/C. VOTES GIVEN BY POSTAL BALLOT/(A) Issue of Postal Ballot Papers/418. Sealing up of counterfoils of postal ballot papers and security of special lists.

418. Sealing up of counterfoils of postal ballot papers and security of special lists.

As soon as practicable after the issue of each batch of postal ballot papers¹, the returning officer at an election² must make up into a packet, in the case of a parliamentary election, the completed corresponding number lists³ or, otherwise, the counterfoils of those ballot papers which have been issued and he must seal such a packet⁴.

The returning officer at a parliamentary or local government election must, until the last covering envelope has been opened⁵, take proper precautions for the security of the marked copy of the postal voters list and the proxy postal voters list⁶.

The returning officer at a Welsh Assembly or European parliamentary election must, as soon as practicable after the last batch of postal ballot papers has been issued, make up into a packet the marked copy of the absent voters list⁷ and the list of postal proxies⁸ and he must seal such a packet⁹. Until the time when the last batch of postal ballot papers has been issued, the returning officer must take proper precautions for the security of the absent voters list and the list of postal proxies¹⁰.

1 For the meaning of 'postal ballot paper' see PARA 412 note 3 ante. There will be more than one ballot paper at a Welsh Assembly ordinary election or generally when the proceedings on the issue and receipt of postal ballot papers at more than one election have been taken together (as to which see PARA 20 ante). As to the issue of postal ballot papers see PARA 411 et seq ante.

2 As to the returning officers and elections referred to in the text see PARA 411 notes 1, 14-15 ante; and in relation to the returning officer's functions connected with the issue and receipt of postal ballot papers at a Welsh Assembly regional election see also PARA 412 note 1 ante.

3 As to the completed corresponding number lists see PARA 410 note 10 ante.

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 75(1) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 13(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 r 37(1).

5 Ie until the time referred to in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84(9) (as added) (see PARA 428 post). For the meaning of 'covering envelope' see PARA 416 ante.

6 Ibid reg 75(2) (substituted by SI 2006/2910).

7 For the meaning of 'absent voters list' for these purposes see PARA 414 note 9 ante.

8 For the meaning of 'list of postal proxies' for these purposes see PARA 414 note 10 ante.

9 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 13(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 37(2).

10 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 13(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 37(3).

UPDATE

411-418 Returning officer's duty to issue postal ballot papers, etc ... Sealing up of counterfoils of postal ballot papers and security of special lists

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/C. VOTES GIVEN BY POSTAL BALLOT/(A) Issue of Postal Ballot Papers/419. Instructions for voting by post.

419. Instructions for voting by post.

In order to vote, a postal voter¹ is instructed to²:

- 491 (1) record his vote on the ballot paper³, according to the instructions given;
- 492 (2) put the ballot paper (or papers) in the small envelope⁴ marked 'A' and seal it;
- 493 (3) validate the postal voting statement (or, in the case of an election that is not a parliamentary or local government election, the declaration of identity) in the prescribed manner;
- 494 (4) put the envelope marked 'A', together with the postal voting statement or declaration of identity, as the case may be, in the larger envelope marked 'B' and return it without delay, so that it is received by the returning officer not later than the close of the poll⁵.

The voter is reminded that, at the election in question, he cannot vote in person at a polling station and that it is illegal to vote more than once (otherwise than as proxy) at the same election⁶.

Instructions are also given in the event of a postal voter inadvertently spoiling the ballot paper⁷.

1 For the meaning of 'postal voter' see PARA 412 note 3 ante.

2 These instructions appear on the form of the postal voting statement (or, in the case of an election that is not a parliamentary or local government election, the declaration of identity) (as to which see PARA 411 note 6 ante). The precise wording may vary according to the election in question.

3 As to the issue of postal ballot papers see PARA 411 et seq ante.

4 As to the envelopes used for postal voting see PARA 416 ante.

5 See note 2 supra.

6 See note 2 supra.

7 See note 2 supra.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/C. VOTES GIVEN BY POSTAL BALLOT/(A) Issue of Postal Ballot Papers/420. Spoilt postal ballot papers.

420. Spoilt postal ballot papers.

If a postal voter¹ has inadvertently dealt with his postal ballot paper² in such manner that it cannot conveniently be used as a ballot paper or (except in the case of a European parliamentary election) if he has inadvertently dealt with his postal voting statement (or, in the case of an election that is not a parliamentary or local government election, the declaration of identity) in such a manner that it cannot be conveniently used as such, he may return the spoilt ballot paper³ or statement or declaration, as the case may be, either by hand or by post to the returning officer⁴. Except in the case of a European parliamentary election, where a postal voter exercises this entitlement, he must also return the postal ballot paper or statement or declaration, as the case may be, whether spoilt or not, together with the ballot paper envelope⁵ and the covering envelope⁶ supplied for the return of the documents⁷.

On receipt of any such documents, the returning officer must issue another postal ballot paper (or, as the case may be, ballot papers) except where those documents are received after 5 pm on the day of the poll⁸, in which case (except in the case of a European parliamentary election) he may only issue another postal ballot paper (or, as the case may be, ballot papers) if the postal voter returned the documents by hand⁹. Any such postal ballot paper or postal voting statement (or, in the case of an election that is not a parliamentary or local government election, declaration of identity), whether spoilt or not, which has been returned must be immediately cancelled¹⁰; and, as soon as practicable after cancelling those documents, the returning officer must make up those documents in a separate packet and he must seal the packet¹¹. If, on any subsequent occasion, documents are cancelled in this way, the sealed packet must be opened and the additional cancelled documents included in it and the packet must be again made up and sealed¹².

The returning officer must enter in a list kept for the purpose (the 'list of spoilt postal ballot papers'): (1) the name and number of the elector¹³ as stated in the register (or, in the case of an elector at a parliamentary or local government election who has an anonymous entry, his electoral number alone)¹⁴; (2) the number of the replacement postal ballot paper (or papers) issued¹⁵; and (3) where the postal voter whose ballot paper is spoilt is a proxy¹⁶, his name and address¹⁷.

Where postal ballot papers for more than one election have been issued together, special provision is made as to the treatment of spoilt ballot papers¹⁸.

1 For the meaning of 'postal voter' see PARA 412 note 3 ante.

2 For the meaning of 'postal ballot paper' see PARA 412 note 3 ante. There will be more than one ballot paper at a Welsh Assembly ordinary election or generally when the proceedings on the issue and receipt of postal ballot papers at more than one election have been taken together (as to which see PARA 20 ante). As to the issue of postal ballot papers see PARA 411 et seq ante.

3 'Spoilt ballot paper' means a ballot paper referred to in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(1) (as substituted), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 14(1) (as substituted) or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 39(1) (as the case may be): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 64; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 1; European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 26(1).

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(1) (reg 77(1), (2) substituted by SI 2006/752; and amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 14(1) (Sch 3 para 14(1), (2) substituted by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 39(1). As to the postal voting statement and declaration of identity see PARA 411 ante. As to the returning officers and the elections for which they are appointed see PARA 411 notes 1, 15 ante; and in relation to the returning officer's functions connected with the issue and receipt of postal ballot papers at a Welsh Assembly regional election see also PARA 412 note 1 ante.

5 For the meaning of 'ballot paper envelope' see PARA 416 ante.

6 For the meaning of 'covering envelope' see PARA 416 ante.

7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(2) (as substituted and amended: see note 4 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 14(2) (as substituted: see note 4 supra).

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(3) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 14(3) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 39(3).

Specified provisions relating to the issue of postal ballot papers apply to the issue of replacement postal ballot papers: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 14(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 39(4). In relation to a parliamentary or local government election, the provisions so specified are the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 72 (as amended) (except reg 72(3)) (see PARA 414 ante) and, subject to reg 77(7) (as substituted) (see note 9 infra), regs 74-76; in relation to a Welsh Assembly election, the provisions so specified are the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 paras 9-13; and, in relation to a European parliamentary election, the provisions so specified are the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 34 (except para 34(3)) and, subject to Sch 2 para 39(7), Sch 2 paras 36-38 (see PARAS 416-418 ante).

In the case of a European parliamentary election, where a postal voter applies in person, the local returning officer may hand a replacement postal ballot paper to him instead of delivering it in accordance with the statutory scheme (as to which see PARA 417 ante): Sch 2 para 39(7). As to elections other than European parliamentary elections see note 9 infra.

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(3A) (added by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 14(3A) (added by SI 2006/884).

Except in the case of a European parliamentary election (as to which see note 8 supra), the returning officer, instead of delivering a replacement postal ballot paper in accordance with the statutory scheme (as to which see PARA 417 ante), may hand a replacement postal ballot paper to a postal voter who applies in person by 5 pm on the day before the day of the poll (and he may only hand a replacement postal ballot paper to a postal voter who applies in person after 5 pm on the day before the day of the poll): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(7) (substituted by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 14(7) (substituted by SI 2006/884).

10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(5) (substituted by SI 2006/752; and amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 14(5) (substituted by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 39(5).

11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 14(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 39(6).

12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 14(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 39(6).

13 For the meaning of 'elector', in relation to a parliamentary or local government election, see PARA 110 note 2 ante; in relation to a Welsh Assembly election, see PARA 124 note 4 ante; and, in relation to European parliamentary election, see PARA 125 note 5 ante. As to the number of an elector see PARA 160 ante.

14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(8)(a) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 14(8)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 39(8)(a). For the meaning of 'anonymous entry', in relation to a register of electors, see PARA 174 ante.

15 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(8)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 14(8)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 39(8)(b).

16 As to applications to vote by post or by proxy (or both) see PARA 372 et seq ante.

17 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(8)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 14(8)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 39(8)(c).

18 See the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(2) (as substituted); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 14(2) (as substituted); and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 39(2). As to the issue and receipt of postal ballot papers when polls are combined see PARA 20 ante.

UPDATE

420-430 Spoilt postal ballot papers ... Conclusion of postal ballot procedure

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/C. VOTES GIVEN BY POSTAL BALLOT/(A) Issue of Postal Ballot Papers/421. Lost postal ballot papers.

421. Lost postal ballot papers.

Where a postal voter¹, by the fourth day before the day of the poll at an election², claims either to have lost or not to have received: (1) his postal ballot paper³; or (2) at a parliamentary or local government election, the postal voting statement (or, in the case of a Welsh Assembly election, the declaration of identity)⁴; or (3) one or more of the envelopes supplied for their return⁵, he may apply (whether or not in person) to the returning officer⁶ for a replacement ballot paper⁷. The voter must include evidence of his identity with any such application⁸.

Except in relation to a European parliamentary election, where a postal voter exercises his entitlement to a replacement ballot paper, he must return the other documents which he has received and which have not been lost⁹. Any such postal ballot paper or postal voting statement (or declaration of identity, as the case may be) which has been returned must be immediately cancelled¹⁰; and, as soon as practicable after cancelling those documents, the returning officer must make up those documents in a separate packet and he must seal the packet¹¹. If, on any subsequent occasion, documents are cancelled in this way, the sealed packet must be opened and the additional cancelled documents included in it and the packet must be again made up and sealed¹².

Where the application for a replacement ballot paper is received by the returning officer before 5 pm on the day of the poll and the returning officer is satisfied as to the voter's identity and he has no reason to doubt that the postal voter has either lost or has not received the original postal ballot paper or the postal voting statement (or declaration of identity, as the case may be), or one or more of the envelopes provided for their return, he must issue another postal ballot paper or, as the case may be, postal ballot papers¹³. However, except in the case of a European parliamentary election, where the application is received by the returning officer after 5 pm on the day before the day of the poll, he must only issue another postal ballot paper or, as the case may be, other ballot papers if the postal voter applied in person¹⁴.

The returning officer must enter in a list kept for the purpose (the 'list of lost postal ballot papers'): (a) the name and number of the elector¹⁵ as stated in the register (or, in the case of an elector at a parliamentary or local government election who has an anonymous entry, his electoral number alone)¹⁶; (b) the number of the replacement postal ballot paper (or papers) issued¹⁷; and (c) where the postal voter whose ballot paper is lost is a proxy¹⁸, his name and address¹⁹.

Where postal ballot papers for more than one election have been issued together, special provision is made as to the treatment of lost ballot papers²⁰.

1 For the meaning of 'postal voter' see PARA 412 note 3 ante.

2 As to the elections referred to in the text see PARA 411 notes 1, 14 ante.

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(1)(a) (reg 78(1) substituted by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 15(1)(a) (Sch 3 para 15(1) substituted by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 40(1). For the meaning of 'postal ballot paper' see PARA 412 note 3 ante. There will be more than one ballot paper at a Welsh Assembly ordinary election or generally when the proceedings on the issue and receipt of postal ballot papers at more than one election have been taken together (as to which see PARA 20 ante). As to the issue of postal ballot papers see PARA 411 et seq ante.

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(1)(b) (as substituted (see note 3 supra); and amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(1)(b) (as substituted: see note 3 supra). In relation to a European parliamentary election, there is no explicit provision made for the postal voter to claim that the declaration of identity was either lost or not received.

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(1)(c) (as substituted: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(1)(c) (as substituted: see note 3 supra). As to the envelopes mentioned in the text see PARA 416 ante. In relation to a European parliamentary election, there is no explicit provision made for the postal voter to claim that the envelopes mentioned in the text were either lost or not received.

6 As to the returning officers and the elections for which they are appointed see PARA 411 notes 1, 15 ante; and in relation to the returning officer's functions connected with the issue and receipt of postal ballot papers at a Welsh Assembly regional election see also PARA 412 note 1 ante.

7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(1) (as substituted: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(1) (as substituted: see note 3 supra); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 40(1). The scheme set out in the text provides a 'safety-net' for the voter, who necessarily takes the risk of non-delivery of his postal ballot paper: *Knight v Nicholls* [2004] EWCA Civ 68, [2004] 1 WLR 1653, [2004] LGR 524.

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 40(2).

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(2A) (reg 78(2A)-(2C) added by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(2A) (Sch 3 para 15(2A)-(2C) added by SI 2006/884).

10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(2B) (as added (see note 9 supra); and amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(2B) (as added: see note 9 supra).

11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(2C) (as added: see note 9 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(2C) (as added: see note 9 supra).

12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(2C) (as added: see note 9 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(2C) (as added: see note 9 supra).

13 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(3) (amended by SI 2006/752; SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(3) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 40(3). In the case of a Welsh Assembly election, where the constituency returning officer issues another postal ballot paper (or, as the case may be, postal ballot papers) as mentioned in the text, the postal ballot paper which has been lost or not received is void and of no effect: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(7) (amended by SI 2006/884).

Specified provisions relating to the issue of postal ballot papers apply to the issue of replacement postal ballot papers: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(5); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 40(5). In relation to a parliamentary or local government election, the provisions so specified are the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 72 (as amended) (except reg 72(3)) (see PARA 414 ante) and, subject to reg 78(6) (as substituted) (see note 14 infra), regs 74-76; in relation to a Welsh Assembly election, the provisions so specified are the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 paras 9-13; and, in relation to a European parliamentary election, the provisions so specified are the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 34 (except para 34(3)) and, subject to Sch 2 para 40(6), Sch 2 paras 36-38 (see PARAS 416-418 ante).

In the case of a European parliamentary election, where a postal voter applies in person, the local returning officer may hand a replacement postal ballot paper to him instead of delivering it in accordance with the statutory scheme (as to which see PARA 417 ante): Sch 2 r 40(6). As to elections other than European parliamentary elections see note 14 infra.

14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(3A) (added by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(3A) (added by SI 2006/884).

Except in the case of a European parliamentary election (as to which see note 13 supra), the returning officer at a parliamentary or Welsh Assembly election, instead of delivering a replacement postal ballot paper in accordance with the statutory scheme (as to which see PARA 417 ante), may hand such a replacement to a postal voter who applies in person by 5 pm on the day before the day of the poll (and he may only hand a replacement postal ballot paper to a postal voter who applies in person after 5 pm on the day before the day of the poll): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(6) (substituted by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(6) (substituted by SI 2006/884).

15 For the meaning of 'elector', in relation to a parliamentary or local government election, see PARA 110 note 2 ante; in relation to a Welsh Assembly election, see PARA 124 note 4 ante; and, in relation to European parliamentary election, see PARA 125 note 5 ante. As to the number of an elector see PARA 160 ante.

16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(4)(a) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 40(4)(a).

17 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(4)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(4)(b) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 40(4)(b). In the case of a Welsh Assembly election, the number of the postal ballot paper which has been lost or not received must also be entered on the list: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(4)(b) (as so amended).

18 As to applications to vote by post or by proxy (or both) see PARA 372 et seq ante.

19 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(4)(c) (substituted by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(4)(c) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 40(4)(c).

20 See the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(2A) (as added); and the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(2A) (as added). As to the issue and receipt of postal ballot papers when polls are combined see PARA 20 ante.

UPDATE

420-430 Spoilt postal ballot papers ... Conclusion of postal ballot procedure

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/C. VOTES GIVEN BY POSTAL BALLOT/(B) Receipt of Postal Ballot Papers/422. Persons entitled to be present at receipt of postal ballot papers.

(B) RECEIPT OF POSTAL BALLOT PAPERS

422. Persons entitled to be present at receipt of postal ballot papers.

No person may be present at the proceedings on the receipt of postal ballot papers at an election¹ other than²: (1) the returning officer and his clerks³; (2) a candidate⁴; (3) an election agent⁵ or any person appointed to attend in his place⁶ or, at a parish or community council election⁷, any person appointed by the candidate to attend at those proceedings⁸; (4) any agents who have been duly appointed⁹; and (5) in the case of a European parliamentary election, representatives of the Electoral Commission¹⁰.

For the purposes of head (4) above, each candidate¹¹ or each election agent¹² (as the case may be) may appoint one or more agents to attend the proceedings on the receipt of postal ballot papers up to the number he may be authorised by the returning officer to appoint¹³. The number authorised, however, must be the same for each person standing nominated¹⁴. Written notice of the appointment stating the names and addresses of the persons appointed must be given to the returning officer by the person with the power of appointment¹⁵ before the time fixed for the opening of the postal voters' ballot boxes¹⁶.

If an agent dies or becomes incapable of acting, the candidate (or election agent, as the case may be)¹⁷ may appoint another agent in his place and must forthwith give to the returning officer written notice of the name and address of the agent appointed¹⁸. Except in relation to a European parliamentary election, where candidates have the power of appointment, agents may be appointed and notice of appointment given to the returning officer by the candidate's election agent instead of by the candidate¹⁹. In relation to the receipt of postal ballot papers, references to agents²⁰ are to be taken as references to agents whose appointments have been duly made and notified and, where a restriction on the number of appointees applies²¹, who are within the number authorised by the returning officer²².

A candidate²³ may himself do any act or thing which any agent, if appointed, would have been authorised to do, or may assist his agent in doing any such act or thing²⁴. Where, in relation to the receipt of postal ballot papers, any act or thing is required or authorised to be done in the presence of the candidates or their agents, the non-attendance of any such persons or person at the time and place appointed for the purpose will not, if the act or thing is otherwise duly done, invalidate the act or thing done²⁵.

Where postal ballot papers for more than one election have been issued together, special provision is made as to the receipt of lost ballot papers²⁶.

1 As to the elections referred to in the text see PARA 411 notes 1, 14 ante. For the meaning of 'postal ballot paper' see PARA 412 note 3 ante. As to proceedings relating to the receipt of postal ballot papers see PARA 423 et seq post.

2 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 68 (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 6(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 30.

In relation to a parliamentary or local government election, the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 68 (as amended) is without prejudice to the provisions of the

Political Parties, Elections and Referendums Act 2000 ss 6A-6E (as added) (Electoral Commission representatives and accredited observers to attend electoral proceedings and observe working practices: see PARA 48 ante); Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 68 (as so amended).

3 Ibid reg 68(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 30(a). As to the returning officers and clerks referred to in the text see PARA 411 notes 1, 15 ante.

In the case of a Welsh Assembly regional election, a regional returning officer also may be present at the proceedings on the receipt of postal ballot papers: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(1)(b). See also PARA 412 note 1 ante. For the meaning of 'regional election', in relation to a Welsh Assembly election, see PARA 3 note 1 ante; and for the meaning of 'regional returning officer' see PARA 18 note 2 ante.

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 68(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(1)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 30(b). For the meaning of 'candidate' generally see PARA 237 ante.

5 As to the appointment of election agents see PARA 238 et seq ante.

6 Except at a European parliamentary election, the candidate makes this appointment (see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 68(c); and the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(1)(d)(i)); in the case of a Welsh Assembly regional election, the appointment is made either by an individual candidate or by any or all of a group of party list candidates (see Sch 3 para 6(1)(d)(ii)). For the meaning of references to a group of party list candidates, in relation to a Welsh Assembly election, see PARA 237 note 23 ante; and for the meaning of 'individual candidate' see PARA 237 note 23 ante.

At a European parliamentary election, the appointment is made by the election agent or a sub-agent: see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 30(c). As to the nomination of sub-agents for European parliamentary elections see PARA 248 ante.

7 There is no provision for election agents at parish or community council elections: see PARA 238 note 3 ante. As to the election of councillors for parish or community councils see PARA 207 et seq ante.

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 68(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(1)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 30(c).

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 68(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(1)(e); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 30(d). As to the appointment of such agents see the text and notes 11-25 infra.

10 Ibid Sch 2 para 30(e). As to the Electoral Commission see PARA 31 et seq ante; and as to authorised representatives of the Electoral Commission attending electoral proceedings see PARA 48 ante.

11 At a Welsh Assembly election, the reference in the text is to each candidate in the case of a constituency election (see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(2)(a)) and each individual candidate in the case of a regional election (see Sch 3 para 6(2)(b)).

At a European parliamentary election, only agents or sub-agents of candidates may appoint: see note 12 infra.

12 In the case of a Welsh Assembly regional election, each election agent for a group of party list candidates may make the appointment: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(2)(b).

At a European parliamentary election, the election agent (or sub-agent) of each registered party standing nominated or each individual candidate may make the appointment: see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 31(1). For the meaning of 'registered party' in the context of a European parliamentary election see PARA 237 note 30 ante; and for the meaning of 'individual candidate' see PARA 237 note 32 ante.

13 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 69(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 31(1).

14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 69(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 31(1). The number authorised must be the same for each candidate except: (1) at a Welsh Assembly regional election, the number must be the same for each individual candidate and election agent for a group of party list candidates (see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(2); and notes 11-12 supra); and (2) at a European parliamentary election, the number must be the same for each individual candidate or each registered party standing nominated (see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 31(1); and note 12 supra).

15 Is the candidate (see note 11 supra) or the election agent (see note 12 supra) or, in the case of a European parliamentary election only, the sub-agent (see note 12 supra).

16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 69(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 31(2). As to the opening of the postal voters' ballot boxes see PARA 427 post.

17 See note 12 supra.

18 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 69(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(5); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 31(4).

19 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 69(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(6).

20 The expression 'agent' in relation to the receipt of postal ballot papers includes the election agent and a person appointed to attend in the election agent's place: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 64; the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 1; and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 26(1).

21 See the text and notes 11-14 supra.

22 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 69(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(7); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 31(5).

23 Is in the case of a Welsh Assembly regional election, an individual candidate or one candidate from a group of party list candidates: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(8).

24 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 69(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(8); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 31(6).

25 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 69(8); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(9); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 31(7).

26 See the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 69(3); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(4); and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 paras 30(f), 31(3). As to the issue and receipt of postal ballot papers when polls are combined see PARA 20 ante.

UPDATE

420-430 Spoilt postal ballot papers ... Conclusion of postal ballot procedure

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/C. VOTES GIVEN BY POSTAL BALLOT/(B) Receipt of Postal Ballot Papers/423. Notification of requirement of secrecy at proceedings relating to the receipt of postal ballot papers.

423. Notification of requirement of secrecy at proceedings relating to the receipt of postal ballot papers.

The returning officer at an election¹ must make such arrangements as he thinks fit to ensure that every person attending the proceedings in connection with the receipt² of postal ballot papers³ has been given a copy in writing of the statutory provisions relating to the requirement of secrecy that apply to those proceedings⁴.

1 As to the returning officers and elections referred to in the text see PARA 411 notes 1, 14-15 ante. At a Welsh Assembly regional election, the functions connected with the issue and receipt of postal ballot papers are to be exercised in relation to each Assembly constituency in an Assembly electoral region by the returning officer for such a constituency: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 4. For the meanings of 'Assembly constituency' and 'Assembly electoral region' for these purposes see PARA 3 note 1 ante.

2 As to proceedings on the receipt of postal ballot papers see PARA 424 et seq post.

3 For the meaning of 'postal ballot paper' see PARA 412 note 3 ante.

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 70; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 7; European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 32. The text refers to the requirement of secrecy set out in the Representation of the People Act 1983 s 66(4), (6) (as amended) or, in relation to Welsh Assembly elections, the requirement set out in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(4), (6) or, in relation to European parliamentary elections, the requirement set out in the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(5), (7) (see PARA 745 post).

UPDATE

420-430 Spoilt postal ballot papers ... Conclusion of postal ballot procedure

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/C. VOTES GIVEN BY POSTAL BALLOT/(B) Receipt of Postal Ballot Papers/424. Provision of postal ballot boxes and receptacles.

424. Provision of postal ballot boxes and receptacles.

The returning officer at an election¹ must provide a separate ballot box for: (1) the reception of the covering envelopes² when returned by the postal voters³ (the 'postal voters' ballot box')⁴; and (2) the reception of postal ballot papers⁵ (the 'postal ballot box')⁶. Each such ballot box must be marked 'postal voters' ballot box' or 'postal ballot box', as the case may be, and with the name of the constituency⁷ or electoral area or areas⁸ or local counting area⁹ for which the election or elections are held¹⁰. The postal ballot box must be shown to the agents¹¹ present on the occasion of opening the first postal voters' ballot box as being empty¹² and must then be locked by the returning officer (if it has a lock) and sealed with his seal and the seals of such of the agents as desire to affix their seals in such manner as to prevent the box being opened without breaking the seal¹³.

The returning officer must also provide: (a) the receptacle for rejected votes¹⁴; (b) the receptacle for postal voting statements (at a parliamentary or local government election) or the receptacle for declarations of identity (otherwise)¹⁵; (c) the receptacle for ballot paper envelopes¹⁶; (d) the receptacle for rejected ballot paper envelopes¹⁷; and (e) in relation to parliamentary and local government elections only: (i) the receptacle for rejected votes (verification procedure)¹⁸; and (ii) the receptacle for postal voting statements (verification procedure)¹⁹.

The returning officer must take proper precautions for the safe custody of every such ballot box and receptacle²⁰.

1 As to the returning officers and elections referred to in the text see PARA 411 notes 1, 14-15 ante; and in relation to the returning officer's functions connected with the issue and receipt of postal ballot papers at a Welsh Assembly regional election see also PARA 412 note 1 ante.

2 For the meaning of 'covering envelope' see PARA 416 ante.

3 For the meaning of 'postal voter' see PARA 412 note 3 ante.

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 64, 81(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 paras 1, 17(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 paras 26(1), 43(1)(a).

5 For the meaning of 'postal ballot paper' see PARA 412 note 3 ante. There will be more than one ballot paper at a Welsh Assembly ordinary election or generally when the proceedings on the issue and receipt of postal ballot papers at more than one election have been taken together (as to which see PARA 20 ante). As to the issue of postal ballot papers see PARA 411 et seq ante.

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 81(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 17(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 43(1)(b).

7 For the meaning of 'constituency' in relation to a parliamentary election see PARA 9 ante; for the meaning of 'Assembly constituency' in relation to a Welsh Assembly election see PARA 3 note 1 ante; and for the meaning of 'Assembly constituency' in the context of elections to the London Assembly see PARA 10 ante.

8 For the meaning of 'electoral area' see PARA 10 ante.

9 For the meaning of 'local counting area' see PARA 230 note 11 ante.

10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 81(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 17(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 43(2).

11 As to the appointment of agents to be present at the receipt of postal ballot papers see PARA 422 ante.

12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 81(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 17(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 43(3).

13 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 81(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 17(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 43(4).

14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 64, 81(5)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 paras 1, 17(5)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 paras 26(1), 43(5)(a).

15 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 64, 81(5)(b) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 paras 1, 17(5)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 paras 26(1), 43(5)(b).

16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 64, 81(5)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 paras 1, 17(5)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 paras 26(1), 43(5)(c).

17 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 64, 81(5)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 paras 1, 17(5)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 paras 26(1), 43(5)(d).

18 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 81(5)(e) (added by SI 2006/2910). As to the verification procedure see PARA 428 post.

19 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 81(5)(f) (added by SI 2006/2910). As to postal voting statements see PARA 411 ante.

20 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 81(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 17(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 43(6).

UPDATE

420-430 Spoilt postal ballot papers ... Conclusion of postal ballot procedure

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/C. VOTES GIVEN BY POSTAL BALLOT/(B) Receipt of Postal Ballot Papers/425. Return of postal ballot papers, etc to returning officer.

425. Return of postal ballot papers, etc to returning officer.

A postal ballot paper or postal voting statement (or, in the case of an election that is not a parliamentary or local government election, the declaration of identity)¹ is not taken to be duly returned at an election² unless it is returned in the prescribed manner and reaches either the returning officer³ or a polling station in the constituency⁴ or electoral area or areas⁵ or local counting area⁶ in question (as the case may be) before the close of the poll⁷.

Where a covering envelope⁸ (or an envelope which is stated to include a postal vote) is received by a returning officer (whether by hand or by post) before the close of the poll, he must, immediately on receipt, place it unopened in a postal voters' ballot box⁹. Where an envelope, other than a covering envelope issued by the returning officer, has been opened and it contains a ballot paper envelope¹⁰, postal voting statement (or declaration of identity, as the case may be) or ballot paper, the first-mentioned envelope, together with its contents, must be placed in a postal voters' ballot box¹¹.

Where a postal ballot paper or postal voting statement (or declaration of identity, as the case may be) has been returned to a polling station, the presiding officer¹² of that station must deliver, or cause to be delivered, any such paper or statement (or declaration, as the case may be) to the returning officer in the same manner and at the same time as he delivers, or causes to be delivered, the packets of ballot papers and other documents which he is required to prepare on the close of poll at a polling station¹³. However, except in relation to a European parliamentary election, the returning officer may collect, or cause to be collected, any postal ballot paper or postal voting statement (or declaration of identity, as the case may be) which the presiding officer of a polling station would otherwise be required in this way to deliver or cause to be delivered to him¹⁴; and, where the returning officer collects, or causes to be collected, any postal ballot paper or postal voting statement (or declaration of identity, as the case may be) in this way, the presiding officer must first make it (or them) up into a packet (or packets) sealed with his own seal and the seals of such polling agents¹⁵ as are present and desire to affix their seals¹⁶.

At a parliamentary election, or at a local government election for a principal area, parish or community council, where a postal vote has been returned in respect of a person who is entered on the postal voters list¹⁷, or where a proxy postal vote¹⁸ has been returned in respect of a proxy who is entered on the proxy postal voters list¹⁹, the returning officer must mark the list in the manner prescribed by regulations²⁰.

1 For the meaning of 'postal ballot paper' see PARA 412 note 3 ante. There will be more than one ballot paper at a Welsh Assembly ordinary election or generally when the proceedings on the issue and receipt of postal ballot papers at more than one election have been taken together (as to which see PARA 20 ante). As to the issue of postal ballot papers see PARA 411 et seq ante. As to the postal voting statement and declaration of identity see PARA 411 ante.

2 As to the elections referred to in the text see PARA 411 notes 1, 14 ante.

3 As to the returning officers referred to in the text see PARA 411 notes 1, 15 ante; and in relation to the returning officer's functions connected with the issue and receipt of postal ballot papers at a Welsh Assembly regional election see also PARA 412 note 1 ante.

4 For the meaning of 'constituency' in relation to a parliamentary election see PARA 9 ante; for the meaning of 'Assembly constituency' in relation to a Welsh Assembly election see PARA 3 note 1 ante; and for the meaning of 'Assembly constituency' in the context of elections to the London Assembly see PARA 10 ante.

5 For the meaning of 'electoral area' see PARA 10 ante.

6 For the meaning of 'local counting area' see PARA 230 note 11 ante.

7 In relation to a parliamentary or local government election (except a London Authority election) see PARA 432 post; in relation to a London Authority election see PARA 443 post; in relation to a local authority or London mayoral election see PARA 451 post; in relation to a Welsh Assembly election see PARA 461 post; and in relation to a European parliamentary election see PARA 469 post.

8 For the meaning of 'covering envelope' see PARA 416 ante.

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 82(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 18(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 44(1). For the meaning of 'postal voters' ballot box' see PARA 424 ante.

10 For the meaning of 'ballot paper envelope' see PARA 416 ante.

11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 82(2) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 18(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 44(2).

12 As to the appointment of presiding officers and their clerks see PARA 398 ante.

13 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 79(3) (amended by SI 2006/752; SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 50(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 41(3). As to the procedure on the close of poll at a polling station see PARA 410 ante.

14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 79(4) (reg 79(4), (5) added by SI 2006/752; and amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, Sch 5 para 50(6A) (Sch 5 para 50(6A), (6B) added by SI 2006/884).

15 As to the appointment of polling agents see PARA 399 ante.

16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 79(5) (as added and amended: see note 14 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 50(6B) (as added: see note 14 supra).

17 Representation of the People Act 1983 Sch 1 r 31A(1)(a) (Sch 1 r 31A added by the Electoral Administration Act 2006 s 45(1), (2)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 29(1)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 29(1)(a). For the purposes of a parliamentary election, regulations may prescribe the circumstances in which a postal vote is or is not to be treated as having been returned: Representation of the People Act 1983 Sch 1 r 31A(2) (as so added). In this context, in relation to a parliamentary election, the Representation of the People Act 1983 Sch 1 r 45(1B) (as added and amended) and, in relation to a local government election for a principal area, the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 45(3) and, in relation to a local government election for a parish or community council, the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 45(3) (see PARA 432 post) do not apply for the purpose of determining whether a postal vote or a proxy postal vote is returned: Representation of the People Act 1983 Sch 1 r 31A(3) (as so added); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 29(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 29(2). As to the postal voters list see PARA 378 ante.

Any amendment effected by the Electoral Administration Act 2006 s 45 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

18 As to applications to vote by proxy see PARA 372 et seq ante.

19 Representation of the People Act 1983 Sch 1 r 31A(1)(b) (as added: see note 17 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 29(1)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 29(1)(b). For the purposes of a parliamentary election, regulations may prescribe the circumstances in which a proxy postal vote is or is not to

be treated as having been returned: Representation of the People Act 1983 Sch 1 r 31A(2) (as so added). See note 17 supra. As to the proxy postal voters list see PARA 386 ante.

20 Ibid s 202(1), Sch 1 r 31A(1) (as added: see note 17 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 29(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 29(1). See note 17 supra. The list referred to in the text must be marked in the manner prescribed by regulations made under the Representation of the People Act 1983: see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84 (as added and amended); and PARA 428 note 10 post.

UPDATE

420-430 Spoilt postal ballot papers ... Conclusion of postal ballot procedure

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/C. VOTES GIVEN BY POSTAL BALLOT/(B) Receipt of Postal Ballot Papers/426. Notice of opening of postal voters' ballot box and covering envelopes.

426. Notice of opening of postal voters' ballot box and covering envelopes.

The returning officer at an election¹ must give to the candidate² or to each election agent³ (as the case may be) not less than 48 hours' notice in writing of each occasion on which a postal voters' ballot box⁴ and the envelopes contained in it is to be opened⁵. Such a notice must specify the time and place at which such an opening is to take place⁶ and the number of agents who may be appointed⁷ to attend each opening⁸.

1 As to the returning officers and elections referred to in the text see PARA 411 notes 1, 14-15 ante; and in relation to the returning officer's functions connected with the issue and receipt of postal ballot papers at a Welsh Assembly regional election see also PARA 412 note 1 ante.

2 For the meaning of 'candidate' generally see PARA 237 ante. At a Welsh Assembly election, the person to whom the notice mentioned in the text must be given is the candidate at elections for return as a constituency member (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 16(1)(a)); and, except in the case of an election to fill a vacancy in the seat of a constituency member, an individual candidate for return as a regional member (Sch 3 para 16(1)(b)). The notice is not given to a candidate in the case of a European parliamentary election (as to which see note 3 infra).

3 At a Welsh Assembly election, except in the case of an election to fill a vacancy in the seat of a constituency member, the reference in the text is to the election agent for each registered party standing nominated: see *ibid* Sch 3 para 16(1)(b).

At a European parliamentary election, the notice mentioned in the text must be given to each election agent, or where sub-agents have been appointed, each sub-agent: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 42(1).

4 For the meaning of 'postal voters' ballot box' see PARA 424 ante.

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 80(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 16(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 42(1).

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 80(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 16(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 42(2)(a).

7 As to the appointment of agents to be present at the receipt of postal ballot papers see PARA 422 ante.

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 80(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 16(2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 42(2)(b).

UPDATE

420-430 Spoilt postal ballot papers ... Conclusion of postal ballot procedure

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/C. VOTES GIVEN BY POSTAL BALLOT/(B) Receipt of Postal Ballot Papers/427. Opening of postal voters' ballot box.

427. Opening of postal voters' ballot box.

Each postal voters' ballot box¹ at an election² must be opened by the returning officer³ in the presence of the agents⁴, if in attendance⁵. So long as the returning officer ensures that there is at least one sealed postal voters' ballot box for the reception of covering envelopes⁶ up to the time of the close of the poll, the other postal voters' ballot boxes may previously be opened by him⁷. The last postal voters' ballot box and the postal ballot box⁸ must be opened at the counting of the votes⁹ or, in the case of a European parliamentary election, at the verification of the ballot paper accounts¹⁰.

A returning officer at a parliamentary or local government election may on any occasion at which a postal voters' ballot box is opened¹¹ undertake verification of the personal identifiers¹² on any postal voting statement¹³ that has on a prior occasion been placed in the receptacle for postal voting statements¹⁴. Where a returning officer undertakes additional verification of personal identifiers¹⁵, he must remove as many postal voting statements from the receptacle for postal voting statements as he wishes to subject to additional verification¹⁶ and compare the date of birth and the signature on each such postal voting statement against the date of birth and signature contained in the personal identifiers record relating to the person to whom the postal ballot paper was addressed¹⁷. Where the returning officer is no longer satisfied that the postal voting statement has been duly completed, he must mark the statement 'rejected' and, before placing the postal voting statement in the receptacle for rejected votes (verification procedure)¹⁸, he must¹⁹: (1) show it to the agents and must permit them to view the entries in the personal identifiers record which relate to the person to whom the postal ballot paper was addressed, and if any of them object to his decision, he must add the words 'rejection objected to'²⁰; (2) open any postal ballot box and retrieve the ballot paper corresponding to the ballot paper number on the postal voting statement²¹; (3) show the ballot paper number on the retrieved ballot paper to the agents²²; and (4) attach the ballot paper to the postal voting statement²³. Whilst retrieving a ballot paper in this way²⁴, the returning officer and his staff must keep the ballot papers face downwards and must take proper precautions for preventing any person seeing the votes made on the ballot papers²⁵, and they must not be permitted to view the corresponding number list used at the issue of postal ballot papers²⁶. Following the removal of a postal ballot paper from a postal ballot box, the returning officer must lock and reseal the postal ballot box in the presence of the agents²⁷.

Where it appears to the returning officer at a parliamentary or local government election that a cancelled postal ballot paper²⁸ has been placed in a postal voters' ballot box, in the receptacle for ballot paper envelopes²⁹ or in a postal ballot box³⁰, he must, on at least one occasion on which a postal voters ballot box is opened³¹, also open any postal ballot box and the receptacle for ballot paper envelopes³², and: (a) retrieve the cancelled ballot paper³³; (b) show the ballot paper number on the cancelled ballot paper to the agents³⁴; (c) retrieve the postal voting statement that relates to a cancelled ballot paper from the receptacle for postal voting statements³⁵; (d) attach any cancelled postal ballot paper to the postal voting statement to which it relates³⁶; (e) place the cancelled documents in a separate packet and deal with that packet in the manner provided for in relation to spoilt postal ballot papers³⁷; and (f) unless the postal ballot box has been opened for the purposes of the counting of votes³⁸, re-lock the postal ballot box (if it has a lock) and reseal it in the presence of the agents³⁹. Whilst retrieving a cancelled ballot paper in this way⁴⁰, the returning officer and his staff must keep the ballot papers face downwards and must take proper precautions for preventing any person seeing the

votes made on the ballot papers⁴¹, and they must not be permitted to view the corresponding number list used at the issue of postal ballot papers⁴².

1 For the meaning of 'postal voters' ballot box' see PARA 424 ante.

2 In a parliamentary election, local government election, Welsh Assembly election or European parliamentary election. For the meaning of 'parliamentary election' see PARA 9 ante; and for the meaning of 'local government election' see PARA 10 ante. As to elections to the National Assembly for Wales see PARA 220 et seq ante. As to European parliamentary elections see PARA 224 et seq ante.

3 As to returning officers for parliamentary elections see PARA 355 et seq ante; and as to returning officers for local government elections see PARA 359 et seq ante. For the purposes of Welsh Assembly elections, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which in relation to a Welsh Assembly election see PARA 18 note 2 ante); and, in relation to the returning officer's functions connected with the issue and receipt of postal ballot papers at a Welsh Assembly regional election, see also PARA 412 note 1 ante. In the case of European parliamentary elections, the appropriate returning officer is the local returning officer: see PARA 365 et seq ante.

4 As to the appointment of agents to be present at the receipt of postal ballot papers see PARA 422 ante.

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 83(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 19(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 45(1).

6 For the meaning of 'covering envelope' see PARA 416 ante.

7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 83(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 19(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 45(2).

8 For the meaning of 'postal ballot box' see PARA 424 ante.

9 As to the counting of votes at a parliamentary or local government election (except a London Authority election) see PARA 432 post; in relation to a London Authority election see PARA 443 post; in relation to a local authority or London mayoral election see PARA 451 post; in relation to a Welsh Assembly election see PARA 461 post.

10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 83(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 19(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 45(3). As to the verification of the ballot paper accounts at a European parliamentary election see PARA 469 post.

11 It is opened in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 83 (see the text and notes 1-10 supra).

12 As to personal identifiers see PARA 371 ante.

13 As to the postal voting statement see PARA 411 ante.

14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85B(1) (reg 85B added by SI 2006/2910). As to the receptacle for postal voting statements see PARA 424 ante.

15 It is additional to the mandatory procedure according to which a percentage (not less than 20%) of the covering envelopes recorded by the returning officer when a postal voters' ballot box is opened at a parliamentary or local government election is set aside for personal identifier verification: see PARA 428 post.

16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85B(2)(a) (as added: see note 14 supra).

17 Ibid reg 85B(2)(b) (as added: see note 14 supra). For the meaning of 'postal ballot paper' see PARA 412 note 3 ante. As to the personal identifiers record see PARA 371 ante.

18 As to the receptacle for rejected votes (verification procedure) see PARA 424 ante.

19 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85B(3) (as added: see note 14 supra).

- 20 Ibid reg 85B(3)(a) (as added: see note 14 supra).
- 21 Ibid reg 85B(3)(b) (as added: see note 14 supra). As to the issue of postal voting statements see PARA 411 ante.
- 22 Ibid reg 85B(3)(c) (as added: see note 14 supra).
- 23 Ibid reg 85B(3)(d) (as added: see note 14 supra).
- 24 Ie in accordance with ibid reg 85B(3) (as added) (see the text and notes 18-23 supra).
- 25 Ibid reg 85B(5)(a) (as added: see note 14 supra).
- 26 Ibid reg 85B(5)(b) (as added: see note 14 supra). As to the corresponding number list used at the issue of ballot papers see PARA 392 ante.
- 27 Ibid reg 85B(4) (as added: see note 14 supra).
- 28 As to cancelled postal ballot papers see PARA 421 ante.
- 29 As to the provision of a receptacle for ballot paper envelopes see PARA 424 ante.
- 30 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 86A(1) (reg 86A added by SI 2006/2910).
- 31 See note 11 supra.
- 32 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 86A(2) (as added: see note 30 supra).
- 33 Ibid reg 86A(2)(a) (as added: see note 30 supra).
- 34 Ibid reg 86A(2)(b) (as added: see note 30 supra).
- 35 Ibid reg 86A(2)(c) (as added: see note 30 supra).
- 36 Ibid reg 86A(2)(d) (as added: see note 30 supra).
- 37 Ibid reg 86A(2)(e) (as added: see note 30 supra). The text refers to the manner provided for by reg 77(6) (see PARA 420 ante).
- 38 Ie under the Representation of the People Act 1983 s 23(1), Sch 1 r 45 (as amended) (see PARA 432 post).
- 39 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 86A(2)(f) (as added: see note 30 supra).
- 40 Ie in accordance with ibid reg 86A(2) (as added) (see the text and notes 31-39 supra).
- 41 Ibid reg 86A(3)(a) (as added: see note 30 supra).
- 42 Ibid reg 86A(3)(b) (as added: see note 30 supra).

UPDATE

420-430 Spoilt postal ballot papers ... Conclusion of postal ballot procedure

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/C. VOTES GIVEN BY POSTAL BALLOT/(B) Receipt of Postal Ballot Papers/428. Opening of covering envelopes.

428. Opening of covering envelopes.

When a postal voters' ballot box¹ is opened at a parliamentary or local government election², the returning officer³ must count and record the number of covering envelopes⁴ (including any envelope which is stated to include a postal vote and any other envelope⁵ which has been found to contain voting documents)⁶; he must set aside for personal identifier verification⁷ a percentage, not less than 20 per cent, of the envelopes recorded on that occasion⁸; and he must open separately each covering envelope (including any envelope⁹ which has been found to contain voting documents)¹⁰.

Where the covering envelope does not contain the postal voting statement¹¹ separately, the returning officer must open the ballot paper envelope¹² to ascertain whether the postal voting statement is inside¹³. Where a covering envelope does not contain both a postal voting statement (whether separately or not) and a ballot paper envelope (or, if there is no ballot paper envelope, a ballot paper or ballot papers), the returning officer must mark the covering envelope 'provisionally rejected', attach its contents (if any) and place it in the receptacle for rejected votes¹⁴. Where this provision does not apply¹⁵ but where an envelope contains the postal voting statement of an elector with an anonymous entry¹⁶, the returning officer must set aside that envelope and its contents for personal identifier verification¹⁷.

As soon as practicable after the last covering envelope has been opened, the returning officer must make up into a packet the copy of the marked postal voters list and proxy postal voters list¹⁸ and he must seal the packet¹⁹.

When a postal voters' ballot box is opened at a Welsh Assembly²⁰ or European parliamentary election²¹, the returning officer²² must count and record the number of covering envelopes and then open separately each covering envelope (including any other envelope²³ which has been found to contain a ballot paper envelope, declaration of identity²⁴ or ballot papers)²⁵.

Where the covering envelope does not contain the declaration of identity separately, the returning officer must open the ballot paper envelope to ascertain whether the declaration of identity is inside²⁶. Where a covering envelope does not contain both a declaration of identity (whether separately or not) and a ballot paper envelope (or, if there is no ballot paper envelope, a ballot paper or ballot papers), the returning officer must mark the covering envelope 'provisionally rejected', attach its contents (if any) and place it in the receptacle for rejected votes²⁷.

Where, at any election²⁸, a covering envelope²⁹ contains both a postal voting statement (or declaration of identity, as the case may be) and a ballot paper envelope (or, if there is no ballot paper envelope, a ballot paper or ballot papers)³⁰, the returning officer at a parliamentary or local government election must satisfy himself that the postal voting statement³¹ is duly completed³² and the returning officer at a Welsh Assembly or European parliamentary election must satisfy himself that the declaration of identity has been duly signed by the voter and authenticated by a witness who has signed the declaration and given his name and address³³. Where the returning officer is not so satisfied, he must mark the statement (or declaration, as the case may be) 'rejected', attach to it the ballot paper envelope (or, if there is no such envelope, the ballot paper or ballot papers), and show it to the agents (and, if any of them objects to his decision, he must add the words 'rejection objected to') before placing the statement (or declaration, as the case may be) in the receptacle for rejected votes³⁴. The

returning officer must then examine the number (or numbers) on the postal voting statement (or, in the case of an election that is not a parliamentary or local government election, on the declaration of identity) against the number (or numbers) on the ballot paper envelope and, where they are the same, he must place the statement in the receptacle for postal voting statements (or the declaration in the receptacle for declarations of identity, as the case may be)³⁵ and the ballot paper envelope in the receptacle for ballot paper envelopes³⁶. Where the number (or numbers) on a valid postal voting statement (or on a valid declaration of identity, as the case may be) is (or are) not the same as the number (or numbers) on the ballot paper envelope or where that envelope has no number on it (or only one number when the declaration or statement, as the case may be, has more than one), the returning officer must open the envelope³⁷. Where the ballot paper envelope has been opened in this way or where it has been opened³⁸ in order to ascertain whether the postal voting statement (or declaration of identity, as the case may be) is inside³⁹, the returning officer must place: (1) in the postal ballot box⁴⁰, any ballot paper the number on which is the same as the number (or one of the numbers) on the valid postal voting statement (or on the valid declaration of identity, as the case may be)⁴¹; (2) in the receptacle for rejected votes, any other ballot paper, with the valid statement (or declaration, as the case may be) attached and marked 'provisionally rejected'⁴²; (3) in the receptacle for rejected votes, any valid postal voting statement (or valid declaration of identity, as the case may be) marked 'provisionally rejected' where there is no ballot paper or where, in the case of a statement or declaration (as the case may be) on which the number of more than one ballot paper appears, there is not a sufficient number of ballot papers and, in such a case, he must mark the statement or declaration (as the case may be) to indicate which ballot paper is missing⁴³; (4) in the receptacle for postal voting statements, any valid statement not disposed of under head (2) or head (3) above or, as the case may be, in the receptacle for declarations of identity, any valid declaration not disposed of under head (2) or head (3) above⁴⁴. Heads (1) to (4) above apply also where there is a valid postal voting statement (or valid declaration of identity, as the case may be) but no ballot paper envelope⁴⁵ (except in the case of a Welsh Assembly election, when only heads (1), (2) and (4) above apply⁴⁶).

Where, in relation to a parliamentary or local government election, any postal voting statement contained in an envelope is set aside for personal identifier verification⁴⁷, the returning officer must satisfy himself that the postal voting statement is duly completed and as part of that process must compare the date of birth and the signature on the postal voting statement against the date of birth and signature contained in the personal identifier record⁴⁸ relating to the person to whom the postal ballot paper was addressed⁴⁹. Where the returning officer is not so satisfied, he must mark the statement 'rejected', attach to it the ballot paper envelope, or if there is no such envelope, the ballot paper, and place it in the receptacle for rejected votes (verification procedure)⁵⁰. However, before placing a postal voting statement in the receptacle for rejected votes (verification procedure), the returning officer must show it to the agents and must permit them to view the entries in the personal identifiers record which relate to the person to whom the postal ballot paper was addressed, and if any of them object to his decision, he must add the words 'rejection objected to'⁵¹. The returning officer must then examine the number on the postal voting statement against the number on the ballot paper envelope and, where they are the same, he must place the statement and the ballot paper envelope respectively in the receptacle for postal voting statements (verification procedure) and the receptacle for ballot paper envelopes⁵². Where the number on a valid postal voting statement is not the same as the number on the ballot paper envelope or where that envelope has no number on it (or only one number when the postal voting statement has more than one), the returning officer must open the envelope⁵³. Where there is a valid postal voting statement but no ballot paper envelope or where the ballot paper envelope has been opened⁵⁴, the returning officer must place⁵⁵: (a) in the postal ballot box, any ballot paper the number on which is the same as the number on the valid postal voting statement⁵⁶; (b) in the receptacle for rejected votes (verification procedure), any other ballot paper, with the valid postal voting statement attached and marked 'provisionally rejected'⁵⁷; (c) in the receptacle for rejected votes (verification procedure), any valid postal voting statement marked 'provisionally rejected'

where there is no ballot paper⁵⁸ or, in the case of a statement on which the number of more than one ballot paper appears, where there is not a sufficient number of ballot papers (and, in such a case, he must mark the statement to indicate which ballot paper is missing)⁵⁹; (d) in the receptacle for postal voting statements (verification procedure), any valid statement not disposed of under head (b) or head (c) above⁶⁰.

In carrying out the opening of ballot paper envelopes and associated checking procedures in relation to a parliamentary or local government election⁶¹, the returning officer must keep the ballot papers face downwards and must take proper precautions for preventing any person from seeing the votes made on the ballot papers⁶²; and he is not permitted to view the corresponding number list used at the issue of postal ballot papers⁶³.

1 For the meaning of 'postal voters' ballot box' see PARA 424 ante.

2 For the meaning of 'parliamentary election' see PARA 9 ante; and for the meaning of 'local government election' see PARA 10 ante.

3 As to returning officers for parliamentary elections see PARA 355 et seq ante; and as to returning officers for local government elections see PARA 359 et seq ante.

4 For the meaning of 'covering envelope' see PARA 416 ante.

5 *Ie* as described in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 82(2) (see PARA 425 ante)

6 *Ibid* reg 84(1) (substituted by SI 2006/2910).

7 As to personal identifier verification see the text and notes 47-60 *infra*.

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84(1A) (reg 84(1A), (1B) added by SI 2006/2910).

9 See note 5 *supra*.

10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84(1B) (as added: see note 8 *supra*). Where an envelope opened in accordance with reg 84(1B) (as added) contains a postal voting statement, the returning officer must place a mark in the marked copy of the postal voters list or proxy postal voters list in a place corresponding to the number of the elector to denote that a postal vote has been returned: reg 84(7) (reg 84(5)-(9) added by SI 2006/2910). A mark made under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84(7) (as added) must be distinguishable from and must not obscure the mark made under reg 72(3) (as amended) (mark placed in the absent voters list or the list of postal proxies to denote that a ballot paper has been issued to the elector or his proxy: see PARA 414 ante); reg 84(8) (as so added). For the meaning of 'postal voters list' see PARA 378 note 7 ante; and for the meaning of 'proxy postal voters list' see PARA 386 note 6 ante.

11 As to the postal voting statement see PARA 411 ante.

12 For the meaning of 'ballot paper envelope' see PARA 416 ante.

13 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84(3) (amended by SI 2006/2910).

14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84(4) (amended by SI 2006/2910). As to the provision of a receptacle for rejected votes see PARA 424 ante.

15 *Ie* where the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84(4) (as amended) (see the text and note 14 *supra*) does not apply.

16 For the meaning of 'anonymous entry' in relation to a register of electors see PARA 174 ante.

17 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84(5) (as added: see note 10 *supra*). The text refers to personal identifier verification in accordance with reg 85A (as added) (see the text and notes 47-60 *infra*).

18 *Ie* marked in accordance with *ibid* reg 84(7) (as added) (see note 10 *supra*).

- 19 Ibid reg 84(9) (as added: see note 10 supra).
- 20 As to elections to the National Assembly for Wales see PARA 220 et seq ante.
- 21 As to European parliamentary elections see PARA 224 et seq ante.
- 22 For the purposes of Welsh Assembly elections, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which in relation to a Welsh Assembly election see PARA 18 note 2 ante); and in relation to the returning officer's functions connected with the issue and receipt of postal ballot papers at a Welsh Assembly regional election see also PARA 412 note 1 ante. In the case of European parliamentary elections, the appropriate returning officer is the local returning officer: see PARA 365 et seq ante.
- 23 Ie as described, in relation to a Welsh Assembly election, in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 18(2) or, in relation to a European parliamentary election, in the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 44(2) (see PARA 425 ante).
- 24 As to the declaration of identity see PARA 411 ante.
- 25 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 20(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 46(1). At a European parliamentary election, the local returning officer must count and record the number of covering envelopes (including the other type of envelope which is found to contain the relevant election documents) before opening each covering envelope separately: see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 46(1).
- 26 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 20(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 46(3).
- 27 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 20(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 46(4).
- 28 Ie at any parliamentary, local government, Welsh Assembly or European parliamentary election.
- 29 Ie including an envelope to which notes 5, 23 supra applies.
- 30 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84(2) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 20(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 46(2).
- 31 Ie where the postal voting statement was contained in an envelope that has not been set aside for personal identifier verification in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84(1A) (as added) (see the text and notes 7-8 supra) or reg 84(5) (as added) (see the text and notes 15-17 supra), in which case the procedure in reg 85A (as added) (see the text and notes 47-60 infra) applies: reg 84(2) (as amended: see note 30 supra), reg 85(1) (substituted by SI 2006/2910).
- 32 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85(1A) (added by SI 2006/2910). For these purposes, 'valid postal voting statement' means a postal voting statement which, in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85 (as amended) or reg 85A (as added) (see the text and notes 47-60 infra), the returning officer is satisfied has been duly completed: reg 64 (definition added by SI 2006/2910).
- 33 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 21(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 47(1). A declaration of identity which has been duly signed by the voter and authenticated by a witness who has signed the declaration and given his name and address is referred to as a 'valid declaration of identity': National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 paras 1, 21(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 paras 26(1), 47(1).
- 34 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85(2), (3) (reg 85(2) amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 21(2), (3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 47(2), (3).
- 35 As to the provision of a receptacle for postal voting statements and a receptacle for declarations of identity see PARA 424 ante.

36 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85(4) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 21(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 47(4). As to the provision of a receptacle for ballot paper envelopes see PARA 424 ante.

37 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85(5) (reg 85(5)-(7) substituted by SI 2002/1871; and the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85(5) amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 21(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 47(5).

38 le under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84(3) (as amended) (see the text and notes 11-13 supra) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 20(3) (see the text and note 26 supra) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 46(3) (see the text and note 26 supra).

39 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85(6)(b) (as substituted: see note 37 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 21(7); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 47(6)(b).

40 For the meaning of 'postal ballot box' see PARA 424 ante.

41 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85(7)(a) (as substituted (see note 37 supra); and amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 21(7)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 47(7)(a).

42 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85(7)(b) (as substituted (see note 37 supra); and amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 21(7)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 47(7)(b).

43 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85(7)(c) (as substituted (see note 37 supra); and amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 21(7)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 47(7)(c).

44 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85(7)(d) (as substituted (see note 37 supra); and amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 21(7)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 47(7)(d).

45 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85(6)(a) (as substituted (see note 37 supra); and amended by SI 2006/2910); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 47(6)(a).

46 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 21(5). In such a case, head (4) in the text applies to any valid declaration not disposed of under head (2) in the text.

47 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85A(1) (reg 85A added by SI 2006/2910). The text refers to personal identifier verification in accordance with either the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84(1A) (as added) (see the text and notes 7-8 supra) or reg 84(5) (as added) (see the text and notes 15-17 supra). Additional personal identifier verification may be performed in accordance with reg 85B (as added) on any occasion at which a postal voters' ballot box is opened in accordance with reg 83: see PARA 427 ante.

48 As to the personal identifier record see PARA 371 ante.

49 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85A(2) (as added: see note 47 supra). For the meaning of 'postal ballot paper' see PARA 412 note 3 ante.

50 Ibid reg 85A(3) (as added: see note 47 supra). As to the receptacle for rejected votes (verification procedure) see PARA 424 ante.

51 Ibid reg 85A(4) (as added: see note 47 supra).

52 Ibid reg 85A(5) (as added: see note 47 supra). As to the receptacle for postal voting statements (verification procedure) and the receptacle for ballot paper envelopes see PARA 424 ante.

53 Ibid reg 85A(6) (as added: see note 47 supra).

54 Ibid reg 85A(7) (as added: see note 47 supra). The text refers to the circumstances where the ballot paper envelope has been opened under either reg 84(3) (as amended) (see the text and notes 11-13 supra) or reg 85A(6) (as added) (see the text and note 53 supra).

55 Ibid reg 85A(8) (as added: see note 47 supra).

56 Ibid reg 85A(8)(a) (as added: see note 47 supra).

57 Ibid reg 85A(8)(b) (as added: see note 47 supra).

58 Ibid reg 85A(8)(c)(i) (as added: see note 47 supra).

59 Ibid reg 85A(8)(c)(ii) (as added: see note 47 supra).

60 Ibid reg 85A(8)(d) (as added: see note 47 supra).

61 Ie ibid regs 84-88 (as amended) (see also PARAS 429-430 post).

62 Ibid reg 84(6)(a) (as added: see note 10 supra).

63 Ibid reg 84(6)(b) (as added: see note 10 supra).

UPDATE

420-430 Spoilt postal ballot papers ... Conclusion of postal ballot procedure

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/C. VOTES GIVEN BY POSTAL BALLOT/(B) Receipt of Postal Ballot Papers/429. Opening of ballot paper envelopes.

429. Opening of ballot paper envelopes.

The returning officer at an election¹ must open separately each ballot paper envelope² placed in the receptacle for ballot paper envelopes³. He must place: (1) in the postal ballot box⁴, any ballot paper the number on which is the same as the number (or one of the numbers) on the ballot paper envelope⁵; (2) in the receptacle for rejected votes⁶, any other ballot paper which is marked 'provisionally rejected' with the ballot paper envelope attached⁷; and (3) in the receptacle for rejected ballot paper envelopes⁸, any ballot paper envelope which is marked 'provisionally rejected' because it does not contain either a ballot paper or, where more than one number appears on the ballot paper envelope, a sufficient number of ballot papers (and indicating, in such a case, the missing ballot paper)⁹.

1 As to the returning officers and elections referred to in the text see PARA 411 notes 1, 14 ante; and in relation to the returning officer's functions connected with the issue and receipt of postal ballot papers at a Welsh Assembly regional election see also PARA 412 note 1 ante.

2 For the meaning of 'ballot paper envelope' see PARA 416 ante.

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 86(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 22(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 48(1). As to the provision of a receptacle for ballot paper envelopes see PARA 424 ante.

4 For the meaning of 'postal ballot box' see PARA 424 ante.

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 86(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 22(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 48(2)(a).

6 As to the provision of a receptacle for rejected votes see PARA 424 ante.

7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 86(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 22(2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 48(2)(b).

8 As to the provision of a receptacle for rejected ballot paper envelopes see PARA 424 ante.

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 86(2)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 22(2)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 48(2)(c).

UPDATE

420-430 Spoilt postal ballot papers ... Conclusion of postal ballot procedure

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/C. VOTES GIVEN BY POSTAL BALLOT/(B) Receipt of Postal Ballot Papers/430. Conclusion of postal ballot procedure.

430. Conclusion of postal ballot procedure.

In respect of any election¹, the returning officer² must keep two separate lists of rejected postal ballot papers³: (1) in the first list, he must record the ballot paper number of any postal ballot paper for which no valid postal voting statement (or for which no declaration of identity, as the case may be) was received with it⁴; (2) in the second list, he must record the ballot paper number of any postal ballot paper which is entered on a valid postal voting statement (or valid declaration of identity, as the case may be) where that ballot paper is not received with the statement or declaration (as the case may be)⁵.

Where the returning officer receives a valid postal voting statement (or valid declaration of identity, as the case may be) without the postal ballot paper (or papers or, as the case may be, all of the papers) to which it relates, he may, at any time prior to the close of the poll, check the list kept under head (1) above to see whether the number (or numbers) of a postal ballot paper to which the statement or declaration (as the case may be) relates is entered in that list⁶. Where the returning officer receives a postal ballot paper without the statement or declaration (as the case may be) to which it relates, he may, at any time prior to the close of the poll, check the list kept under head (2) above to see whether the number of that ballot paper is entered in that list⁷. The returning officer must conduct either such check as soon as practicable after the receipt of packets from every polling station in the constituency⁸ or electoral area or areas⁹ or local counting area¹⁰ in question (as the case may be) following the close of poll¹¹. Where the ballot paper number in the list matches that number on a valid postal voting statement (or valid declaration of identity) or, as the case may be, the postal ballot paper, the returning officer must retrieve that statement (or declaration, as the case may be) or paper¹². As soon as practicable after the completion of this procedure, the returning officer must make up into separate packets the contents of: (a) the receptacle of rejected votes¹³; (b) the receptacle for postal voting statements (at a parliamentary or local government election) or the receptacle for declarations of identity (otherwise)¹⁴; (c) the receptacle of rejected ballot paper envelopes¹⁵; (d) the lists of spoilt and lost postal ballot papers¹⁶; and (e) in relation to parliamentary and local government elections only: (i) the receptacle of rejected votes (verification procedure)¹⁷; and (ii) the receptacle of postal voting statements (verification procedure)¹⁸, and he must seal up the packets¹⁹. Any document in those packets marked 'provisionally rejected' must be deemed to be marked 'rejected'²⁰.

The returning officer must then take the appropriate steps under the provisions governing the receipt of postal ballot papers²¹ as though any document earlier marked 'provisionally rejected' had not been so marked and he must amend the document accordingly²².

1 As to the elections referred to in the text see PARA 411 notes 1, 14 ante.

2 As to the returning officers referred to in the text see PARA 411 notes 1, 15 ante; and in relation to the returning officer's functions connected with the issue and receipt of postal ballot papers at a Welsh Assembly regional election see also PARA 412 note 1 ante.

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 87(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 23(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 49(1). For the meaning of 'postal ballot paper' see PARA 412 note 3 ante. There will be more than one ballot paper at a Welsh Assembly ordinary election or generally when the proceedings on the issue and receipt of postal ballot papers at more

than one election have been taken together (as to which see PARA 20 ante). As to the issue of postal ballot papers see PARA 411 et seq ante; and as to the rejection of postal ballot papers see PARA 428 et seq ante.

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 87(2) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 23(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 49(2). As to the postal voting statement and declaration of identity see PARA 411 ante.

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 87(3) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 23(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 49(3).

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 88(1) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 24(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 50(1).

7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 88(2) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 24(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 50(2).

8 For the meaning of 'Assembly constituency' in relation to a Welsh Assembly election see PARA 3 note 1 ante; for the meaning of 'constituency' in relation to a parliamentary election see PARA 9 ante; and for the meaning of 'Assembly constituency' in the context of elections to the London Assembly see PARA 10 ante.

9 For the meaning of 'electoral area' see PARA 10 ante.

10 For the meaning of 'local counting area' see PARA 230 note 11 ante.

11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 88(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 24(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 50(3). The text refers to the receipt of packets of ballot papers and other documents which the presiding officer is required to prepare on the close of poll at a polling station: see PARA 410 ante.

12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 88(4) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 24(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 50(4).

13 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 89(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 25(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 51(1)(a). As to the provision of a receptacle for rejected votes see PARA 424 ante.

14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 89(1)(b) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 25(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 51(1)(b). As to the provision of a receptacle for postal voting statements and a receptacle of declarations of identity see PARA 424 ante.

15 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 89(1)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 25(1)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 51(1)(c). As to the provision of a receptacle for rejected ballot paper envelopes see PARA 424 ante.

16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 89(1)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 25(1)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 51(1)(d).

17 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 89(1)(e) (added by SI 2006/2910).

18 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 89(1)(f) (added by SI 2006/2910).

19 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 89(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 25(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 51(1).

20 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 89(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 25(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 51(2).

21 See PARA 422 et seq ante.

UPDATE

UPDATE

420-430 Spoilt postal ballot papers ... Conclusion of postal ballot procedure

SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/(A) Counting at Parliamentary or Certain Local Elections/431. Arrangements for counting the votes at parliamentary and certain local elections.

D. COUNTING OF THE VOTES

(A) COUNTING AT PARLIAMENTARY OR CERTAIN LOCAL ELECTIONS

431. Arrangements for counting the votes at parliamentary and certain local elections.

As soon as practicable after the close of the poll, the returning officer at a parliamentary election and at certain local elections¹ must make arrangements for counting the votes in the presence of the counting agents²; and he must give notice to them in writing of the time and place at which he will begin to count the votes³.

No person other than: (1) the returning officer and his clerks⁴; (2) the candidates and one other person chosen by each of them (or, in the case of a poll consequent on a parish meeting, the candidates and their spouses or civil partners)⁵; (3) the election agents (at elections where election agents are appointed)⁶; (4) the counting agents⁷; and (5) (except in the case of a poll consequent on a parish meeting) persons who are entitled to attend by virtue of any of the provisions which allow Electoral Commission representatives and accredited observers to attend electoral proceedings and observe working practices⁸, may be present at the counting of the votes, unless permitted by the returning officer to attend⁹. A person not entitled to attend at the counting of the votes may not be permitted to do so by the returning officer unless he is satisfied that the efficient counting of the votes will not be impeded and he has either consulted the election agents¹⁰ or thought it impracticable to do so¹¹. The returning officer must make such arrangements as he thinks fit to ensure that every person attending at the counting of the votes (other than any constable on duty at the counting) has been given a copy in writing of the statutory provisions relating to the requirement of secrecy that apply to such attendance¹².

The returning officer must give the counting agents all such reasonable facilities for overseeing the proceedings, and all such information with respect to them, as he can give them consistently with the orderly conduct of the proceedings and the discharge of his duties in connection with them¹³. In particular, where the votes are counted by sorting the ballot papers according to the candidate for whom the vote is given and then counting the number of ballot papers for each candidate, the counting agents are entitled to satisfy themselves that the ballot papers are correctly sorted¹⁴.

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for counting the votes¹⁵.

¹ ie at parliamentary and local government elections, except Authority elections (as to the count at which see PARA 442 et seq post), but including a poll consequent on a parish meeting taken on the question of appointment to any office. For the meaning of 'parliamentary election' see PARA 9 ante; and for the meanings of 'Authority election' and 'local government election' see PARA 10 ante. As to returning officers for parliamentary elections see PARA 355 et seq ante; as to returning officers for local government elections see PARA 359 et seq ante; and as to the returning officer at a poll consequent on parish meeting taken on the question of appointment to any office see PARA 361 ante. As to the functions of returning officers where the poll at an election is taken together with the poll at another election or referendum see PARA 18 ante. As to elections in the City of London see PARA 30 ante.

2 As to the appointment of counting agents by a candidate, and as to the effect of their non-attendance, see PARA 399 ante.

3 Representation of the People Act 1983 s 23(1), Sch 1 r 44(1); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 26(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 44(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 44(1).

4 Representation of the People Act 1983 Sch 1 r 44(2)(a); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 26(2)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 44(2)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 44(2)(a).

5 Representation of the People Act 1983 Sch 1 r 44(2)(b) (amended by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 85(1), (2)); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 26(2)(b) (amended by SI 2005/2114); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 44(2)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 44(2)(b).

6 Representation of the People Act 1983 Sch 1 r 44(2)(c); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 44(2)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 44(2)(c). A candidate at a local government election for a parish or community council need not have an election agent (see PARA 238 note 3 ante) and there is no provision at all for election agents to be appointed at a poll consequent on a parish meeting on a question involving appointment to office. Accordingly, the provision set out in head (3) in the text is omitted in the latter case and may be redundant in the first case. As to the appointment of election agents for parliamentary or local government elections see PARA 238 et seq ante.

7 Representation of the People Act 1983 Sch 1 r 44(2)(d); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 26(2)(d); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 44(2)(d); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 44(2)(d).

8 Representation of the People Act 1983 Sch 1 r 44(2)(e) (added by the Electoral Administration Act 2006 Sch 1 paras 69, 85(1), (3)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 44(2)(e); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 44(2)(e). The reference in the text is to persons who are entitled to attend by virtue of any of the provisions of the Political Parties, Elections and Referendums Act 2000 ss 6A-6D (as added) (see PARA 48 ante).

9 Representation of the People Act 1983 Sch 1 r 44(2); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 26(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 44(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 44(2).

10 At parish or community council elections, where there is no requirement for election agents to be appointed (see note 6 supra), the reference in the text to election agents should be read as a reference to the candidates: see the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 44(3). However, at a poll consequent on a parish meeting on a question involving appointment to office, where there is no provision at all for election agents to be appointed (see note 6 supra), the returning officer is bound neither to consult anyone else nor to consider practicability: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 26(3).

11 Representation of the People Act 1983 Sch 1 r 44(3); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 26(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 44(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 44(3).

12 See PARAS 390 ante, 742-744 post.

13 Representation of the People Act 1983 Sch 1 r 44(4); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 26(4); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 44(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 44(4).

14 Representation of the People Act 1983 Sch 1 r 44(5); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 26(5); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304,

Sch 2 r 44(5); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 44(5).

15 As to polls at elections or referendums which are taken together see PARA 16 et seq ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/(A) Counting at Parliamentary or Certain Local Elections/432. Counting the ballot papers and recording the number counted at parliamentary and certain local elections.

432. Counting the ballot papers and recording the number counted at parliamentary and certain local elections.

The returning officer at a parliamentary election and at certain local elections¹ must: (1) in the presence of the counting agents² open each ballot box and count and record the number of ballot papers in it³; and (2) count such of the postal ballot papers as have been duly returned and record the number counted⁴. A postal ballot paper must not be taken to be duly returned unless: (a) it is returned in the prescribed manner⁵ and reaches the returning officer or a polling station in the constituency or electoral area in question (as the case may be) before the close of the poll⁶; (b) the postal voting statement duly signed⁷ is also returned in the prescribed manner⁸ and reaches him or such a polling station before that time⁹; (c) the postal voting statement also states the date of birth of the elector or proxy, as the case may be¹⁰; and (d) in a case where steps for verifying the date of birth and signature of an elector or proxy have been prescribed¹¹, the returning officer (having taken such steps) has verified the date of birth and signature of the elector or proxy, as the case may be¹².

The returning officer must not count the votes given on any ballot papers until, in the case of postal ballot papers, they have been mixed with the ballot papers from at least one other ballot box¹³, and, in the case of ballot papers from a ballot box, until they have been mixed with the ballot papers from at least one other ballot box¹⁴. The returning officer must not count any tendered ballot paper¹⁵. While counting and recording the number of ballot papers and counting the votes, the returning officer must keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers and other unique identifying marks (where these apply) printed on the back of the papers¹⁶.

The returning officer must, so far as practicable, proceed continuously with counting the votes, allowing only time for refreshment, except that he may, in so far as he and the counting agents agree¹⁷, exclude the hours between seven in the evening and nine on the following morning¹⁸. During the time so excluded, the returning officer must: (i) place the ballot papers and other documents relating to the election under his own seal and the seals of such of the counting agents as desire to affix their seals¹⁹; and (ii) otherwise take proper precautions for the security of the papers and documents²⁰.

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for counting the votes²¹.

1 le at parliamentary and local government elections, except Authority elections (as to the count at which see PARA 442 et seq post), but including a poll consequent on a parish meeting taken on the question of appointment to any office. For the meaning of 'parliamentary election' see PARA 9 ante; and for the meanings of 'Authority election' and 'local government election' see PARA 10 ante. As to returning officers for parliamentary elections see PARA 355 et seq ante; as to returning officers for local government elections see PARA 359 et seq ante; and as to the returning officer at a poll consequent on parish meeting taken on the question of appointment to any office see PARA 361 ante. As to the functions of returning officers where the poll at an election is taken together with the poll at another election or referendum see PARA 18 ante. As to elections in the City of London see PARA 30 ante.

2 As to the appointment of counting agents by a candidate, and as to the effect of their non-attendance, see PARA 399 ante.

3 Representation of the People Act 1983 s 23(1), Sch 1 r 45(1)(a) (Sch 1 r 45(1) substituted by the Representation of the People Act 1985 s 24, Sch 4 para 82); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 27(1)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 45(1)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 45(1)(a).

4 Representation of the People Act 1983 Sch 1 r 45(1)(c) (as substituted: see note 3 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 45(1)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 45(1)(c). There is no provision for voting by proxy at a poll consequent on a parish meeting on a question involving appointment to office, and accordingly the provisions set out in heads (2) and (a)-(d) in the text do not apply in that case. As to the returning officer's duty to record the return of a postal vote in respect of a person who is entered on the postal voters list, or a proxy postal vote in respect of a proxy who is entered on the proxy postal voters list, see PARA 425 ante.

5 For the purposes of the Representation of the People Act 1983, 'prescribed' means prescribed by regulations: s 202(1). Accordingly, for the purposes of a parliamentary election, the manner in which a postal ballot paper or postal voting statement may be returned to a polling station is by hand (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 79(1) (amended by SI 2006/2910)); and the manner in which such a paper or statement may be returned to the returning officer is by post or by hand (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 79(2) (amended by SI 2006/2910)). As to the making of regulations under the Representation of the People Act 1983 generally see PARA 24 note 16 ante.

For the purposes of a local government election for a principal area, parish or community council, the manner in which any postal ballot paper or postal voting statement may be returned to the returning officer is by hand or by post and to a polling station it is by hand: Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 45(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 45(4). As to a poll consequent on a parish meeting on a question involving appointment to office see note 4 supra.

6 Representation of the People Act 1983 Sch 1 r 45(1B)(a) (Sch 1 r 45(1B) added by the Representation of the People Act 2000 s 15(1), Sch 6 paras 3, 10(1), (4)(a)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 45(3)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 45(3)(a). As to a poll consequent on a parish meeting on a question involving appointment to office see note 4 supra.

7 As to the postal voting statement see PARA 411 ante.

8 See note 5 supra.

9 Representation of the People Act 1983 Sch 1 r 45(1B)(b) (as added (see note 6 supra); and amended by the Electoral Administration Act 2006 ss 47, 74(2), Sch 1 paras 69, 73(1), (2), (3)(a), Sch 2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 45(3)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 45(3)(b). As to a poll consequent on a parish meeting on a question involving appointment to office see note 4 supra. As to the means by which a postal voter may validly make the returns mentioned in the text see further PARA 425 ante.

Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 69, 73 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

10 Representation of the People Act 1983 Sch 1 r 45(1B)(c) (Sch 1 r 45(1B)(c), (d) added by the Electoral Administration Act 2006 Sch 1 paras 69, 73(1), (3)(b)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 45(3)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 45(3)(c). As to a poll consequent on a parish meeting on a question involving appointment to office see note 4 supra.

11 Ie by regulations made under the Representation of the People Act 1983. For the purposes of the Representation of the People Act 1983, 'prescribed' means prescribed by regulations: s 202(1). See the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 85, 85A (as added); and PARA 428 ante.

12 Representation of the People Act 1983 Sch 1 r 45(1B)(d) (as added: see note 10 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 45(3)(d); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 45(3)(d). As to a poll consequent on a parish meeting on a question involving appointment to office see note 4 supra.

13 Representation of the People Act 1983 Sch 1 r 45(1A)(a) (Sch 1 r 45(1A) added by the Representation of the People Act 1985 Sch 4 para 82); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 45(2)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 45(2)(a).

14 Representation of the People Act 1983 Sch 1 r 45(1A)(b) (as added see note 13 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 45(2)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 45(2)(b). The procedure set out in the text does not apply at a poll consequent on a parish meeting on a question involving appointment to office. However, where two such polls have been taken together, the returning officer must separate the ballot papers relating to each poll and count and record the number of ballot papers relating to each poll (Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(1)(b)), and he must then mix together the whole of the ballot papers relating to the poll or each poll, as the case may be, which were contained in the ballot boxes (Schedule r 27(1)(c)).

15 Representation of the People Act 1983 Sch 1 r 45(3); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 45(5); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 45(5). As to tendered ballot papers see PARA 408 ante; and as to adding votes on a scrutiny see PARA 842 post.

16 Representation of the People Act 1983 Sch 1 r 45(4) (amended by the Electoral Administration Act 2006 Sch 1 paras 69, 91); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 45(6); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 45(6). At a poll consequent on a parish meeting on a question involving appointment to office, the returning officer must keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers printed on the back of the papers while separating the ballot papers (ie rather than while counting and recording the number of ballot papers and counting the votes): see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(3). As to the number and other security marks which must be printed on the back of every ballot paper see PARA 392 ante.

Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 69, 91 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

17 At a poll consequent on a parish meeting on a question involving appointment to office, the exception applies only in so far as the returning officer thinks necessary: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(5).

18 Representation of the People Act 1983 Sch 1 r 45(6); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(5); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 45(8); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 45(8).

19 Representation of the People Act 1983 Sch 1 r 45(7)(a); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(6)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 45(9)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 45(9)(a).

20 Representation of the People Act 1983 Sch 1 r 45(7)(b); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(6)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 45(9)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 45(9)(b).

21 As to polls at elections or referendums which are taken together see PARA 16 et seq ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/(A) Counting at Parliamentary or Certain Local Elections/433. Verification of the ballot paper account at parliamentary and certain local elections.

433. Verification of the ballot paper account at parliamentary and certain local elections.

In the presence of the election agents (or, at elections where election agents are not appointed, the counting agents)¹, the returning officer at a parliamentary election and at certain local elections² must verify each ballot paper account³. He does this by comparing each ballot paper account with the number of ballot papers recorded by him⁴, and the unused and spoilt ballot papers⁵ in his possession and the tendered votes list⁶ (opening and resealing the packets containing the unused and spoilt ballot papers and the tendered votes list)⁷.

He must draw up a statement as to the result of the verification, which any election agent (or, at elections where election agents are not appointed, any counting agent⁸) may copy⁹.

1 A candidate at a local government election for a parish or community council need not have an election agent (see PARA 238 note 3 ante) and there is no provision at all for election agents to be appointed at a poll consequent on a parish meeting on a question involving appointment to office. As to the appointment of election agents at parliamentary or local government elections see PARA 238 et seq ante; and as to the appointment of counting agents by a candidate see PARA 399 ante.

2 Ie at parliamentary and local government elections, except Authority elections (as to the count at which see PARA 442 et seq post), but including a poll consequent on a parish meeting taken on the question of appointment to any office. For the meaning of 'parliamentary election' see PARA 9 ante; and for the meanings of 'Authority election' and 'local government election' see PARA 10 ante. As to returning officers for parliamentary elections see PARA 355 et seq ante; as to returning officers for local government elections see PARA 359 et seq ante; and as to the returning officer at a poll consequent on parish meeting taken on the question of appointment to any office see PARA 361 ante. As to the functions of returning officers where the poll at an election is taken together with the poll at another election or referendum see PARA 18 ante. As to elections in the City of London see PARA 30 ante.

3 Representation of the People Act 1983 s 23(1), Sch 1 r 45(1)(b) (substituted by the Representation of the People Act 1985 s 24, Sch 4 para 82); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 27(1)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 45(1)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 45(1)(b). As to the ballot paper account see PARA 410 ante.

4 As to the returning officer's duty to record the number of ballot papers counted and verify the account see PARA 432 ante.

5 As to spoilt ballot papers see PARA 409 ante.

6 As to the tendered votes list see PARA 408 ante.

7 Representation of the People Act 1983 Sch 1 r 45(5); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(4); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 45(7); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 45(7).

8 See note 1 supra.

9 Representation of the People Act 1983 Sch 1 r 45(5); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(4); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 45(7); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 45(7).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/(A) Counting at Parliamentary or Certain Local Elections/434. Ballot papers rejected for want of official mark at parliamentary and certain local elections.

434. Ballot papers rejected for want of official mark at parliamentary and certain local elections.

Any ballot paper which does not bear the official mark¹ is void and must not be counted².

However, where not all of the holes which should have been made by the official mark perforate the ballot paper, but the marks which do appear indicate the intention to apply the official mark, the ballot paper should not be rejected³.

1 le in relation to parliamentary and local government elections, except Authority elections (as to the count at which see PARA 442 et seq post), but including a poll consequent on a parish meeting taken on the question of appointment to any office. For the meaning of 'parliamentary election' see PARA 9 ante; and for the meanings of 'Authority election' and 'local government election' see PARA 10 ante. As to the official mark in use at each election see PARA 392 ante.

2 Representation of the People Act 1983 s 23(1), Sch 1 r 47(1)(a); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 29(1)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 47(1)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 47(1)(a). As to the treatment of rejected votes see PARA 438 et seq post; and as to scrutiny, which may look at ballot papers and investigate how votes have been recorded, see PARA 837 et seq post.

3 *Re South Newington (Kingston-upon-Hull) Municipal Election Petition, Lewis v Shepperdson* [1948] 2 All ER 503 at 507 per Birkett J (applying the reasoning in *Gloucester County, Cirencester Division, Case* (1893) 4 O'M & H 194).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/(A) Counting at Parliamentary or Certain Local Elections/435. Ballot papers rejected for voting for too many candidates, etc at parliamentary and certain local elections.

435. Ballot papers rejected for voting for too many candidates, etc at parliamentary and certain local elections.

Any ballot paper on which votes are given for more than one candidate¹ (or, in the case of a local government election or a poll consequent on a parish or community meeting, for more candidates than the voter is entitled to vote for²) is void and must not be counted³.

1 le at parliamentary and local government elections, except Authority elections (as to the count at which see PARA 442 et seq post), but including a poll consequent on a parish meeting taken on the question of appointment to any office. For the meaning of 'parliamentary election' see PARA 9 ante; and for the meanings of 'Authority election' and 'local government election' see PARA 10 ante. For the meaning of 'candidate' generally see PARA 237 ante.

2 As to the number of votes permitted at a local government election see PARA 389 ante.

3 Representation of the People Act 1983 s 23(1), Sch 1 r 47(1)(b); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 29(1)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 47(1)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 47(1)(b). As to the treatment of rejected votes see PARA 438 et seq post. As to scrutiny, which may look at ballot papers and investigate how votes have been recorded, see PARA 837 et seq post. Whether a mark on a ballot paper amounts to a vote for a particular candidate is a matter of fact: see PARA 854 note 4 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/(A) Counting at Parliamentary or Certain Local Elections/436. Ballot papers rejected for marks of identification at parliamentary and certain local elections.

436. Ballot papers rejected for marks of identification at parliamentary and certain local elections.

Any ballot paper¹ on which anything is written or marked by which the voter can be identified, except the printed number and other unique identifying mark on the back, is void and must not be counted². The writing or mark must be such that the voter can be, and not merely might be, identified³. Ballot papers have been rejected because they were marked upon their faces by the presiding officer with the number on the register of the voter⁴.

A ballot paper on which the vote is marked elsewhere than in the proper place, otherwise than by means of a cross⁵, or by more than one mark, must not for such reason be deemed to be void⁶ if an intention that the vote is for one or other of the candidates clearly appears, and the way the paper is marked does not of itself identify the voter and it is not shown that he can be identified by it⁷. The mere fact that it is in handwriting does not of itself show the voter can be identified⁸.

The returning officer is not obliged to hold an inquiry to enable him to decide whether the voter can be identified by the mark⁹ but should receive evidence which is offered to him¹⁰.

1 Ie at a parliamentary or local government election, except an Authority election (as to the count at which see PARA 442 et seq post), but including a poll consequent on a parish meeting taken on the question of appointment to any office. For the meaning of 'parliamentary election' see PARA 9 ante; and for the meanings of 'Authority election' and 'local government election' see PARA 10 ante.

2 Representation of the People Act 1983 s 23(1), Sch 1 r 47(1)(c) (amended by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 92); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 29(1)(c); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 47(1)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 47(1)(c). As to the number and other security marks which must be printed on the back of every ballot paper see PARA 392 ante. As to the treatment of rejected votes see PARA 438 et seq post; and as to scrutiny, which may look at ballot papers and investigate how votes have been recorded, see PARA 837 et seq post.

Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 69, 92 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

3 *Gloucester County, Cirencester Division Case* (1893) 4 O'M & H 194; *Ruffle v Rogers* [1982] QB 1220 at 1231, [1982] 3 All ER 157 at 161, CA, per Eveleigh LJ; and see Lord Denning MR at 1230 and 160. A voter can presumably be identified by his initials, at least in relatively small electoral areas: see the decision in *Re South Newington (Kingston-upon-Hull) Municipal Election Petition, Lewis v Shepperdson* [1948] 2 All ER 503 at 507 per Birkett J. A ballot paper marked only with a cross on the back of the paper has been rejected for endangering the secrecy of the vote, even though it was contended that the voter had misinterpreted the instruction to mark the paper opposite the candidate's name (ie by positioning his mark purposely over the blind printed impression of the candidate's name which was evident to the rear face of the paper): *Berwick Case, McLaren v Home* (1880) 44 LT 289, 3 O'M & H 178.

4 *Woodward v Sarsons* (1875) LR 10 CP 733. In *Clare, Eastern Division, Case* (1892) 4 O'M & H 162, the returning officer had rejected ballot papers from which the counterfoil had not been detached; but quare whether the provision set out in the text supports rejection on grounds that the identification of the voter is on the counterfoil (rather than the ballot paper).

5 For example, where the name of the candidate is written in handwriting in place of the cross: see *Ruffle v Rogers* [1982] QB 1220, [1982] 3 All ER 157, CA. As to further examples of misplaced marks see PARA 437 post.

6 In the case of a local government election for a principal area, parish or community council, and at polls consequent on a parish meeting on a question of appointment to office, either wholly or as respects that vote: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(3); the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 47(3); and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 47(3).

7 Representation of the People Act 1983 Sch 1 r 47(2); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 47(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 47(3). These provisions derive from one first enacted in the Representation of the People Act 1948 (repealed) and have the effect of overruling some of the earlier case law. Whether a mark on a ballot paper amounts to a vote for a particular candidate is a matter of fact: see PARA 854 note 4 post.

8 *Ruffle v Rogers* [1982] QB 1220 at 1231, [1982] 3 All ER 157 at 161, CA, per Eveleigh LJ; and see per Lord Denning MR at 1229 and 160.

9 *Wigtown District Burgh Case* (1874) 2 O'M & H 215 at 225.

10 This is implicit from the closing words of the provisions quoted in the text to note 7 supra ('it is not shown that [the voter] can be identified by it'). See also *Woodward v Sarsons* (1875) LR 10 CP 733 at 749 per Lord Coleridge CJ: 'If there were evidence of an arrangement that the voter would place two marks, so as to indicate that it was he, that voter, who had used that ballot paper, then, by reason of such evidence, such double mark would be a mark by which the voter could be identified, and then the paper, upon such proof being made, should be rejected'.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/(A) Counting at Parliamentary or Certain Local Elections/437. Ballot papers rejected for uncertainty at parliamentary and certain local elections.

437. Ballot papers rejected for uncertainty at parliamentary and certain local elections.

A ballot paper which is unmarked or void for uncertainty is void¹ and must not be counted²; but where the voter is entitled to vote for more than one candidate at a local government election for a principal area, parish or community council, or at a poll consequent on a parish meeting on a question of appointment to office, a ballot paper is not to be deemed to be void for uncertainty in respect of any vote in relation to which no uncertainty arises and that vote is to be counted³. A ballot paper on which a vote is marked elsewhere than in the proper place⁴, or otherwise than by means of a cross⁵ or by more than one mark is not by reason of it to be deemed to be void⁶ if an intention that the vote is for one or other of the candidates clearly appears, and the way the paper is marked does not of itself identify the voter and it is not shown that he can be identified by it⁷. The following examples illustrate this rule.

A ballot paper may be well marked although the mark does not discolour the paper if from any circumstances the court can infer that the marks were intentionally made by the voter⁸. Where, at an election at which the voter may vote for one candidate only, a ballot paper carries a cross opposite the name of one candidate and a smudge which appears to have been caused by rubbing out a mark opposite the name of another candidate, this has been held to be a good vote for the former candidate⁹.

A ballot paper may be well marked for one candidate although a great portion of the cross is opposite the name of another candidate if the point of intersection of the crossing lines is in the space appropriate to the former¹⁰. A ballot paper may be well marked also where the point of intersection of the cross is outside any of the compartments reserved to indicate a vote for a candidate but where the trailing ends of the cross extend into one only of those compartments¹¹.

A ballot paper may be well marked even though it carries more than the minimum number of marks necessary to indicate a vote. For example, where there was a cross opposite the name of a candidate and other crosses which had the effect of obscuring that candidate's name altogether, this was held to be a good vote for that candidate¹²; but where the only mark upon the paper was a cross immediately upon the name of one of the candidates in such a way as to make it possible that the voter intended to strike that name out, the vote was disallowed¹³. At an election at which the voter could vote for one candidate only, where the names of two candidates had been struck out and no mark had been placed against the name of the remaining candidate, the ballot paper was held to be a valid vote for the last-mentioned candidate¹⁴. In an election where there were six candidates, and two were to be elected, the voter had placed a cross by the names of four candidates, and a tick by two; the paper was held to be valid, with the ticks being counted¹⁵. However, where a voter who was entitled to vote for five candidates had placed a distinct cross against each of five names and an encircled cross against a sixth name, the ballot paper was held to be invalid for showing six votes instead of the permitted five¹⁶.

Tearing the ballot paper is not of itself a fatal defect¹⁷ but a ballot paper of which half had been torn away so that only one candidate's name remained has been held to be bad although there was a cross opposite that candidate's name¹⁸.

1 le at a parliamentary or local government election, except an Authority election (as to the count at which see PARA 442 et seq post), but including a poll consequent on a parish meeting taken on the question of appointment to any office. For the meaning of 'parliamentary election' see PARA 9 ante; and for the meanings of 'Authority election' and 'local government election' see PARA 10 ante.

A vote is bad for uncertainty where it is upon the face of the ballot paper doubtful whether the voter intended to vote for one candidate or the other: *Gloucester County, Cirencester Division Case* (1893) 4 O'M & H 194 at 197. As to what may constitute an unmarked ballot paper see further the text and notes 8-9 infra.

2 Representation of the People Act 1983 s 23(1), Sch 1 r 47(1)(d); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 29(1)(d); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 47(1)(d); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 47(1)(d). As to the treatment of rejected votes see PARA 438 et seq post; and as to scrutiny, which may look at ballot papers and investigate how votes have been recorded, see PARA 837 et seq post.

3 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 47(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 47(2).

4 See *Pontardawe Rural Council Election Petition* [1907] 2 KB 313, DC. As to the layout of the ballot paper see PARA 391 ante.

5 See *Ruffle v Rogers* [1982] QB 1220, [1982] 3 All ER 157, CA (vote marked by candidate's name being written); *West Bromwich Case* (1911) 6 O'M & H 256 at 257; *Phillips v Goff* (1886) 17 QBD 805, DC; *York County East Riding, Buckrose Division, Case* (1886) 4 O'M & H 110.

6 le, in the case of local government elections and at polls consequent on a parish meeting on a question of appointment to office, either wholly or as respects that vote: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 47(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 47(3).

7 Representation of the People Act 1983 Sch 1 r 47(2); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 47(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 47(3). These provisions derive from one first enacted in the Representation of the People Act 1948 (repealed) and have the effect of overruling some of the earlier case law.

8 *Berwick Case, McLaren v Home* (1880) 44 LT 289, 3 O'M & H 178; *Gloucester County, Cirencester Division Case* (1893) 4 O'M & H 194. The mark need not appear to have been made with a pencil; a scratch with a finger nail is sufficient: *Berwick Case, McLaren v Home* supra; *Gloucester County, Cirencester Division Case* supra. A ballot paper marked with a dot caused by the breaking of the pencil point has been held good: *Cooper v Ogden, Re Oldham Case* (1908) 72 JP 115. Whether a mark on a ballot paper amounts to a vote for a particular candidate is a matter of fact: see PARA 854 note 4 post.

9 *Gloucester County, Cirencester Division Case* (1893) 4 O'M & H 194. Where a paper contained an ink mark of uncertain character at its bottom below a candidate's name the paper was disallowed for uncertainty: *Berwick Case, McLaren v Home* (1880) 44 LT 289, 3 O'M & H 178.

10 *Berwick Case, McLaren v Home* (1880) 44 LT 289, 3 O'M & H 178; *Gloucester County, Cirencester Division Case* (1893) 4 O'M & H 194.

11 *Cooper v Ogden, Re Oldham Case* (1908) 72 JP 115. A cross or mark that is completely outside any of the compartments on the ballot paper is not a valid mark: *Berwick Case, McLaren v Home* (1880) 44 LT 289, 3 O'M & H 178; *Stepney Division, Tower Hamlets Case* (1886) 4 O'M & H 34, 37; *York County, East Riding, Buckrose Division Case* (1886) 4 O'M & H 110.

12 *Gloucester County, Cirencester Division Case* (1893) 4 O'M & H 194 (the crosses other than the cross appearing opposite the name of the candidate were assumed to be added for emphasis).

13 *York County, East Riding, Buckrose Division Case* (1886) 4 O'M & H 110 at 112. In *Levers v Morris* [1972] 1 QB 221, [1971] 3 All ER 1300, DC, regarding an election where three candidates stood for only one office, a ballot paper on which the only mark was a cross appearing over the name of one candidate was held to be a good vote for that candidate.

14 *Levers v Morris* [1972] 1 QB 221, [1971] 3 All ER 1300, DC.

15 *Three Rivers District Council Election Petition* (26 July 1991, unreported), DC. In *Cooper v Ogden, Re Oldham Case* (1908) 72 JP 115, ballot papers which contained a cross in one candidate's compartment as well as another type of mark in the other candidate's compartment were held to be good votes for the candidate against whose name the cross appeared, on the grounds that a cross was the valid mark used to indicate a vote and the other marks were thought to indicate merely that the voter had not forgotten the other candidate.

16 *Pontardawe Rural Council Election Petition* [1907] 2 KB 313, DC.

17 *Woodward v Sarsons* (1875) LR 10 CP 733 (ballot paper which had been torn through its centre longitudinally was counted and the vote on it held to be valid).

18 *West Bromwich Case* (1911) 6 O'M & H 256 at 257.

UPDATE

437 Ballot papers rejected for uncertainty at parliamentary and certain local elections

NOTE 5--See *Pilling v Reynolds* [2008] EWHC 316 (QB), [2009] 1 All ER 163, DC (ballot paper marked by oblique line not void for uncertainty).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/(A) Counting at Parliamentary or Certain Local Elections/438. Treatment of rejected ballot papers at parliamentary and certain local elections.

438. Treatment of rejected ballot papers at parliamentary and certain local elections.

The returning officer at an election¹ must endorse the word 'rejected' on any ballot paper which is not to be counted² and must add to the endorsement the words 'rejection objected to' if an objection is made by a counting agent³ to his decision⁴. The returning officer must draw up a statement showing the number of ballot papers rejected under the several heads of: (1) want of official mark⁵; (2) voting for more than one candidate or, as the case may be, for more candidates than the voter is entitled to⁶; (3) writing or mark by which a voter could be identified⁷; (4) unmarked or void for uncertainty⁸. In the case of a local government election for a principal area, parish or community council, or at a poll consequent on a parish meeting on a question of appointment to office, such a statement must record also the number of ballot papers rejected in part and show them under the several heads (1) to (4) mentioned above⁹.

1 In the case of a parliamentary or local government election, except an Authority election (as to the count at which see PARA 442 et seq post), but including a poll consequent on a parish meeting taken on the question of appointment to any office. For the meaning of 'parliamentary election' see PARA 9 ante; and for the meanings of 'Authority election' and 'local government election' see PARA 10 ante. As to returning officers for parliamentary elections see PARA 355 et seq ante; as to returning officers for local government elections see PARA 359 et seq ante; and as to the returning officer at a poll consequent on parish meeting see PARA 361 ante. As to elections in the City of London see PARA 30 ante.

2 Representation of the People Act 1983 s 23(1), Sch 1 r 47(3); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 29(4)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 47(4)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 47(4)(a). In the case of a local government election for a principal area, parish or community council, or at a poll consequent on a parish meeting on a question of appointment to office, where a ballot paper is void in part but on which any vote is counted (see PARA 437 ante), the returning officer must endorse the words 'rejected in part' on the ballot paper and indicate which vote or votes have been counted: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(4)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 47(4)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 47(4)(b).

3 As to the discharge of this function by the candidate or (where there is such an agent) his election agent see PARA 399 ante.

4 Representation of the People Act 1983 Sch 1 r 47(3); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(4); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 47(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 47(4).

5 Representation of the People Act 1983 Sch 1 r 47(4)(a); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(5)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 47(5)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 47(5)(a).

6 Representation of the People Act 1983 Sch 1 r 47(4)(b); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(5)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 47(5)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 47(5)(b).

7 Representation of the People Act 1983 Sch 1 r 47(4)(c); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(5)(c); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI

2006/3304, Sch 2 r 47(5)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 47(5)(c).

8 Representation of the People Act 1983 Sch 1 r 47(4)(d); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(5)(d); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 47(5)(d); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 47(5)(d).

9 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(5); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 47(5); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 47(5).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/(A) Counting at Parliamentary or Certain Local Elections/439. Conclusiveness of returning officer's decision as to ballot papers at parliamentary and certain local elections.

439. Conclusiveness of returning officer's decision as to ballot papers at parliamentary and certain local elections.

The decision of the returning officer¹ on any question arising in respect of a ballot paper is final, but is subject to review on an election petition².

¹ He at a parliamentary or local government election, except an Authority election (as to the count at which see PARA 442 et seq post), but including a poll consequent on a parish meeting taken on the question of appointment to any office. For the meaning of 'parliamentary election' see PARA 9 ante; and for the meanings of 'Authority election' and 'local government election' see PARA 10 ante. As to returning officers for parliamentary elections see PARA 355 et seq ante; as to returning officers for local government elections see PARA 359 et seq ante; and as to the returning officer at a poll consequent on parish meeting see PARA 361 ante. As to elections in the City of London see PARA 30 ante.

² Representation of the People Act 1983 s 23(1), Sch 1 r 48; Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 30; Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 48; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 48. As to election petitions at parliamentary elections see PARA 759 et seq post; and as to election petitions at local government elections see PARA 760 et seq post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/(A) Counting at Parliamentary or Certain Local Elections/440. Recount at parliamentary and certain local elections.

440. Recount at parliamentary and certain local elections.

A candidate¹ or (at elections where election agents are appointed) his election agent², may, if present when the counting or any recount of the votes is completed³, require the returning officer at the election⁴ to have the votes recounted or again recounted, but the returning officer may refuse to do so if in his opinion the request is unreasonable⁵. No step may be taken on the completion of the counting or any recount of votes until the candidates (and, at elections where election agents are appointed, the election agents⁶) present at its completion have been given reasonable opportunity to exercise the right of demanding a recount⁷.

1 le at a parliamentary or local government election, except an Authority election (as to the count at which see PARA 442 et seq post), but including a poll consequent on a parish meeting taken on the question of appointment to any office. For the meaning of 'parliamentary election' see PARA 9 ante; and for the meanings of 'Authority election' and 'local government election' see PARA 10 ante. As to elections in the City of London see PARA 30 ante. For the meaning of 'candidate' generally see PARA 237 ante.

2 A candidate at a local government election for a parish or community council need not have an election agent (see PARA 238 note 3 ante) and there is no provision for election agents to be appointed at a poll consequent on a parish meeting on a question involving appointment to office. Accordingly, in relation to such an election and such a poll, a candidate may exercise the right set out in the text: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 28; and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 46. As to the appointment of election agents at parliamentary and local government elections see PARA 238 et seq ante.

3 As to the counting of votes at a parliamentary or local government election (except a London Authority election) see PARA 432 ante.

4 As to returning officers for parliamentary elections see PARA 355 et seq ante; as to returning officers for local government elections (including local authority mayoral elections) see PARA 359 et seq ante; and as to the returning officer at a poll consequent on parish meeting see PARA 361 ante. As to the functions of returning officers where the poll at an election is taken together with the poll at another election or referendum see PARA 18 ante.

5 Representation of the People Act 1983 s 23(1), Sch 1 r 46(1); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 28(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 46(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 46(1).

6 See note 2 supra.

7 Representation of the People Act 1983 Sch 1 r 46(2); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 28(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 46(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 46(2).

Non-observance of this rule does not necessarily invalidate the election: *Levers v Morris* [1972] 1 QB 221, [1971] 3 All ER 1300, DC (a case in which a candidate's request for a recount was not heard by the returning officer). As to the procedure to be followed when, the result of an election having been declared by the returning officer, a parcel of ballot papers is discovered uncounted see PARA 854 note 3 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/(A) Counting at Parliamentary or Certain Local Elections/441. Casting of lots in case of equality of votes at parliamentary and certain local elections.

441. Casting of lots in case of equality of votes at parliamentary and certain local elections.

Where, after the counting of the votes (including any recount) is completed¹, an equality of votes is found to exist between any candidates, and the addition of a vote would entitle any of those candidates to be declared elected, the returning officer must forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote².

1 le at a parliamentary or local government election, except an Authority election (as to the count at which see PARA 442 et seq post), but including a poll consequent on a parish meeting taken on the question of appointment to any office. For the meaning of 'parliamentary election' see PARA 9 ante; and for the meanings of 'Authority election' and 'local government election' see PARA 10 ante. As to elections in the City of London see PARA 30 ante. As to the counting of votes at a parliamentary or local government election (except a London Authority election) see PARA 432 ante.

2 Representation of the People Act 1983 s 23(1), Sch 1 r 49; Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 31; Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 49; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 49.

For a case where, apart from a disputed vote, the votes were equally divided between two candidates and the returning officer spun a coin to decide between them, but the disputed vote was on an election petition held good see *Fryer v Harris* (1955) Times, 30 July. See also *Lever v Morris* [1972] 1 QB 221, [1971] 3 All ER 1300, DC (whether incorrectly marked ballot papers void; equality of votes cast and decision taken by lot); *Ruffle v Rogers* [1982] QB 1220, [1982] 3 All ER 157, CA (where the inclusion of a wrongly rejected vote would have resulted in an equality of votes which is a 'result' for the purposes of the provision re-enacted as the Representation of the People Act 1983 s 48(1) (as to which see PARA 359 ante)).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/(B) Counting at Elections of London Assembly Members/442. Arrangements for counting the votes at elections of London Assembly members.

(B) COUNTING AT ELECTIONS OF LONDON ASSEMBLY MEMBERS

442. Arrangements for counting the votes at elections of London Assembly members.

As soon as practicable after the close of the poll, the constituency returning officer at a London Authority election¹ for the return of constituency or London members of the London Assembly² must make arrangements for counting the votes in the presence of the counting agents appointed for the purposes of the election in question³ and (in the case of a London members election) for the separation and verification of the ballot papers⁴. The constituency returning officer must give to the counting agents notice in writing of the time and place at which he will begin to count the votes⁵.

No person other than: (1) the constituency returning officer and his clerks⁶; (2) the candidates and their spouses or civil partners⁷; (3) the election agents⁸; (4) the counting agents⁹; and (5) any person authorised by the Electoral Commission to attend at the counting of votes as a representative of the Electoral Commission¹⁰, may be present at the counting of votes, unless permitted by the constituency returning officer to attend¹¹. A person not entitled to attend at the counting of votes may not be permitted to do so by the constituency returning officer unless he is satisfied that the efficient counting of the votes (and, in the case of a London members election, the efficient separation and verification of the ballot papers) will not be impeded¹² and he has either consulted the candidates or thought it impracticable to do so¹³.

The constituency returning officer must give the counting agents all such reasonable facilities for overseeing the proceedings, and all such information with respect to them, as he can give them consistent with the orderly conduct of the proceedings and the discharge of his duties in connection with them¹⁴. In particular, where the votes are counted by sorting the ballot papers according to the candidate (or, in the case of a London members election, the registered party, as the case may be¹⁵) for whom the vote is given and then counting the number of ballot papers for each candidate (or party, as the case may be), the counting agents are entitled to satisfy themselves that the ballot papers are correctly sorted¹⁶.

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for counting the votes¹⁷.

1 For the meaning in this context of 'constituency returning officer' see PARA 218 note 8 ante. For the meaning of 'Authority election' see PARA 10 ante.

2 As to elections for the return of constituency or London members of the London Assembly see PARA 206 et seq ante. As to elections in the City of London see PARA 30 ante.

3 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), (2), Sch 1 r 39(1), Sch 2 r 40(1). In the case of a London members election, the arrangements made are for the counting of the London votes cast in the Assembly constituency (known as the 'local count'): Sch 2 r 40(1)(b). For the meaning of 'Assembly constituency' for the purposes of London Authority elections see PARA 10 note 6 ante. As to the appointment of counting agents by a candidate, and as to the effect of their non-attendance, see PARA 399 ante.

4 Ibid Sch 2 r 40(1)(a).

- 5 Ibid Sch 1 r 39(1), Sch 2 r 40(1).
- 6 Ibid Sch 1 r 39(2)(a), Sch 2 r 40(2)(a).
- 7 Ibid Sch 1 r 39(2)(b), Sch 2 r 40(2)(b) (both amended by SI 2005/2114).
- 8 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 39(2)(c), Sch 2 r 40(2)(c). As to the appointment of election agents at Authority elections see PARA 238 et seq ante.
- 9 Ibid Sch 1 r 39(2)(d), Sch 2 r 40(2)(d).
- 10 Ibid Sch 1 r 39(2)(e), Sch 2 r 40(2)(e) (both added by SI 2004/227). As to the Electoral Commission see PARA 31 et seq ante; and as to authorised representatives of the Electoral Commission attending electoral proceedings see PARA 48 ante.
- 11 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 39(2), Sch 2 r 40(2).
- 12 Ibid Sch 1 r 39(3)(a), Sch 2 r 40(3)(a).
- 13 Ibid Sch 1 r 39(3)(b), Sch 2 r 40(3)(b).
- 14 Ibid Sch 1 r 39(4), Sch 2 r 40(4).
- 15 As to individual candidates and the submission of lists of candidates to be London members of the London Assembly see PARA 233 ante. For the meaning of 'registered political party' in this context see PARA 233 note 16 ante.
- 16 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 39(5), Sch 2 r 40(5).
- 17 As to polls at elections or referendums which are taken together see PARA 16 et seq ante.

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/(B) Counting at Elections of London Assembly Members/443. Counting the ballot papers and recording the number counted at elections of London Assembly members.

443. Counting the ballot papers and recording the number counted at elections of London Assembly members.

The constituency returning officer at a London Authority ordinary election¹ for the return of constituency or London members of the London Assembly² must: (1) in the presence of the counting agents appointed for the purposes of the constituency members election, the London members election and the London mayoral election³, open each ballot box and record separately the number of ballot papers used in each election⁴; (2) in the presence of the election agents appointed for the purposes of those elections⁵, verify each ballot paper account⁶; (3) count such of the postal ballot papers as have been duly returned and record separately the number counted at each election⁷; and (4) separate the ballot papers relating to the constituency members election or the London members election (as the case may be) from those relating to the other London Authority members election and the London mayoral election⁸. A postal ballot paper must not be taken to be duly returned unless it is returned and the declaration of identity⁹, duly signed and authenticated, is also returned, before the close of the poll, by hand to a polling station in the London Assembly constituency¹⁰ or by hand or by post to the constituency returning officer¹¹. In the case of a constituency members election, the constituency returning officer must not count the votes given on any ballot papers until, in the case of postal ballot papers, they have been mixed with the ballot papers from at least one ballot box¹² and, in the case of ballot papers from a ballot box, they have been mixed with the ballot papers from at least one other ballot box¹³. In the case of a London members election, as soon as completing the proceedings under heads (1) to (4) above, the constituency returning officer must mix together all of the ballot papers used in the Assembly constituency at the London members election and count the votes given on them¹⁴.

While counting and recording the number of ballot papers and counting the votes, the constituency returning officer must keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers printed on the back of the papers¹⁵. He must not count any tendered ballot paper¹⁶.

The constituency returning officer must so far as practicable proceed continuously with counting the votes, allowing only time for refreshment, except that he may, in so far as he and the counting agents¹⁷ agree, exclude the hours between five in the afternoon and ten on the following morning¹⁸. For the purposes of this exception, the agreement of a candidate or his election agent is as effective as the agreement of his counting agents¹⁹. During the time so excluded, the constituency returning officer must: (a) place the ballot papers and other documents relating to the election under his own seal and the seals of such of the counting agents as desire to affix their seals²⁰; and (b) otherwise take proper precautions for the security of the papers and documents²¹.

The constituency returning officer must verify each ballot paper account by comparing it with the number of ballot papers recorded by him, and the unused and spoilt ballot papers²² in his possession and the tendered votes list²³ (opening and resealing the packets containing the unused and spoilt ballot papers and the tendered votes list)²⁴. He must draw up a statement as to the result of the verification, which any election agent may copy²⁵.

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for counting the votes²⁶.

- 1 For the meaning in this context of 'constituency returning officer' see PARA 218 note 8 ante. For the meaning of 'Authority election' see PARA 10 ante. As to London Authority ordinary elections see PARA 206 ante.
- 2 As to elections for the return of constituency or London members of the London Assembly see PARA 206 et seq ante. As to elections in the City of London see PARA 30 ante.
- 3 As to the appointment of counting agents by a candidate, and as to the effect of their non-attendance, see PARA 399 ante. As to the counting of votes at a London mayoral election see PARA 451 post.
- 4 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), (2), Sch 1 r 40(1)(a), Sch 2 r 41(1)(a). At an ordinary Authority election where the Greater London returning officer has decided that the ballot papers are to be placed in separate ballot boxes according to whether the votes given on them are cast in the election under the constituency members election rules, the London members election rules or the mayoral election rules (see r 3, Sch 4 r 6(1); and PARA 396 note 4 ante), the ballot boxes from each polling station must be opened together, and the ballot papers counted together: Sch 4 r 12(1). At an Authority election which is not an ordinary election, the constituency returning officer must, in the presence of the counting agents, open each ballot box and count and record the number of ballot papers in it: Sch 1 r 40(2)(a). For the meaning of 'Greater London returning officer' see PARA 218 note 7 ante. As to the constituency members election rules, the London members election rules and the mayoral election rules see PARA 388 ante.
- 5 As to the appointment of election agents at Authority elections see PARA 238 et seq ante.
- 6 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 40(1)(b), Sch 2 r 41(1)(b). At an Authority election which is not an ordinary election, the constituency returning officer must, in the presence of the election agents, verify each ballot paper account: Sch 1 r 40(2)(b). As to verification of the ballot paper account at London mayoral elections see PARA 452 post. As to the ballot paper account see PARA 410 ante.
- 7 Ibid Sch 1 r 40(1)(c), Sch 2 r 41(1)(c). At an Authority election which is not an ordinary election, the constituency returning officer must count such of the postal ballot papers as have been duly returned and record the number counted: Sch 1 r 40(2)(c).
- 8 Ibid Sch 1 r 40(1)(d), Sch 2 r 41(1)(d). At an Authority election which is not an ordinary election, the operation set out in head (3) in the text is not required.
- 9 As to the declaration of identity see PARA 411 ante.
- 10 For the meaning of 'Assembly constituency' for the purposes of London Authority elections see PARA 10 note 6 ante.
- 11 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 40(4), Sch 2 r 41(3) (both substituted by SI 2004/227). As to the means by which a postal voter may validly return a postal ballot paper or declaration of identity see PARA 425 ante.
- 12 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 40(3)(a).
- 13 Ibid Sch 1 r 40(3)(b).
- 14 Ibid Sch 2 r 41(2).
- 15 Ibid Sch 1 r 40(6), Sch 2 r 41(5). As to the number which must be printed on the back of every ballot paper see PARA 392 ante.
- 16 Ibid Sch 1 r 40(5), Sch 2 r 41(4). As to tendered ballot papers see PARA 408 ante. As to adding votes on a scrutiny see PARA 842 post.
- 17 As to the discharge of this function by the candidate or his election agent see PARA 399 ante.
- 18 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 40(8), Sch 2 r 41(7) (amended by SI 2000/1040).
- 19 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 40(8), Sch 2 r 41(7).
- 20 Ibid Sch 1 r 40(9)(a), Sch 2 r 41(8)(a).
- 21 Ibid Sch 1 r 40(9)(b), Sch 2 r 41(8)(b).

- 22 As to spoilt ballot papers see PARA 409 ante.
- 23 As to the tendered votes list see PARA 408 ante.
- 24 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 40(7), Sch 2 r 41(6).
- 25 Ibid Sch 1 r 40(7), Sch 2 r 41(6).
- 26 As to polls at elections or referendums which are taken together see PARA 16 et seq ante.

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/(B) Counting at Elections of London Assembly Members/444. Ballot papers rejected at elections of London Assembly members.

444. Ballot papers rejected at elections of London Assembly members.

At a London Authority election¹ for the return of constituency or London members of the London Assembly², any ballot paper which does not bear the official mark³, or on which votes are given for more than one candidate⁴, or on which anything is written or marked by which the voter can be identified except the printed number on the back⁵, or which is unmarked or void for uncertainty⁶, is void and not counted⁷. However, a ballot paper on which a vote is marked elsewhere than in the proper place⁸, or otherwise than by means of a cross⁹, or by more than one mark¹⁰, is not for such reason void if an intention that a vote is for one only of the candidates clearly appears¹¹ and the way the paper is marked does not itself identify the voter and it is not shown that he can be identified by it¹².

The constituency returning officer¹³ must endorse the word 'rejected' on any ballot paper which is not to be counted and must add to the endorsement the words 'rejection objected to' if an objection is made by a counting agent¹⁴ to his decision¹⁵. The constituency returning officer must draw up a statement showing the number of ballot papers rejected under the several heads of: (1) want of official mark¹⁶; (2) voting for more than one candidate¹⁷; (3) writing or mark by which the voter could be identified¹⁸; (4) unmarked or void for uncertainty¹⁹.

1 For the meaning of 'Authority election' see PARA 10 ante.

2 As to elections for the return of constituency or London members of the London Assembly see PARA 206 et seq ante. As to elections in the City of London see PARA 30 ante.

3 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), (2), Sch 1 r 41(1)(aa), Sch 2 r 42(1)(aa) (both added by SI 2004/227). As to the official mark see PARA 392 ante.

4 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 41(1)(a), Sch 2 r 42(1)(a). In the case of a London members election, the text refers to votes given for more than one party or individual candidate: see Sch 2 r 42(1)(a). As to individual candidates to be London members of the London Assembly see PARA 233 ante. For the meaning of 'registered political party' in this context see PARA 233 note 16 ante.

5 Ibid Sch 1 r 41(1)(b), Sch 2 r 42(1)(b). As to the number which must be printed on the back of every ballot paper see PARA 392 ante.

6 Ibid Sch 1 r 41(1)(c), Sch 2 r 42(1)(c).

7 Ibid Sch 1 r 41(1), Sch 2 r 42(1). As to scrutiny, which may look at ballot papers and investigate how votes have been recorded, see PARA 837 et seq post.

8 Ibid Sch 1 r 41(2)(a), Sch 2 r 42(2)(a).

9 Ibid Sch 1 r 41(2)(b), Sch 2 r 42(2)(b).

10 Ibid Sch 1 r 41(2)(c), Sch 2 r 42(2)(c).

11 Ibid Sch 1 r 41(2), Sch 2 r 42(2). In the case of a London members election, the text refers to one only of the party or individual candidates: see Sch 2 r 42(2).

12 Ibid Sch 1 r 41(2), Sch 2 r 42(2).

13 For the meaning in this context of 'constituency returning officer' see PARA 218 note 8 ante.

14 As to the appointment of counting agents by a candidate, as to the effect of their non-attendance, and as to the discharge of this function by the candidate or (where there is such an agent) his election agent, see PARA 399 ante.

15 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 41(3), Sch 2 r 42(3).

16 Ibid Sch 1 r 41(4)(aa), Sch 2 r 42(4)(aa) (both added by SI 2004/227). As to the official mark see PARA 392 ante.

17 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 41(4)(a), Sch 2 r 42(4)(a). In the case of a London members election, the text refers to voting for more than one party or individual candidate: see Sch 2 r 42(4)(a).

18 Ibid Sch 1 r 41(4)(b), Sch 2 r 42(4)(b).

19 Ibid Sch 1 r 41(4)(c), Sch 2 r 42(4)(c).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/(B) Counting at Elections of London Assembly Members/445. Conclusiveness of returning officer's decision as to ballot papers at elections of London Assembly members.

445. Conclusiveness of returning officer's decision as to ballot papers at elections of London Assembly members.

The decision of the constituency returning officer at a London Authority election¹ for the return of constituency or London members of the London Assembly² on any question arising in respect of a ballot paper is final, but is subject to review on an election petition³.

1 For the meaning in this context of 'constituency returning officer' see PARA 218 note 8 ante. For the meaning of 'Authority election' see PARA 10 ante.

2 As to elections for the return of constituency or London members of the London Assembly see PARA 206 et seq ante. As to elections in the City of London see PARA 30 ante.

3 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), (2), Sch 1 r 42, Sch 2 r 43. As to the rejection of ballot papers at elections of London Assembly members see PARA 444 ante; and as to petitions questioning a local government election see PARA 760 et seq post.

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/(B) Counting at Elections of London Assembly Members/446. Recount at elections of London Assembly members.

446. Recount at elections of London Assembly members.

A candidate at a London Authority election¹ for the return of constituency or London members of the London Assembly² or his election agent³ (or, in the case of a London members election, any counting agent duly authorised⁴) may, if present when the counting or any recount of the votes is completed⁵, require the constituency returning officer⁶ to have the votes recounted or again recounted⁷. However, the constituency returning officer may refuse to do so if in his opinion the request is unreasonable⁸.

No step is to be taken on the completion of the counting or any recount of the votes until the candidates and election agents (and counting agents duly authorised, in the case of a London members election) who are present at its completion have been given reasonable opportunity to exercise the right of demanding a recount⁹.

1 For the meaning of 'Authority election' see PARA 10 ante; and for the meaning of 'candidate' generally see PARA 237 ante.

2 As to elections for the return of constituency or London members of the London Assembly see PARA 206 et seq ante. As to elections in the City of London see PARA 30 ante.

3 Ie including, in the case of a London members election, the election agent for a party list (in respect of any list candidate). As to individual candidates and the submission of lists of candidates to be London members of the London Assembly see PARA 233 ante; and as to references to party lists in elections for the return of London members of the London Assembly see PARA 262 note 24 ante. For the meaning of 'registered political party' in this context see PARA 233 note 16 ante. As to the appointment of election agents at Authority elections see PARA 238 et seq ante.

4 Ie any counting agent authorised under the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 2 r 26(2A) (as added) (see PARA 399 ante). As to the appointment of counting agents by a candidate, and as to the effect of their non-attendance, see PARA 399 ante.

5 As to the counting of votes at a London Authority election for the return of constituency or London members of the London Assembly see PARA 443 et seq ante.

6 For the meaning in this context of 'constituency returning officer' see PARA 218 note 8 ante.

7 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), Sch 1 r 43(1), Sch 2 r 44(1) (amended by SI 2004/227).

8 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 43(1), Sch 2 r 44(1).

9 Ibid Sch 1 r 43(2), Sch 2 r 44(2) (amended by SI 2004/227).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/(B) Counting at Elections of London Assembly Members/447. Procedure at conclusion of count at constituency members election.

447. Procedure at conclusion of count at constituency members election.

Where, after the counting of the votes (including any recount) is completed at a London Authority election¹ for the return of constituency members of the London Assembly², an equality of votes is found to exist between any candidates, and the addition of a vote would entitle any of those candidates to be declared elected, the constituency returning officer³ must forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote⁴.

1 For the meaning of 'Authority election' see PARA 10 ante.

2 As to the counting of votes at a London Authority election for the return of constituency members of the London Assembly see PARA 443 et seq ante.

3 For the meaning in this context of 'constituency returning officer' see PARA 218 note 8 ante.

4 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), Sch 1 r 44.

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/(B) Counting at Elections of London Assembly Members/448. Procedure at conclusion of count at London members election.

448. Procedure at conclusion of count at London members election.

As soon as practicable after the completion of the local count¹ at a London Authority election² for the return of London members of the London Assembly³, including any recount⁴, the constituency returning officer⁵ must draw up a statement showing: (1) the total number of votes cast⁶; (2) the total number of votes rejected⁷; (3) the number of votes given for each registered party by whom a party list was submitted⁸; and (4) the number of votes cast for each individual candidate⁹. As soon as practicable after completion of the statement, the constituency returning officer must inform the Greater London returning officer¹⁰ of the contents of that statement¹¹.

As soon as practicable after the Greater London returning officer has authorised him to do so, the constituency returning officer must inform such of the candidates and their election agents as are then present of the content of the statement so prepared and of the statement showing the number of ballot papers rejected under the various heads¹² and he must give public notice of the contents of those statements¹³.

1 As to the local count see PARA 442 note 3 ante.

2 For the meaning of 'Authority election' see PARA 10 ante.

3 As to the counting of votes at a London Authority election for the return of members of the London Assembly see PARA 443 et seq ante.

4 As to recounts of votes at a London Authority election for the return of members of the London Assembly see PARA 446 ante.

5 For the meaning in this context of 'constituency returning officer' see PARA 218 note 8 ante.

6 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 2 r 45(1)(a).

7 Ibid Sch 2 r 45(1)(b). The text refers to votes rejected under Sch 2 r 42 (as amended) (see PARA 444 ante).

8 Ibid Sch 2 r 45(1)(c). As to the submission of lists of candidates to be London members of the London Assembly see PARA 233 ante; and as to references to party lists in elections for the return of London members of the London Assembly see PARA 262 note 24 ante. For the meaning of 'registered political party' in this context see PARA 233 note 16 ante.

9 Ibid Sch 2 r 45(1)(d). As to individual candidates to be London members of the London Assembly see PARA 233 ante.

10 For the meaning of 'Greater London returning officer' see PARA 218 note 7 ante.

11 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 45(2).

12 Ibid Sch 2 para 45(3)(a). The text refers to the statement prepared under Sch 2 r 42 (as amended) (see PARA 444 ante). As to the various heads see PARA 444 heads (1)-(4) ante.

13 Ibid Sch 2 para 45(3)(b).

UPDATE

**442-512 Arrangements for counting the votes at elections of London
Assembly members ... Fresh election following countermand or abandonment
of poll on death of candidate**

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/(B) Counting at Elections of London Assembly Members/449. The calculation of the London figure for the allocation of seats at a London members election.

449. The calculation of the London figure for the allocation of seats at a London members election.

The Greater London returning officer ('GLRO')¹ must make arrangements for making the allocation of seats at a London Authority election² for the return of London members of the London Assembly³ in the presence of the election agents of the individual candidates⁴ (including, in respect of any list candidate, the election agent for that party list)⁵; and the GLRO must give to those agents notice in writing of the time and place at which he will begin the allocation⁶. No person other than: (1) the GLRO and his clerks⁷; (2) the candidates⁸; (3) the election agents⁹; and (4) the nominating officers for those registered political parties¹⁰ standing nominated at the election¹¹, may be present at an allocation unless permitted by the GLRO to attend¹². A person not entitled to attend an allocation may not be permitted to do so by the GLRO unless the GLRO is satisfied that the efficiency of the allocation will not be impeded¹³ and he has either consulted the election agents or thought it impracticable to do so¹⁴.

As soon as the GLRO has received from every constituency returning officer¹⁵ the contents of the statement showing the total number of votes cast and rejected (including the number of votes given for each registered party by whom a party list was submitted and for each individual candidate)¹⁶, he must calculate the figure (the 'London figure') for each registered party by which a party list has been submitted for that election and for each individual candidate¹⁷. The seats are then allocated in accordance with the rules¹⁸. If, at a contested election, proof is given to the GLRO's satisfaction before the result of the election is declared that one of the persons named as an individual candidate in the ballot papers, or whose name appears on a party list, has died, then the GLRO must make the calculation of the London figure without regard to that candidate¹⁹. As soon as the GLRO has ascertained the result of the calculation, he must inform such of the election agents for the candidates as are then present of the relevant figures²⁰ and must give them a reasonable opportunity to satisfy themselves as to the accuracy of the calculation²¹.

1 For the meaning of 'Greater London returning officer' see PARA 218 note 7 ante.

2 For the meaning of 'Authority election' see PARA 10 ante.

3 As to the counting of votes at a London Authority election for the return of members of the London Assembly see PARA 443 et seq ante.

4 As to the appointment of election agents at Authority elections see PARA 238 et seq ante. As to individual candidates to be London members of the London Assembly see PARA 233 ante.

5 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 2 r 46(1). As to the submission of lists of candidates to be London members of the London Assembly see PARA 233 ante; and as to references to party lists in elections for the return of London members of the London Assembly see PARA 262 note 24 ante.

6 Ibid Sch 2 r 46(1).

7 Ibid Sch 2 r 46(2)(a).

8 Ibid Sch 2 r 46(2)(b).

9 Ibid Sch 2 r 46(2)(c).

10 For the meaning of 'registered political party' in this context see PARA 233 note 16 ante. As to the appointment of nominating officers for registered political parties see PARA 260 ante.

11 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 46(2)(d).

12 Ibid Sch 2 r 46(2).

13 Ibid Sch 2 r 46(3)(a).

14 Ibid Sch 2 r 46(3)(b).

15 For the meaning in this context of 'constituency returning officer' see PARA 218 note 8 ante.

16 Is the information required to be submitted under the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 45 (see PARA 448 ante).

17 Ibid Sch 2 r 47(1). As to the filling of vacancies arising in the London membership of the London Assembly see PARA 211 ante.

18 As to the allocation of London Assembly seats to the London members, and as to the significance of the London figure in that process, see PARA 345 ante.

19 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 47(2).

20 For these purposes, the 'relevant figures' means:

72 (1) the number of London votes given in the Assembly constituencies for each registered party by which a party list has been submitted for that election; and for each individual candidate at that election (ibid Sch 2 r 47(5)(a));

73 (2) in respect of each party by whom a party list has been submitted, the number of successful candidates to be constituency members who were the subject of that party's authorisation under Sch 2 r 6(4) (as substituted) (authorised description: see PARA 263 ante) and whose particulars on the ballot paper included the party's registered emblem or, as the case may be, one of the party's registered emblems (Sch 2 r 47(5)(b));

74 (3) the calculation of the London figure (Sch 2 r 47(5)(c));

75 (4) any recalculation required by the Greater London Authority Act 1999 s 4(6), Sch 2 para 8(3) (allocation of second and subsequent seats: see PARA 345 ante), or carried out in the circumstances mentioned in Sch 2 para 8(8) (two or more registered parties or individual candidates having an equal number of votes in the case of the last seat to be allocated: see PARA 345 ante) (Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 47(5)(d)); and

76 (5) the number of persons whose names have been omitted from a party list, or who, pursuant to the Greater London Authority Act 1999 s 4, Sch 2 para 8(10) (person included on a list submitted by a registered political party returned as the Mayor of London or as a London Assembly member: see PARA 345 ante), are to be treated as ceasing to be on a party list (Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 47(5)(e)).

Where information of the description mentioned in head (5) supra is given, the GLRO must provide the persons to whom it was given with a statement containing the names of the persons concerned and, with respect to each such person, the name of the party from whose list his name has been omitted or treated as omitted, and the reason therefor: Sch 2 r 47(4).

21 Ibid Sch 2 r 47(3).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/ (C) Counting at Elections of a Local Authority Mayor or London Mayor/450. Attendance at count at elections of a local authority mayor or London Mayor.

(C) COUNTING AT ELECTIONS OF A LOCAL AUTHORITY MAYOR OR LONDON MAYOR

450. Attendance at count at elections of a local authority mayor or London Mayor.

As soon as practicable after the close of the poll, the returning officer at a mayoral election¹ must make arrangements for counting the votes in the presence of the counting agents appointed for the purposes of the election². The returning officer must give to the counting agents notice in writing of the time and place at which he will begin to carry out the counting of the votes³. In the case of a local authority mayoral election, he must also give to the counting agents notice in writing of the time and place at which he will begin any count of the second preference votes⁴.

No person other than: (1) the returning officer and his clerks⁵; (2) the candidates and their spouses or civil partners⁶; (3) the election agents⁷; (4) the counting agents⁸; and (5) in the case of a London mayoral election, any person authorised by the Electoral Commission to attend at the counting of the votes⁹ as a representative of the Commission¹⁰, may be present at the counting of the votes, unless permitted by the returning officer to attend¹¹. A person not entitled to attend at the counting of the votes may not be permitted to do so by the returning officer unless he is satisfied that the efficient counting of the votes will not be impeded and he has either consulted the election agents or thought it impracticable to do so¹². The returning officer must make such arrangements as he thinks fit to ensure that every person attending at the counting of the votes (other than any constable on duty at the counting) has been given a copy in writing of the statutory provisions relating to the requirement of secrecy that apply to such attendance¹³.

The returning officer must give the counting agents all such reasonable facilities for overseeing the proceedings, and all such information with respect to them, as he can give them consistently with the orderly conduct of the proceedings and the discharge of his duties in connection with them¹⁴. In particular, where the votes are counted by sorting the ballot papers according to the candidate for whom the vote is given and then counting the number of ballot papers for each candidate, the counting agents are entitled to satisfy themselves that the ballot papers are correctly sorted¹⁵.

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for counting the votes¹⁶.

1 As to returning officers for local government elections (including London Authority elections and local authority mayoral elections) see PARA 359 et seq ante. In the case of a London mayoral election, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which in relation to a London Authority election see PARA 218 note 8 ante). For the meanings of 'Authority election' and 'local government election' see PARA 10 ante. As to elections in the City of London see PARA 30 ante. As to elections for the return of a local authority mayor see PARA 205 ante.

2 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 40(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 40(1). At any London mayoral election which is not an ordinary election, the count does not include the separation and verification of the ballot papers: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 40(1)(a), (b). As to the appointment of counting agents by a candidate, and as to the effect of their non-attendance, see PARA 399

ante. The count at a local authority mayoral election is known as the 'first count'; at a London mayoral election, it is known as a 'local count'.

3 Ibid Sch 3 r 40(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 40(1)(a). At an ordinary London mayoral election, the notice will include also the time and place at which the returning officer will begin the verification of the ballot papers.

4 Ibid Sch 1 r 40(1)(b). As to elections at which second preference votes are cast see PARA 346 ante; and as to the counting of second preference votes at a local authority or London mayoral election see PARA 458 post.

5 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 40(2)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 40(2)(a).

6 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 40(2)(b) (amended by SI 2005/2114); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 40(2)(b) (amended by SI 2005/2114).

7 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 40(2)(c); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 40(2)(c). As to the appointment of election agents at local authority or London mayoral elections see PARA 238 et seq ante.

8 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 40(2)(d); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 40(2)(d).

9 As to the Electoral Commission see PARA 31 et seq ante; and as to authorised representatives of the Electoral Commission attending electoral proceedings see PARA 48 ante.

10 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 40(2)(e) (added by SI 2004/227).

11 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 40(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 40(2).

12 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 40(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 40(3).

13 See PARAS 390 ante, 742-744 post.

14 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 40(4); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 40(4).

15 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 40(5); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 40(5).

16 As to polls at elections or referendums which are taken together see PARA 16 et seq ante.

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

450 Attendance at count at elections of a local authority mayor or London Mayor

NOTES--SI 2002/185 reg 3(1), Sch 1 r 40 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 46.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/ (C) Counting at Elections of a Local Authority Mayor or London Mayor/451. The first count at election of local authority mayor; the local count at election of London Mayor.

451. The first count at election of local authority mayor; the local count at election of London Mayor.

At the first count at a local authority mayoral election or at the local count at a London mayoral election¹, the returning officer² must: (1) in the presence of the counting agents³ open each ballot box and count and record the number of ballot papers used in the election⁴; (2) count such of the postal ballot papers as have been duly returned and record the number counted⁵; and (3) in the case of a London mayoral ordinary election, separate the ballot papers relating to the mayoral election from those relating to the constituency members election and the London members election⁶. A postal ballot paper must not be taken to be duly returned unless it is returned in the appropriate manner⁷ and reaches the returning officer or a polling station in the London Assembly constituency or local authority electoral area in question (as the case may be) before the close of the poll⁸, and unless the declaration of identity⁹, duly signed and authenticated, is also returned in the appropriate manner¹⁰ and reaches him or such a polling station before that time¹¹.

At a local authority mayoral election, the returning officer must not count the votes given on any ballot papers until, in the case of postal ballot papers, they have been mixed with the ballot papers from at least one other ballot box¹², and, in the case of ballot papers from a ballot box, until they have been mixed with the ballot papers from at least one other ballot box¹³. At a London mayoral election, the constituency returning officer must mix together all of the ballot papers used at that election in the Assembly constituency¹⁴. Once the ballot papers have been mixed as required, the returning officer must then, where the election is contested by more than two candidates, count the first preference votes given on them¹⁵ and, where the election is contested by only two candidates, count the votes given on them¹⁶. The returning officer must not count any tendered ballot paper¹⁷. While counting and recording the number of ballot papers and counting the votes, the returning officer must keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers printed on the back of the papers¹⁸.

The returning officer must, so far as practicable, proceed continuously with counting the votes, allowing only time for refreshment, except that he may exclude the hours between five in the afternoon and ten on the following morning¹⁹. However, in the case of a London mayoral election, this exception applies only in so far as the returning officer and the counting agents agree, for which purposes the agreement of a candidate or his election agent is as effective as the agreement of his counting agents²⁰, and, in the case of an ordinary election, only with the prior consent of the Greater London returning officer²¹.

During the time so excluded, the returning officer must: (a) place the ballot papers and other documents relating to the election under his own seal and the seals of such of the counting agents as desire to affix their seals²¹; and (b) otherwise take proper precautions for the security of the papers and documents²².

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for counting the votes²³.

1 As to elections for the return of a local authority mayor see PARA 205 ante; and as to elections for the return of the London Mayor see PARA 206 et seq ante. As to elections in the City of London see PARA 30 ante. As to use of the terms 'first count' and 'local count' see PARA 450 note 2 ante.

2 As to returning officers for local government elections (including London Authority elections and local authority mayoral elections) see PARA 359 et seq ante. In the case of a London mayoral election, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which in relation to a London Authority election see PARA 218 note 8 ante).

3 As to the appointment of counting agents by a candidate, and as to the effect of their non-attendance, see PARA 399 ante. For the purposes of a London mayoral ordinary election, the text refers to the counting agents appointed for the purposes of the constituency members election, the London members election and the mayoral election: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 41(1)(a).

4 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(1)(a), (2)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 41(1)(a), (2)(a). For the purposes of a London mayoral ordinary election, the constituency returning officer, when recording the number of ballot papers used, must record separately the number of ballot papers used in each election: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(1)(a). At an ordinary London Authority election where the Greater London returning officer has decided that the ballot papers are to be placed in separate ballot boxes according to whether the votes given on them are cast in the election under the constituency members election rules, the London members election rules or the mayoral election rules (see r 3, Sch 4 r 6(1); and PARA 396 note 4 ante), the ballot boxes from each polling station must be opened together, and the ballot papers counted together: Sch 4 r 12(1). For the meaning of 'Greater London returning officer' see PARA 218 note 7 ante. As to the constituency members election rules, the London members election rules and the mayoral election rules see PARA 388 ante.

5 Ibid Sch 3 r 41(1)(c), (2)(c); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 41(1)(c). For the purposes of a London mayoral ordinary election, the constituency returning officer, when recording the number of postal ballot papers, must record separately the number of postal ballot papers counted at each election: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(1)(c).

6 Ibid Sch 3 r 41(1)(d).

7 The manner in which any postal ballot paper or declaration of identity may be returned to the returning officer at a local authority or London mayoral election is by hand or by post and to a polling station (in the London Assembly constituency or local authority electoral area in question, as the case may be) it is by hand: ibid Sch 3 r 41(4) (substituted by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 41(5). For the meaning of 'Assembly constituency' for the purposes of London Authority elections see PARA 10 note 6 ante.

8 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(4)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 41(4)(a).

9 As to the declaration of identity see PARA 411 ante.

10 See note 7 supra.

11 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(4)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 41(4)(b). As to the means by which a postal voter may validly return a postal ballot paper or declaration of identity see further PARA 425 ante.

12 Ibid Sch 1 r 41(2)(a).

13 Ibid Sch 1 r 41(2)(b).

14 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(3).

15 Ibid Sch 3 r 41(3)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 41(3)(a).

16 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(3)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 41(3)(b).

17 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(5); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 41(6). As to tendered ballot papers see PARA 408 ante. As to adding votes on a scrutiny see PARA 842 post.

18 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(6); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 41(7). As to the number which must be printed on the back of every ballot paper see PARA 392 ante.

19 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(8); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 41(9).

20 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(8) (amended by SI 2000/1040).

21 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3, Sch 4 r 12(2).

21 Ibid Sch 3 r 41(9)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 41(10)(a).

22 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(9)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 41(10)(b).

23 As to polls at elections or referendums which are taken together see PARA 16 et seq ante.

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

451 The first count at election of local authority mayor; the local count at election of London Mayor

NOTES--SI 2002/185 reg 3(1), Sch 1 r 41 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 47. See further Sch 1 r 31.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/ (C) Counting at Elections of a Local Authority Mayor or London Mayor/452. Verification of the ballot paper account at elections of a local authority mayor or London Mayor.

452. Verification of the ballot paper account at elections of a local authority mayor or London Mayor.

In the presence of the election agents¹, the returning officer at the first count at a local authority mayoral election or at the local count at a London mayoral election² must verify each ballot paper account³. He does this by comparing each ballot paper account with the number of ballot papers recorded by him⁴, and the unused and spoilt ballot papers⁵ in his possession and the tendered votes list⁶ (opening and resealing the packets containing the unused and spoilt ballot papers and the tendered votes list)⁷.

He must draw up a statement as to the result of the verification, which any election agent may copy⁸.

1 In relation to a London mayoral ordinary election, the text refers to the election agents appointed for the purposes of the constituency members election, the London members election and the mayoral election: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 41(1)(b). As to the appointment of election agents at local authority or London mayoral elections see PARA 238 et seq ante.

2 As to returning officers for local government elections (including London Authority elections and local authority mayoral elections) see PARA 359 et seq ante. In the case of a London mayoral election, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which in relation to a London Authority election see PARA 218 note 8 ante). As to elections for the return of a local authority mayor see PARA 205 ante; and as to elections for the return of London Mayor see PARA 206 et seq ante. As to elections in the City of London see PARA 30 ante. As to use of the terms 'first count' and 'local count' see PARA 450 note 2 ante.

3 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(1)(b), (2)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 41(1)(b). As to the ballot paper account see PARA 410 ante. At an ordinary London Authority election where the Greater London returning officer has decided that the ballot papers are to be placed in separate ballot boxes according to whether the votes given on them are cast in the election under the constituency members election rules, the London members election rules or the mayoral election rules (see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3, Sch 4 r 6(1); and PARA 396 note 4 ante), the ballot boxes from each polling station must be opened together, and the ballot papers verified together: Sch 4 r 12(1). For the meaning of 'Greater London returning officer' see PARA 218 note 7 ante. As to the constituency members election rules, the London members election rules and the mayoral election rules see PARA 388 ante.

4 As to the returning officer's duty to record the number of ballot papers counted and verify the account see PARA 432 ante.

5 As to spoilt ballot papers see PARA 409 ante.

6 As to the tendered votes list see PARA 408 ante.

7 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(7); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 3 r 41(8).

8 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(7); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 3 r 41(8).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

452 Verification of the ballot paper account at elections of a local authority mayor or London Mayor

NOTES 3, 7, 8--SI 2002/185 reg 3(1), Sch 1 r 41 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 47.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/ (C) Counting at Elections of a Local Authority Mayor or London Mayor/453. Rejected ballot papers at elections of a local authority mayor or London Mayor.

453. Rejected ballot papers at elections of a local authority mayor or London Mayor.

At the first count at a local authority mayoral election or at the local count at a London mayoral election¹, any ballot paper which does not bear the official mark², or on which anything is written or marked by which the voter can be identified except the printed number on the back³, or which is unmarked or void for uncertainty as to the first preference vote⁴, is void and not counted⁵. However, a ballot paper on which a vote is marked elsewhere than in the proper place⁶, or otherwise than by means of a cross⁷, or by more than one mark⁸, is not for such reason void if, at an election at which more than two candidates remain validly nominated, an intention that votes are given, by way of a first preference vote, for not more than one of the candidates clearly appears⁹ or if, at any other election, an intention that a vote is for one only of the candidates clearly appears¹⁰, and (in each case) the way the paper is marked does not itself identify the voter and it is not shown that he can be identified by it¹¹. A ballot paper which is not otherwise void and on which not more than one first preference vote is marked (whether or not a second preference vote is marked) is valid as respects that vote, and counted accordingly¹².

The returning officer¹³ must endorse the word 'rejected' on any ballot paper which is not to be counted and must add to the endorsement the words 'rejection objected to' if an objection is made by a counting agent¹⁴ to his decision¹⁵. The returning officer must draw up a statement showing the number of ballot papers rejected under the several heads of: (1) want of official mark¹⁶; (2) voting for more than one candidate as to the first preference vote¹⁷; (3) writing or mark by which the voter could be identified¹⁸; (4) unmarked or void for uncertainty as to the first preference vote¹⁹. As soon as practicable after completion of such a statement in relation to a London mayoral election, the constituency returning officer must inform the Greater London returning officer of its contents²⁰.

1 As to elections for the return of a local authority mayor see PARA 205 ante; and as to elections for the return of London Mayor see PARA 206 et seq ante. As to elections in the City of London see PARA 30 ante. As to use of the terms 'first count' and 'local count' see PARA 450 note 2 ante.

2 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 42(1)(aa) (added by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 42(1)(a). As to the official mark see PARA 392 ante.

3 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(1)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 42(1)(b). As to the number which must be printed on the back of every ballot paper see PARA 392 ante.

4 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(1)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 42(1)(c). In the case of a London mayoral election, the words 'or void for uncertainty as to the first preference vote' do not appear (see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(1)(b)), although they do appear as one of the heads under which a statement must be made, showing the number of ballot papers rejected (see Sch 3 r 42(5); and head (4) in the text).

5 Ibid Sch 3 r 42(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 42(1). As to scrutiny, which may look at ballot papers and investigate how votes have been recorded, see PARA 837 et seq post.

- 6 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(2)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 42(2)(a).
- 7 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(2)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 42(2)(b).
- 8 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(2)(c); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 42(2)(c).
- 9 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(2)(i); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 42(2)(i).
- 10 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(2)(ii); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 42(2)(ii).
- 11 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 42(2).
- 12 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 42(3).
- 13 As to returning officers for local government elections (including London Authority elections and local authority mayoral elections) see PARA 359 et seq ante. In the case of a London mayoral election, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which in relation to a London Authority election see PARA 218 note 8 ante).
- 14 As to the discharge of this function by the candidate or (where there is such an agent) his election agent see PARA 399 ante.
- 15 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(4); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 42(4).
- 16 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(5)(aa) (added by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 42(5)(a).
- 17 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(5)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 42(5)(b).
- 18 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(5)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 42(5)(c).
- 19 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(5)(c); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 42(5)(d).
- 20 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(6). For the meaning of 'Greater London returning officer' see PARA 218 note 7 ante.

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

453 Rejected ballot papers at elections of a local authority mayor or London Mayor

NOTES--SI 2002/185 reg 3(1), Sch 1 r 42 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 48.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/ (C) Counting at Elections of a Local Authority Mayor or London Mayor/454. Conclusiveness of returning officer's decision as to ballot papers at elections of a local authority mayor or London Mayor.

454. Conclusiveness of returning officer's decision as to ballot papers at elections of a local authority mayor or London Mayor.

At the first count at a local authority mayoral election or at the local count at a London mayoral election¹, the decision of the returning officer² on any question arising in respect of a ballot paper is final, but is subject to review on an election petition³.

1 As to elections for the return of a local authority mayor see PARA 205 ante; and as to elections for the return of London Mayor see PARA 206 et seq ante. As to elections in the City of London see PARA 30 ante. As to use of the terms 'first count' and 'local count' see PARA 450 note 2 ante.

2 As to returning officers for local government elections (including London Authority elections and local authority mayoral elections) see PARA 359 et seq ante. In the case of a London mayoral election, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which in relation to a London Authority election see PARA 218 note 8 ante).

3 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 43; Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 43. As to the rejection of ballot papers at local authority or London mayoral elections see PARA 453 ante; and as to petitions questioning such elections see PARA 760 et seq post.

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

454 Conclusiveness of returning officer's decision as to ballot papers at elections of a local authority mayor or London Mayor

NOTE 3--SI 2002/185 reg 3(1), Sch 1 r 43 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 49.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/ (C) Counting at Elections of a Local Authority Mayor or London Mayor/455. Recount at elections of a local authority mayor or London Mayor.

455. Recount at elections of a local authority mayor or London Mayor.

A candidate at a local authority or London mayoral election¹ or his election agent² (or, at a London mayoral election where a candidate's counting agent has been authorised by the terms of his appointment to require a recount at the local count³, his counting agent) may, if present when the counting or any recount of the votes, or as the case may be, the first preference votes, is completed⁴, require the returning officer⁵ to have the votes recounted or again recounted⁶. However, the returning officer may refuse to do so if in his opinion the request is unreasonable⁷. No step may be taken on the completion of the counting or any recount of the votes or, as the case may be, the first preference votes until the candidates and election agents and counting agents so authorised who are present at its completion have been given reasonable opportunity to exercise the right of demanding a recount⁸.

1 For the meaning of 'candidate' generally see PARA 237 ante. As to elections for the return of a local authority mayor see PARA 205 ante; and as to elections for the return of London Mayor see PARA 206 et seq ante. As to elections in the City of London see PARA 30 ante.

2 As to the appointment of election agents for Authority elections see PARA 238 et seq ante.

3 Ie authorised under the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 26(2A) (as added) (see PARA 399 ante). As to the appointment of counting agents by a candidate, and as to the effect of their non-attendance, see PARA 399 ante.

4 As to the count generally see PARA 450 et seq ante. As to use of the terms 'first count' and 'local count' for these purposes see PARA 450 note 2 ante.

5 As to returning officers for local government elections (including London Authority elections and local authority mayoral elections) see PARA 359 et seq ante. In the case of a London mayoral election, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which in relation to a London Authority election see PARA 218 note 8 ante).

6 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 44(1) (amended by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 44(1).

7 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 44(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 44(1).

8 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 44(2) (amended by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 44(2).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

455 Recount at elections of a local authority mayor or London Mayor

NOTES 6-8--SI 2002/185 reg 3(1), Sch 1 r 44 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 50.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/ (C) Counting at Elections of a Local Authority Mayor or London Mayor/456. Procedure at conclusion of first count at a local authority mayoral election.

456. Procedure at conclusion of first count at a local authority mayoral election.

As soon as practicable after the conclusion of the first count at a local authority mayoral election¹ (including any recount)², the returning officer³ must draw up a statement showing: (1) the total number of ballot papers used⁴; (2) the total number of rejected ballot papers⁵; and (3) at an election contested by more than two candidates, the number of first preference votes given to each candidate⁶ and the total number of first preference votes given⁷ or, at an election contested by only two candidates, the number of votes given for each candidate⁸. As soon as practicable after completion of the statement, the returning officer must inform such of the candidates⁹ and their election agents¹⁰ as are then present of its contents and the contents of the statement previously prepared showing the number of ballot papers rejected under the various heads¹¹, and he must give public notice of the contents of those statements¹².

Where an election is contested by only two candidates¹³ and the total number of votes given for each of them is unequal¹⁴, the person to be returned as the elected mayor is the candidate to whom the majority of the votes is given¹⁵. However, where an election is contested by only two candidates¹⁶ and the total number of votes given for each of them is equal¹⁷, the returning officer must decide by lot which of them is to be returned as the elected mayor¹⁸. In either such case, the declaration of the person to be returned as the elected mayor must then be made¹⁹.

Where an election is contested by more than two candidates, the returning officer must, if a candidate has an overall majority of first preference votes²⁰, make the required declaration of the result²¹. However, if no candidate has an overall majority of first preference votes²², the returning officer must count the second preference votes at the time and place previously notified²³.

1 As to elections for the return of a local authority mayor see PARA 205 ante. As to use of the term 'first count' see PARA 450 note 2 ante.

2 As to recounts at elections for the return of a local authority mayor see PARA 455 ante.

3 As to returning officers for local government elections (including local authority mayoral elections) see PARA 359 et seq ante.

4 Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 45(1)(a).

5 Ibid Sch 1 r 45(1)(b). As to the rejection of ballot papers at the election of a local authority mayor see PARA 453 ante.

6 Ibid Sch 1 r 45(1)(c)(i).

7 Ibid Sch 1 r 45(1)(c)(ii).

8 Ibid Sch 1 r 45(1)(d).

9 For the meaning of 'candidate' generally see PARA 237 ante.

10 As to the appointment of election agents at local authority mayoral elections see PARA 238 et seq ante.

11 Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 45(2) (a). The text refers to the contents of the statement prepared in accordance with Sch 1 r 42(5) (see PARA 453 ante).

12 Ibid Sch 1 r 45(2)(b).

13 Ibid Sch 1 r 45(4)(a).

14 Ibid Sch 1 r 45(4)(b).

15 Ibid Sch 1 r 45(4).

16 Ibid Sch 1 r 45(5)(a).

17 Ibid Sch 1 r 45(5)(b).

18 Ibid Sch 1 r 45(5).

19 Ibid Sch 1 r 45(6). The text refers to the declaration required by Sch 1 r 48 (see PARA 485 post).

20 Ie if the Local Government Act 2000 s 42(3), Sch 2 para 2 applies (see PARA 346 ante).

21 Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 45(3) (a). The text refers to the declaration required by Sch 1 r 48(1) (see PARA 485 post).

22 Ie if the Local Government Act 2000 Sch 2 para 3 applies (see PARA 346 ante).

23 Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 45(3) (b). The text refers to counting the second preference votes at the time and place notified in accordance with Sch 1 r 40(1)(b) (see PARA 450 ante). As to the counting of second preference votes at the election of a local authority mayor see PARA 458 post.

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

456 Procedure at conclusion of first count at a local authority mayoral election

NOTES--SI 2002/185 reg 3(1), Sch 1 r 45 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 51.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/ (C) Counting at Elections of a Local Authority Mayor or London Mayor/457. Procedure at conclusion of local count at a London mayoral election.

457. Procedure at conclusion of local count at a London mayoral election.

As soon as practicable after the conclusion of the local count at a London mayoral election¹ (including any recount)², the constituency returning officer³ must draw up a statement showing: (1) the total number of ballot papers used⁴; (2) the total number of rejected ballot papers⁵; and (3) at an election contested by more than two candidates, the number of first preference votes given for each candidate⁶ and the total number of first preference votes given⁷ or, at an election contested by only two candidates, the number of votes given for each candidate⁸. As soon as practicable after completion of the statement, the constituency returning officer must inform the Greater London returning officer ('GLRO')⁹ of its contents¹⁰ and, as soon as practicable after the GLRO has authorised him to do so, the constituency returning officer must inform such of the candidates¹¹ and their election agents¹² as are then present of its contents and the contents of the statements previously prepared showing the number of ballot papers rejected under the various heads¹³ and give public notice of the contents of those statements¹⁴.

The GLRO must make arrangements for making the central calculation in the presence of the election agents and he must give to those agents notice in writing of the time and place at which he will begin the calculation¹⁵. No person other than the GLRO and his clerks¹⁶, the candidates¹⁷, the election agents¹⁸, any person authorised by the Electoral Commission to attend at the counting of the votes as a representative of the Commission¹⁹ and, at an ordinary election, the nominating officers permitted to be present at the allocation of seats for London members of the Assembly²⁰, may be present at a calculation, unless permitted to do so by the GLRO²¹. A person not entitled to attend a calculation may not be permitted to do so by the GLRO unless he is satisfied that the efficiency of the calculation will not be impeded²² and he has either consulted the election agents or thought it impracticable to do so²³.

As soon as the GLRO has received from every constituency returning officer the required statements containing the information regarding the totals of ballot papers used and rejected and the number of votes given to each candidate²⁴, he must, in relation to an election contested by more than two candidates, ascertain the total of the first preference votes given in the Assembly constituencies to each candidate²⁵ and, in relation to an election contested by only two candidates, ascertain the total number of votes given in the Assembly constituencies to each candidate²⁶. As soon as the GLRO has ascertained the result of the calculation, he must inform such of the election agents as are then present of the relevant figures²⁷ and must give them a reasonable opportunity to satisfy themselves as to the accuracy of the calculation²⁸.

Where an election is contested by only two candidates and the total number of votes given for each of them is unequal, the person to be returned as the Mayor of London is the candidate to whom the majority of the votes is given²⁹. However, where an election is contested by only two candidates and the total number of votes given for each of them is equal, the person to be returned as the Mayor is the person whom the GLRO decides by lot³⁰ is to be returned as the Mayor³¹. In either such case, the declaration of the person to be returned as the Mayor then must be made³².

Where an election is contested by more than two candidates, the GLRO must, if a candidate has an overall majority of first preference votes³³, make the required declaration of the result³⁴. However, if no candidate has an overall majority of first preference votes³⁵, the GLRO must direct every constituency returning officer at the election to ascertain the number of second

preference votes given in the election for each of the remaining candidates by voters who did not give their first preference vote to any of those candidates³⁶.

1 As to elections for the return of London Mayor see PARA 206 et seq ante. As to use of the term 'local count' see PARA 450 note 2 ante.

2 As to recounts at elections for the return of London Mayor see PARA 455 ante.

3 For the meaning of 'constituency returning officer' in relation to a London Authority election see PARA 218 note 8 ante.

4 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 45(1)(a).

5 Ibid Sch 3 r 45(1)(b). As to the rejection of ballot papers at the election of a London Mayor see PARA 453 ante.

6 Ibid Sch 3 r 45(1)(c)(i).

7 Ibid Sch 3 r 45(1)(c)(ii).

8 Ibid Sch 3 r 45(1)(d).

9 For the meaning of 'Greater London returning officer' see PARA 218 note 7 ante.

10 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 45(2).

11 For the meaning of 'candidate' generally see PARA 237 ante.

12 As to the appointment of election agents at London mayoral elections see PARA 238 et seq ante.

13 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 45(3)(a). The text refers to the contents of the statements prepared in accordance with Sch 3 r 42 (as amended) (see PARA 453 ante).

14 Ibid Sch 3 r 45(3)(b).

15 Ibid Sch 3 r 46(1).

16 Ibid Sch 3 r 46(2)(a).

17 Ibid Sch 3 r 46(2)(b).

18 Ibid Sch 3 r 46(2)(c) (amended by SI 2004/227).

19 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 46(2)(d) (added by SI 2004/227). As to the Electoral Commission see PARA 31 et seq ante; and as to authorised representatives of the Electoral Commission attending electoral proceedings see PARA 48 ante.

20 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 46(2)(e) (renumbered by SI 2004/227). As to the allocation of seats for London members of the Assembly see PARA 449 ante.

21 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 46(2).

22 Ibid Sch 3 r 46(3)(a).

23 Ibid Sch 3 r 46(3)(b).

24 Ie the information required to be given by the constituency returning officer under ibid Sch 3 r 45 (see the text and notes 1-14 supra).

25 Ibid Sch 3 r 47(1)(a).

26 Ibid Sch 3 r 47(1)(b).

27 For these purposes, the 'relevant figures' means: (1) in the case of an election contested by more than two candidates, the number of first preference votes given in each of the Assembly constituencies for each candidate and the calculation undertaken by the GLRO for the purposes of ascertaining whether a candidate is to be returned in accordance with the Greater London Authority Act 1999 s 4, Sch 2 para 3 (candidate with

overall majority of first preference votes: see PARA 346 ante) (Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 47(3)(a)); (2) in the case of an election contested by only two candidates, the number of votes given in each Assembly constituency for each candidate and the total number of votes given for each candidate (Sch 3 r 47(3)(b)). For the meaning of 'Assembly constituency' for the purposes of London Authority elections see PARA 10 note 6 ante.

28 Ibid Sch 3 r 47(2).

29 Ibid Sch 3 r 47(5).

30 Ie in accordance with the Greater London Authority Act 1999 Sch 2 para 4(8) (see PARA 346 ante).

31 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 47(6).

32 Ibid Sch 3 r 47(7). The text refers to the declaration required by Sch 3 r 50 (see PARA 485 post).

33 Ie if the Greater London Authority Act 1999 Sch 2 para 3 applies (see PARA 346 ante).

34 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 47(4)(a). The text refers to the declaration required by Sch 3 r 50(1) (see PARA 485 post).

35 Ie if the Greater London Authority Act 1999 Sch 2 para 4(1) applies (see PARA 346 ante)/

36 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 47(4)(b). The text refers to the count of second preference votes as mentioned in the Greater London Authority Act 1999 Sch 2 para 4(5) (see PARA 346 ante).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/ (C) Counting at Elections of a Local Authority Mayor or London Mayor/458. The count of second preference votes at elections of a local authority mayor or London Mayor.

458. The count of second preference votes at elections of a local authority mayor or London Mayor.

The returning officer at a local authority mayoral election or at a London mayoral election¹ must count the number of second preference votes for each of the candidates remaining in the contest given by voters who did not give their first preference vote to any of those candidates². A ballot paper which is not otherwise void³ and on which not more than one second preference vote is marked is valid as respects that vote and must be counted accordingly if, but only if, a valid first preference vote has also been marked⁴.

The provisions which govern the first count at a local authority mayoral election or the local count at a London mayoral election in respect of: (1) attendance at the count⁵; (2) the restriction on counting tendered ballot papers⁶; (3) counting procedure⁷; (4) the rejection of ballot papers⁸; (5) requesting a recount⁹; and (6) in relation to a London mayoral election only, attendance at the central calculation¹⁰, are applied with modifications in relation to the count of second preference votes¹¹.

The returning officer is not required to re-examine any decision taken on any question arising in respect of a ballot paper¹².

At a London mayoral election, as soon as practicable after the second preference votes have been counted, the constituency returning officer must inform the Greater London returning officer¹³ of the number of second preference votes cast for each of the candidates remaining in the contest¹⁴.

1 As to returning officers for local government elections (including London Authority elections and local authority mayoral elections) see PARA 359 et seq ante. In the case of a London mayoral election, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which in relation to a London Authority election see PARA 218 note 8 ante). As to elections for the return of a local authority mayor see PARA 205 ante; and as to elections for the return of London Mayor see PARA 206 et seq ante. As to elections in the City of London see PARA 30 ante.

2 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 48(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 46(1). In the case of a London mayoral election, the constituency returning officer must count the number of second preference votes as soon as he has received such a direction as is mentioned in the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 47(4)(b) (direction to every constituency returning officer at the election to count the second preference votes given: see PARA 457 ante).

3 As to the rejection of ballot papers at local authority or London mayoral elections see PARA 453 ante.

4 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 48(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 46(2).

5 Ie, in relation to a London mayoral election, the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 40 (as amended) or, in relation to a local authority mayoral election, the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 40(2)-(5) (as amended) (see PARA 450 ante).

6 Ie, in relation to a London mayoral election, the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(5) or, in relation to a local authority mayoral election, the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 41(6) (see PARA 451 ante).

7 le, in relation to a London mayoral election, the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(6), (8), (9) (as amended) or, in relation to a local authority mayoral election, the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 41(7), (9), (10) (see PARA 451 ante).

8 le, in relation to a London mayoral election, the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(1), (2), (4)-(6) (as amended) or, in relation to a local authority mayoral election, the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 42(1), (2), (4), (5) (see PARA 453 ante).

9 le, in relation to a London mayoral election, the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 44(1) (as amended) or, in relation to a local authority mayoral election, the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 44(1) (see PARA 455 ante).

10 le the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 46 (as amended) (see PARA 457 ante).

11 Ibid Sch 3 r 48(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 46(3). The modifications are that: (1) references to first preference votes should be taken as references to second preference votes; and (2) the words 'the votes or, as the case may be' should be omitted, in relation to a London mayoral election, from the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 44(1) (as amended) or, in relation to a local authority mayoral election, from the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 44(1) (see PARA 455 ante): see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 48(3); and the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 46(3).

12 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 48(4); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 46(4). The text refers to any decision taken, in relation to a London mayoral election, under the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 43 or, in relation to a local authority mayoral election, under the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 43 (see PARA 454 ante).

13 For the meaning of 'Greater London returning officer' see PARA 218 note 7 ante.

14 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 48(5).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

458 The count of second preference votes at elections of a local authority mayor or London Mayor

NOTES--SI 2002/185 reg 3(1), Sch 1 rr 40-44, 46 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 rr 31, 46-50, 52.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/ (C) Counting at Elections of a Local Authority Mayor or London Mayor/459. Procedure at conclusion of count of second preference votes at elections of a local authority mayor or London Mayor.

459. Procedure at conclusion of count of second preference votes at elections of a local authority mayor or London Mayor.

The appropriate returning officer at a local authority mayoral election or at a London mayoral election¹ must add the number of second preference votes given in the election for each of the candidates remaining in the contest by voters who did not give their first preference vote to any of those candidates to the number of first preference votes given for that candidate, to give his total number of preference votes (the 'second calculation')².

As soon as practicable after the completion of this operation, the returning officer must provide such of the election agents for those candidates³ who remain in the contest as are then present with a copy of the relevant figures⁴ or, in the case of a local authority mayoral election, the statement of figures⁵ and must give them a reasonable opportunity to satisfy themselves as to the accuracy of the calculation⁶. If, after the second calculation, the total number of votes given for two or more candidates remaining in the contest is equal, the person to be returned as the elected mayor is the person whom the returning officer decides by lot⁷ is to be returned as the elected mayor⁸.

1 As to returning officers for local government elections (including London Authority elections and local authority mayoral elections) see PARA 359 et seq ante. In the case of a London mayoral election, the appropriate returning officer in this context is the Greater London returning officer (for the meaning of which in relation to a London Authority election see PARA 218 note 7 ante). As to elections for the return of a local authority mayor see PARA 205 ante; and as to elections for the return of London Mayor see PARA 206 et seq ante. As to elections in the City of London see PARA 30 ante.

2 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 49(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 47(1).

In the case of a London mayoral election, the text refers to the Greater London returning officer complying with the Greater London Authority Act 1999 s 4, Sch 2 para 4(5), (6) (see PARA 346 ante) as soon as he has received from every constituency returning officer the number of second preference votes cast for each of the candidates remaining in the contest as required by the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 48(5) (see PARA 458 ante).

In the case of a local authority mayoral election, the text refers to the returning officer complying with the Local Government Act 2000 s 42(3), Sch 2 para 3(6) (see PARA 346 ante). For the purposes of a local authority mayoral election, the returning officer must then draw up a statement showing: (1) the total number of first preference votes given for each candidate (Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 47(2)(a)); (2) the total number of second preference votes given for each of the candidates remaining in the contest after the count of the first preference votes (Sch 1 r 47(2)(b)); (3) the total number of votes given for each of those candidates (Sch 1 r 47(2)(c)); and (4) the number of ballot papers that were: (a) valid as respects a first preference vote given for a candidate who did not remain in the contest after the count of the first preference votes (Sch 1 r 47(2)(d)(i)); and (b) rejected for the purposes of the count of second preference votes on the ground that they were unmarked or void for uncertainty as to the second preference vote (Sch 1 r 47(2)(d)(ii)).

For the meaning of 'candidate' generally see PARA 237 ante. As to the rejection of ballot papers at local authority or London mayoral elections see PARA 453 ante.

3 As to the appointment of election agents at local authority or London mayoral elections see PARA 238 et seq ante.

4 For the purposes of a London mayoral election, the 'relevant figures' means the number of second preference votes given in each of the Assembly constituencies for each of the candidates remaining in the contest and the calculation undertaken by the Greater London returning officer for the purpose of ascertaining the total number of first and second preference votes given to each of those candidates: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 49(3).

5 As to the statement of figures referred to in the text see note 2 supra.

6 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 49(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 47(3).

7 le, in relation to a London mayoral election, in accordance with the Greater London Authority Act 1999 Sch 2 para 4(8) and, in relation to a local authority mayoral election, in accordance with the Local Government Act 2000 Sch 2 para 3(8) (see PARA 346 ante).

8 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 49(4); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 47(4).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

459 Procedure at conclusion of count of second preference votes at elections of a local authority mayor or London Mayor

NOTES--SI 2002/185 reg 3(1), Sch 1 r 47 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 53.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/(D) Counting at National Assembly for Wales Constituency and Regional Elections/460. Time of count at a Welsh Assembly election; attendance at count.

(D) COUNTING AT NATIONAL ASSEMBLY FOR WALES CONSTITUENCY AND REGIONAL ELECTIONS

460. Time of count at a Welsh Assembly election; attendance at count.

As soon as practicable after the close of the poll, the constituency returning officer at a Welsh Assembly election¹ must make arrangements for counting the votes in the presence of the counting agents appointed for the purposes of the election². The returning officer must give to the counting agents notice in writing of the time and place at which he will begin to carry out the counting of the votes³. At an ordinary election where there are polls at a regional election and at constituency elections in the Assembly electoral region⁴ for which the regional election is held, the Secretary of State⁵ may direct that the count⁶ in respect of each such election must not begin before such time as is specified in the direction between the hours of nine in the morning and noon on the day following the close of polls for those elections⁷.

No person other than: (1) the constituency returning officer and his clerks⁸; (2) the candidates and their spouses or civil partners⁹; (3) the election agents¹⁰; (4) the counting agents¹¹; and (5) in the case of a regional election, the regional returning officer¹², may be present at the arrangements made for counting the votes¹³ or at the counting of the votes, unless permitted by the constituency returning officer to attend¹⁴. A person not entitled to attend at the arrangements made for counting the votes or at the counting of the votes may not be permitted to do so by the constituency returning officer unless he is satisfied that the efficient counting of the votes will not be impeded and he has either consulted the election agents or thought it impracticable to do so¹⁵. The returning officer must make such arrangements as he thinks fit to ensure that every person attending at the counting of the votes (other than any constable on duty at the counting) has been given a copy in writing of the statutory provisions relating to the requirement of secrecy that apply to such attendance¹⁶.

The constituency returning officer must give the counting agents all such reasonable facilities for overseeing the proceedings, and all such information with respect to them, as he can give them consistently with the orderly conduct of the proceedings and the discharge of his duties in connection with them¹⁷. In particular, where the votes are counted by sorting the ballot papers according to the candidate for whom a vote is given, in the case of a constituency election, or according to the individual candidate¹⁸ or registered political party¹⁹ for which a vote is given, in the case of a regional election, and then counting the number of ballot papers for each such candidate or party, the counting agents are entitled to satisfy themselves that the ballot papers are correctly sorted²⁰.

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for counting the votes²¹.

1 For the meaning of 'Assembly election', in the context of Welsh Assembly elections, see PARA 3 note 1 ante; and for the meaning of 'constituency returning officer' see PARA 18 note 2 ante.

2 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 49(1)(a). As to the appointment of counting agents by a candidate, and as to the effect of their non-attendance, see PARA 399 ante.

3 Ibid Sch 5 para 49(1)(b). The notice referred to in the text must be: (1) of the time and place (or places, if the exercise of the power conferred by Sch 5 para 50(2) (see PARA 461 post) means that there is more than one place) at which the arrangements made for counting the votes under Sch 5 para 50(1) (as amended) (see PARA 461 post) will begin (Sch 5 para 49(1)(b)(i)); (2) in the case where the power conferred by Sch 5 para 50(2) is exercised, of the time and the place at which he will count the votes following completion of the arrangements made for counting the votes under Sch 5 para 50(1) (as amended) (Sch 5 para 49(1)(b)(ii)); and (3) in the case of a direction under Sch 5 para 49(4) (see the text and notes 4-7 infra), of the time and the place at which he will count the votes following completion of the arrangements made for counting the votes under Sch 5 para 50(1) (as amended) (Sch 5 para 49(1)(b)(iii)). A notice under Sch 5 para 49(1)(b) may be combined with another such notice: Sch 5 para 49(1)(b). At a Welsh Assembly regional election, such a notice must also be given to the regional returning officer: Sch 5 para 49(2). At an ordinary Welsh Assembly election, a notice required under Sch 5 para 49(1)(b) in respect of a constituency or a regional election may be combined with such a notice in respect of the other election: Sch 5 para 49(3). As to ordinary Welsh Assembly elections see PARA 12 et seq ante. For the purposes of elections other than ordinary elections, the references in Sch 5 para 49(1) to Sch 5 para 50(1) (as amended) must be construed as references to Sch 5 para 50(13): see Sch 5 para 50(12)(b); and PARA 461 post.

4 For the meaning of 'Assembly electoral region' see PARA 3 note 1 ante.

5 As to the Secretary of State see PARA 2 ante.

6 Ie excluding the arrangements made for counting the votes under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 50(1) (as amended) (see PARA 461 post).

7 Ibid Sch 5 para 49(4). Any such direction must be given not later than 28 days before the date of the ordinary election in question: Sch 5 para 49(5). Where such a direction is given, during the period beginning with the conclusion of the arrangements made for counting the votes under Sch 5 para 50(1) (as amended) (see PARA 461 post) and ending with the time specified in the direction, the constituency returning officer must place the ballot papers and other documents relating to each election under his own seal and the seals of such of the counting agents as desire to affix their seals and otherwise take proper precautions for the security of the papers and documents: Sch 5 para 49(6). As to the computation of time for these purposes see PARA 223 note 1 ante.

8 Ibid Sch 5 para 49(7)(a).

9 Ibid Sch 5 para 49(7)(b) (amended by SI 2005/2114). For the meaning of 'candidate' generally see PARA 237 ante.

10 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 49(7)(c). As to the appointment of election agents at Welsh Assembly elections see PARA 242 et seq ante.

11 Ibid Sch 5 para 49(7)(d). As to the appointment of counting agents by a candidate, and as to the effect of their non-attendance, see PARA 399 ante.

12 Ibid Sch 5 para 49(7)(f). Note that there appears to be no provision numbered Sch 5 para 49(7)(e).

13 Ie the arrangements made for counting the votes under ibid Sch 5 para 50(1) (as amended) (see PARA 461 post). For the purposes of elections other than ordinary elections, the references in Sch 5 para 49(7), (8) (see the text and notes 14-15 infra) must be construed as references to Sch 5 para 50(13): see Sch 5 para 50(12)(b); and PARA 461 post.

14 Ibid Sch 5 para 49(7).

15 Ibid Sch 5 para 49(8). See note 13 supra.

16 See PARAS 390 ante, 742-744 post.

17 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 49(9).

18 For the meaning of 'individual candidate', in the context of a Welsh Assembly regional election, see PARA 237 note 23 ante.

19 For the meaning of 'registered political party', in the context of a Welsh Assembly regional election, see PARA 237 note 23 ante.

20 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 49(10).

21 As to polls at elections or referendums which are taken together see PARA 16 et seq ante.

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/(D) Counting at National Assembly for Wales Constituency and Regional Elections/461. The count at a Welsh Assembly election.

461. The count at a Welsh Assembly election.

Where voters¹ have been entitled at an ordinary Welsh Assembly election² to give two votes in an Assembly constituency³, the constituency returning officer must⁴: (1) in the presence of the counting agents appointed for the purposes of each election open each ballot box and count and record separately the number of ballot papers in those boxes for each election⁵; (2) in the presence of the election agents⁶ appointed for the purposes of each election verify each ballot paper account⁷; (3) count such of the postal ballot papers as have been duly returned and record separately the number counted for each election⁸; and (4) separate the ballot papers relating to the constituency election from those relating to the Assembly regional election⁹. A postal ballot paper must not be taken to be duly returned unless it is returned and the declaration of identity¹⁰, duly signed and authenticated, is also returned, before the close of the poll, by hand to a polling station in the same Assembly constituency or by hand or by post to the constituency returning officer¹¹. Following completion of the proceedings described in heads (1) to (4) above, the constituency returning officer must in respect of the ballot papers relating to each election mix together all the ballot papers used at that election and count the votes given on them¹².

The constituency returning officer must not count any tendered ballot paper¹³. While counting and recording the number of ballot papers and counting the votes, the constituency returning officer must keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers printed on the back of the papers¹⁴. The constituency returning officer must, so far as practicable, proceed continuously with the votes, allowing only time for refreshment, except that he may, in so far as he and the counting agents appointed for the purpose of the election in question agree, exclude the hours between seven in the evening and nine on the following morning¹⁵. For the purposes of this exception the agreement, in the case of a constituency election, of a candidate¹⁶ or his election agent or, in the case of a regional election, an individual candidate or his election agent or the election agent for a group of party list candidates¹⁷, is as effective as the agreement of his counting agents¹⁸. During the time so excluded, the constituency returning officer must: (a) place the ballot papers and other documents relating to the election under his own seal and the seals of such of the counting agents as desire to affix their seals¹⁹; and (b) otherwise take proper precautions for the security of the papers and documents²⁰.

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for counting the votes²¹.

1 le subject to the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 50(6A) (as added) (see PARA 425 ante). For the purposes of the statutory provisions governing elections, a voter is defined as a person voting at an election and includes a person voting as proxy (but not necessarily a person voting by proxy); and, in relation to Welsh Assembly elections, see PARA 124 note 5 ante.

2 For the meaning of 'Assembly election', in the context of Welsh Assembly elections, see PARA 3 note 1 ante. As to ordinary Welsh Assembly elections see PARA 220 et seq ante.

3 le a constituency vote and an electoral region vote: see PARA 369 ante. For the meanings of 'Assembly constituency', 'Assembly constituency election', 'Assembly electoral region' and 'Assembly regional election' see PARA 3 note 1 ante.

4 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 50(1) (amended by SI 2006/884). For the meaning of 'constituency returning officer', in the context of Welsh Assembly elections, see PARA 18 note 2 ante. Where the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 50(1) (as amended) does not apply, the constituency returning officer must instead: (1) in the presence of the counting agents open each ballot box and count and record the number of ballot papers in those boxes (Sch 5 para 50(12)(a), (13)(a)); (2) in the presence of the election agents verify each ballot paper account (Sch 5 para 50(12)(a), (13)(b)); and (3) count such of the postal ballot papers as have been duly returned and record the number counted (Sch 5 para 50(12)(a), (13)(c)). Accordingly, the references in Sch 5 para 49(1), (7), (8) (see PARA 460 ante) and in Sch 5 para 50(2), (3) (see note 12 infra) to Sch 5 para 50(1) (as amended) must be construed as references to Sch 5 para 50(13): Sch 5 para 50(12)(b). As to the ballot paper account see PARA 410 ante. As to the appointment of counting agents by a candidate, and as to the effect of their non-attendance, see PARA 399 ante.

5 Ibid Sch 5 para 50(1)(a).

6 As to the appointment of election agents at Welsh Assembly elections see PARA 242 et seq ante.

7 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 50(1)(b). As to verification of the ballot paper account at a Welsh Assembly election see further PARA 462 post.

8 Ibid Sch 5 para 50(1)(c).

9 Ibid Sch 5 para 50(1)(d).

10 As to the declaration of identity see PARA 411 ante.

11 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 50(5). As to the means by which a postal voter may validly return a postal ballot paper or declaration of identity see further PARA 425 ante.

12 Ibid Sch 5 para 50(4). The proceedings described in Sch 5 para 50(1) (as amended) (see the text and notes 1-9 supra) may be undertaken at a different place (or at different places) than a place at which the votes given on ballot papers are counted (Sch 5 para 50(2)); but if the power is so exercised, during the period beginning with the conclusion of the proceedings described in Sch 5 para 50(1) (as amended) and ending with the commencement of proceedings described in Sch 5 para 50(4), the constituency returning officer must place the ballot papers and other documents relating to each election under his own seal and the seals of such of the counting agents as desire to affix their seals, and otherwise take proper precautions for the security of the papers and documents (Sch 5 para 50(3)).

For the purposes of elections other than ordinary elections: (1) the references in Sch 5 para 50(2), (3) to Sch 5 para 50(1) (as amended) must be construed as references to Sch 5 para 50(13) (see Sch 5 para 50(12)(b); and note 4 supra); (2) the reference to 'each election' in Sch 5 para 50(3) must be construed as 'the election' (Sch 5 para 50(12)(c)); (3) instead of Sch 5 para 50(4), the constituency returning officer must, subject to Sch 5 para 50(2), (3), count the votes given on the ballot papers after, in the case of postal ballot papers, they have been mixed with the ballot papers from at least one ballot box, and, in the case of ballot papers from a ballot box, they have been mixed with the ballot papers from at least one other ballot box (Sch 5 para 50(12)(d), (14)); and (4) the reference in Sch 5 para 50(3) to Sch 5 para 50(4) must be construed as a reference to Sch 5 para 50(14) (see Sch 5 para 50(12)(d)).

13 Ibid Sch 5 para 50(7). As to tendered ballot papers see PARA 408 ante. As to adding votes on a scrutiny see PARA 842 post.

14 Ibid Sch 5 para 50(8). As to the number which must be printed on the back of every ballot paper see PARA 392 ante.

15 Ibid Sch 5 para 50(10).

16 For the meaning of 'candidate' generally see PARA 237 ante.

17 For the meaning of references to a group of party list candidates for these purposes see PARA 237 note 23 ante; and for the meaning of 'individual candidate' for these purposes see PARA 237 note 23 ante.

18 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 50(10).

19 Ibid Sch 5 para 50(11)(a).

20 Ibid Sch 5 para 50(11)(b).

21 As to polls at elections or referendums which are taken together see PARA 16 et seq ante.

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/(D) Counting at National Assembly for Wales Constituency and Regional Elections/462. Verification of the ballot paper account at a Welsh Assembly election.

462. Verification of the ballot paper account at a Welsh Assembly election.

The constituency returning officer¹, in order to verify the ballot paper account², must compare each ballot paper account with the number of ballot papers recorded by him³, and the unused and spoilt ballot papers⁴ in his possession and the tendered votes list⁵ (opening and resealing the packets containing the unused and spoilt ballot papers and the tendered votes list)⁶.

He must draw up a statement as to the result of the verification, which any election agent appointed for the purposes of that election may copy⁷. Such a statement must be drawn up in respect of each place in cases where the arrangements for counting are conducted in more than one place which is different from the place at which the votes are counted⁸.

1 For the meaning of 'constituency returning officer', in the context of Welsh Assembly elections, see PARA 18 note 2 ante.

2 As to the requirement for the constituency returning officer to make arrangements, in the presence of the election agents appointed for the purposes of each election, to verify each ballot paper account at a Welsh Assembly election see PARA 461 ante. As to the appointment of election agents at Welsh Assembly elections see PARA 242 et seq ante. As to the ballot paper account see PARA 410 ante.

3 As to the constituency returning officer's duty to record the number of ballot papers counted see PARA 461 ante.

4 As to spoilt ballot papers see PARA 409 ante.

5 As to the tendered votes list see PARA 408 ante.

6 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 50(9).

7 Ibid Sch 5 para 50(9).

8 Ibid Sch 5 para 50(9). The text refers to cases where the power conferred by Sch 5 para 50(2) is exercised in relation to proceedings described in Sch 5 para 50(1) (as amended) in respect of more than one place (see PARA 461 ante).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/(D) Counting at National Assembly for Wales Constituency and Regional Elections/463. Rejected ballot papers at a Welsh Assembly election.

463. Rejected ballot papers at a Welsh Assembly election.

Any ballot paper at a Welsh Assembly election¹ which does not bear the official mark², or on which more than one vote is given³, or on which anything is written or marked by which the voter can be identified except the printed number on the back⁴, or which is unmarked or void for uncertainty⁵, is void and not counted⁶. However, a ballot paper on which a vote is marked elsewhere than in the proper place⁷, or otherwise than by means of a cross⁸, or by more than one mark⁹, is not for such reason void if an intention as to how the vote is to be given clearly appears, and the way the paper is marked does not itself identify the voter and it is not shown that he can be identified by it¹⁰. At a Welsh Assembly regional election¹¹, a ballot paper on which a vote is marked for a particular party list candidate on the party list of a registered political party¹² must, if otherwise valid, be treated as a vote for that party, whether or not there is also a vote marked for that party¹³.

The constituency returning officer¹⁴ must endorse the word 'rejected' on any ballot paper which is not to be counted and must add to the endorsement the words 'rejection objected to' if an objection is made by a counting agent¹⁵ to his decision¹⁶. The constituency returning officer must draw up a statement showing the number of ballot papers rejected under the several heads of: (1) want of official mark¹⁷; (2) giving more than one vote¹⁸; (3) writing or mark by which the voter could be identified¹⁹; (4) unmarked or void for uncertainty²⁰.

1 For the meaning of 'Assembly election', in the context of Welsh Assembly elections, see PARA 3 note 1 ante.

2 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 53(1)(a). As to the official mark see PARA 392 ante.

3 Ibid Sch 5 para 53(1)(b).

4 Ibid Sch 5 para 53(1)(c). As to the number which must be printed on the back of every ballot paper see PARA 392 ante.

5 Ibid Sch 5 para 53(1)(d).

6 Ibid Sch 5 para 53(1). As to scrutiny, which may look at ballot papers and investigate how votes have been recorded, see PARA 837 et seq post.

7 Ibid Sch 5 para 53(2)(a).

8 Ibid Sch 5 para 53(2)(b).

9 Ibid Sch 5 para 53(2)(c).

10 Ibid Sch 5 para 53(2).

11 For the meaning of 'Assembly regional election', in the context of Welsh Assembly elections, see PARA 3 note 1 ante.

12 For the meaning of 'registered political party', in the context of Welsh Assembly elections, see PARA 237 note 23 ante; and for the meaning of references to a group of party list candidates see PARA 237 note 23 ante.

13 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 53(3).

14 For the meaning of 'constituency returning officer', in the context of Welsh Assembly elections, see PARA 18 note 2 ante.

15 As to the discharge of this function by the candidate or (where there is such an agent) his election agent see PARA 399 ante.

16 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 53(4).

17 Ibid Sch 5 para 53(5)(a).

18 Ibid Sch 5 para 53(5)(b).

19 Ibid Sch 5 para 53(5)(c).

20 Ibid Sch 5 para 53(5)(d).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/(D) Counting at National Assembly for Wales Constituency and Regional Elections/464. Conclusiveness of returning officer's decision as to ballot papers at a Welsh Assembly election.

464. Conclusiveness of returning officer's decision as to ballot papers at a Welsh Assembly election.

The decision of the constituency returning officer at a Welsh Assembly election¹ on any question arising in respect of a ballot paper is final, but is subject to review on an election petition².

1 For the meaning of 'Assembly election', in the context of Welsh Assembly elections, see PARA 3 note 1 ante; and for the meaning of 'constituency returning officer' see PARA 18 note 2 ante.

2 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 54. As to the rejection of ballot papers at a Welsh Assembly election see PARA 463 ante; and as to petitions questioning such an election see PARA 762 et seq post.

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/(D) Counting at National Assembly for Wales Constituency and Regional Elections/465. Recount at a Welsh Assembly constituency or regional election.

465. Recount at a Welsh Assembly constituency or regional election.

At a Welsh Assembly constituency election¹, a candidate² or his election agent³ may, if present when the counting or any recount of the votes is completed⁴, require the constituency returning officer⁵ to have the votes recounted or again recounted but the constituency returning officer may refuse to do so if in his opinion the request is unreasonable⁶.

At a Welsh Assembly regional election⁷, and prior to certification of the results to the count⁸: (1) an individual candidate or his election agent⁹; (2) a party list candidate or an election agent for a group of party list candidates¹⁰; or (3) a counting agent for an individual candidate or a group of party list candidates (if duly appointed for the purpose)¹¹, may, if present when the counting or any recount of the votes is completed in a constituency¹², require the constituency returning officer to have the votes recounted or again recounted but the constituency returning officer may refuse to do so if in his opinion the request is unreasonable¹³.

No step may be taken on the completion of the counting or any recount of votes until the candidates and election agents (or, alternatively in the case of a regional election, any counting agents duly appointed) who are present at its completion have been given a reasonable opportunity to exercise the right to request a recount¹⁴.

¹ For the meaning of 'Assembly constituency election', in the context of Welsh Assembly elections, see PARA 3 note 1 ante.

² For the meaning of 'candidate' generally see PARA 237 ante.

³ As to the appointment of election agents at Welsh Assembly elections see PARA 242 et seq ante.

⁴ As to attendance at the counting of votes at a Welsh Assembly election see PARA 460 ante; and as to the count itself see PARA 461 ante.

⁵ For the meaning of 'constituency returning officer', in the context of Welsh Assembly elections, see PARA 18 note 2 ante.

⁶ National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 51(1).

⁷ For the meaning of 'Assembly regional election', in the context of Welsh Assembly elections, see PARA 3 note 1 ante.

⁸ *Ie* under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 56(1) (see PARA 466 post).

⁹ *Ibid* Sch 5 para 52(1)(a). For the meaning of 'individual candidate', in the context of Welsh Assembly elections, see PARA 237 note 23 ante.

¹⁰ *Ibid* Sch 5 para 52(1)(b). For the meaning of references to a group of party list candidates see PARA 237 note 23 ante.

¹¹ *Ibid* Sch 5 para 52(1)(c). As to the terms of appointment by which the right provided for in head (3) in the text may be exercised by a counting agent for an individual candidate or a group of party list candidates see PARA 399 note 5 ante.

12 For the meaning of 'Assembly constituency', in the context of Welsh Assembly elections, see PARA 3 note 1 ante.

13 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 52(1).

14 Ibid Sch 5 paras 51(2), 52(2).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/(D) Counting at National Assembly for Wales Constituency and Regional Elections/466. Procedure at conclusion of count at a Welsh Assembly constituency or regional election.

466. Procedure at conclusion of count at a Welsh Assembly constituency or regional election.

At a Welsh Assembly constituency election¹, where, after the counting of the votes (including any recount) is completed², an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the constituency returning officer³ must forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote⁴.

At the conclusion of the count of ballot papers in an Assembly constituency⁵ at a Welsh Assembly regional election⁶, the constituency returning officer must, in accordance with any directions given by the regional returning officer⁷, certify: (1) the number of ballot papers counted by him and the total number of votes given for each individual candidate or registered political party⁸; and (2) the number of rejected ballot papers under each head shown in the statement of rejected ballot papers⁹, and forthwith convey that information to the regional returning officer¹⁰. Where the regional returning officer has received the information required to be conveyed to him from each constituency returning officer for an Assembly constituency in the Assembly electoral region¹¹, he must certify the totals of the numbers referred to in heads (1) and (2) above for the electoral region¹². A constituency returning officer, after he has conveyed to the regional returning officer the information required to be conveyed under heads (1) and (2) above, may give public notice of the information so conveyed (in such manner as he considers appropriate)¹³ unless the regional returning officer directs that the constituency returning officer may only give such notice after the regional returning officer has given the notice that he is required to give in declaring the results at a regional election¹⁴.

1 For the meaning of 'Assembly constituency election', in the context of Welsh Assembly elections, see PARA 3 note 1 ante.

2 As to the counting of votes at a Welsh Assembly election see PARA 461 et seq ante.

3 For the meaning of 'constituency returning officer', in the context of Welsh Assembly elections, see PARA 18 note 2 ante.

4 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 55.

5 For the meaning of 'Assembly constituency', in the context of Welsh Assembly elections, see PARA 3 note 1 ante.

6 For the meaning of 'Assembly regional election', in the context of Welsh Assembly elections, see PARA 3 note 1 ante.

7 For the meaning of 'regional returning officer' see PARA 18 note 2 ante.

8 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 56(1)(a). For the meanings of 'individual candidate' and 'registered political party', in the context of a Welsh Assembly regional election, see PARA 237 note 23 ante.

9 Ibid Sch 5 para 56(1)(b). As to the statement of rejected ballot papers at a Welsh Assembly election see PARA 463 ante.

10 Ibid Sch 5 para 56(1).

11 For the meaning of 'Assembly electoral region', in the context of Welsh Assembly elections, see PARA 3 note 1 ante.

12 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 56(2).

13 Ibid Sch 5 para 56(3).

14 Ibid Sch 5 para 56(4). The text refers to the public notice that the regional returning officer is required to give under Sch 5 para 59(1)(d) (see PARA 488 post).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/(D) Counting at National Assembly for Wales Constituency and Regional Elections/467. Ascertainment of results at a contested Welsh Assembly regional election.

467. Ascertainment of results at a contested Welsh Assembly regional election.

At a contested Welsh Assembly regional election¹, the regional returning officer² must make arrangements for ascertaining the results of the poll³ as soon as practicable after he has given the certification of the results of the count⁴ and received the notification of the successful constituency candidate⁵ from each constituency returning officer⁶ for an Assembly constituency⁷ in the Assembly electoral region⁸. At a contested regional election, the regional returning officer must also give notice in writing to the election agents⁹, and to each constituency returning officer for an Assembly constituency in the Assembly electoral region for which the election is held, of the place at which he will begin to ascertain the results of the poll (together with such other information as he considers appropriate)¹⁰.

No person other than: (1) the regional returning officer and his clerks¹¹; (2) the candidates¹²; (3) the election agents¹³; or (4) the constituency returning officer for any Assembly constituency in the Assembly electoral region for which the election is held¹⁴, may be present at the ascertainment of results, unless permitted by the regional returning officer to attend¹⁵. A person not entitled to attend at the proceedings may not be permitted to do so by the regional returning officer unless that officer is satisfied that the efficient counting of the votes will not be impeded and he has either consulted the election agents or thought it impracticable to do so¹⁶. The regional returning officer must give the election agents all such reasonable facilities for overseeing the proceedings, and all such information with respect to them, as he can give them consistently with the orderly conduct of the proceedings and the discharge of his duties in connection with them¹⁷.

The regional returning officer must provisionally ascertain the results of the poll and notify that provisional ascertainment to such of the following persons as are present, namely an individual candidate or his election agent¹⁸, and the election agent for a group of party list candidates¹⁹ or (in his absence) one of those candidates²⁰. Where such notification has been given to any person, he may require the regional returning officer to provisionally ascertain those results again but the regional returning officer may refuse to do so if in his opinion the request is unreasonable²¹. Subject to these provisions²², the regional returning officer must be treated as having ascertained the results of the poll following a provisional ascertainment if there is no further provisional ascertainment, after the first one²³ or, if there is more than one provisional ascertainment, after the final one²⁴. If, in ascertaining the results of the poll the regional returning officer draws lots²⁵, he must proceed as if the individual candidate or registered political party on whom the lot falls had received an additional vote²⁶.

1 For the meaning of 'Assembly regional election', in the context of Welsh Assembly elections, see PARA 3 note 1 ante.

2 For the meaning of 'regional returning officer' see PARA 18 note 2 ante.

3 Ie in accordance with the Government of Wales Act 2006 ss 8, 9 (see PARA 345 ante).

4 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 58(1)(a). The text refers to the certification required by Sch 5 para 56(2) (see PARA 466 ante).

5 Ie the notification required by ibid Sch 5 para 57(3) (see PARA 487 post).

6 For the meaning of 'constituency returning officer', in the context of Welsh Assembly elections, see PARA 18 note 2 ante.

7 For the meaning of 'Assembly constituency', in the context of Welsh Assembly elections, see PARA 3 note 1 ante.

8 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 58(1)(b). For the meaning of 'Assembly regional election', in the context of Welsh Assembly elections, see PARA 3 note 1 ante.

9 As to the appointment of election agents at Welsh Assembly elections see PARA 242 et seq ante.

10 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 58(2).

11 Ibid Sch 5 para 58(3)(a).

12 Ibid Sch 5 para 58(3)(b).

13 Ibid Sch 5 para 58(3)(c).

14 Ibid Sch 5 para 58(3)(d).

15 Ibid Sch 5 para 58(3).

16 Ibid Sch 5 para 58(4).

17 Ibid Sch 5 para 58(5).

18 Ibid Sch 5 para 58(6)(a). For the meaning of 'individual candidate', in the context of a Welsh Assembly regional election, see PARA 237 note 23 ante.

19 For the meaning of references to a group of party list candidates see PARA 237 note 23 ante.

20 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 58(6)(b).

21 Ibid Sch 5 para 58(7). Where the regional returning officer has provisionally ascertained the results again under Sch 5 para 58(7), the provisions of Sch 5 para 58(6) (see the text and notes 18-20 supra) and Sch 5 para 58(7), (8) apply to the further provisional ascertainment: Sch 5 para 58(8).

22 Ie ibid Sch 5 para 58(6)-(8) (see the text and notes 18-21 supra).

23 Ibid Sch 5 para 58(10)(a).

24 Ibid Sch 5 para 58(10)(b).

25 Ie in the circumstances referred to in the Government of Wales Act 2006 s 9(9) (see PARA 345 ante).

26 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 58(9).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/ (E) Counting at European Parliamentary Elections/468. Attendance at verification of ballot paper accounts at a European parliamentary election.

(E) COUNTING AT EUROPEAN PARLIAMENTARY ELECTIONS

468. Attendance at verification of ballot paper accounts at a European parliamentary election.

As soon as practicable after the close of the poll, the local returning officer at a European parliamentary election¹ must make arrangements for the verification of the ballot paper accounts² in the presence of the counting agents³; and he must give to the returning officer⁴ and the counting agents notice in writing of the time and place at which he will begin such verification⁵.

No person other than: (1) the returning officer, the local returning officer and his clerks⁶; (2) the candidates and their spouses or civil partners⁷; (3) the election agents⁸; (4) the counting agents⁹; and (5) representatives of the Electoral Commission¹⁰, may attend the verification of the ballot paper accounts, unless permitted by the local returning officer to attend¹¹. A person not entitled to attend at the verification of the ballot paper accounts may not be permitted to do so by the local returning officer unless he is satisfied that the efficient verification of the ballot paper accounts will not be impeded¹². The local returning officer must make such arrangements as he thinks fit to ensure that every person attending at the verification of the ballot paper accounts (other than any constable on duty at the counting) has been given a copy in writing of the statutory provisions relating to the requirement of secrecy that apply to such attendance¹³.

The local returning officer must give the counting agents all such reasonable facilities for observing the proceedings, and all such information with respect to them, as he can give them consistent with the orderly conduct of the proceedings and the discharge of his duties in connection with them¹⁴.

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for the verification of the ballot paper accounts¹⁵.

1 As to European parliamentary elections see PARA 224 et seq ante; and as to local returning officers appointed for the purposes of elections to the European Parliament see PARA 365 ante.

2 As to the ballot paper account see PARA 410 ante.

3 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 45(1). As to the appointment of counting agents by a candidate, and as to the effect of their non-attendance, see PARA 399 ante.

4 As to returning officers appointed for the purposes of elections to the European Parliament see PARA 365 ante.

5 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 45(1).

6 Ibid Sch 1 para 45(2)(a).

7 Ibid Sch 1 para 45(2)(b)(i) (amended by SI 2005/2214).

8 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 45(2)(c). As to the appointment of election agents at a European parliamentary election see PARA 246 et seq ante.

- 9 Ibid Sch 1 para 45(2)(d).
- 10 Ibid Sch 1 para 45(2)(e). As to the Electoral Commission see PARA 31 et seq ante; and as to authorised representatives of the Electoral Commission attending electoral proceedings see PARA 48 ante.
- 11 Ibid Sch 1 para 45(2).
- 12 Ibid Sch 1 para 45(2).
- 13 See PARAS 390 ante, 742-744 post.
- 14 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 45(3).
- 15 As to polls at elections or referendums which are taken together see PARA 16 et seq ante.

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

468-477 Attendance at verification of ballot paper accounts at a European parliamentary election ... The procedure at uncontested elections

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/ (E) Counting at European Parliamentary Elections/469. The verification of ballot paper accounts at a European parliamentary election.

469. The verification of ballot paper accounts at a European parliamentary election.

The local returning officer at a European parliamentary election¹ must, in the presence of the counting agents²: (1) open each ballot box and count and record the number of ballot papers in it and verify each ballot paper account³; and (2) count such of the postal ballot papers as have been duly returned and record the number counted⁴. A postal ballot paper must not be deemed to be duly returned unless it is returned in the manner prescribed⁵ so as to reach the local returning officer or any polling station in the local counting area⁶ in question before the close of the poll and the declaration of identity⁷ duly signed and authenticated is also returned in that manner before that time⁸.

While counting and recording the number of ballot papers, the local returning officer must keep the ballot papers with their faces downwards⁹; and he must not count any tendered ballot paper¹⁰. The local returning officer must verify each ballot paper account by comparing it with the number of ballot papers recorded by him¹¹, the unused and spoilt ballot papers¹² in his possession and the tendered votes list¹³ (opening and resealing the packets containing the unused and spoilt ballot papers and the tendered votes list) and he must draw up a statement as to the result of the verification, which any counting agent may copy¹⁴. The hours during which this procedure is to be carried out are to be determined by the local returning officer¹⁵, who must take proper precautions for the security of the ballot papers and documents¹⁶. On completion of the procedure, he must: (a) place the ballot papers and other documents relating to the election in packets under his own seal and the seals of such counting agents as desire to affix their seals (unless he proceeds immediately to the counting of the votes)¹⁷; (b) otherwise take proper precautions for the security of the papers and documents¹⁸; and (c) inform the returning officer of the total number of ballot papers counted¹⁹.

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for the verification of the ballot paper accounts²⁰.

1 As to European parliamentary elections see PARA 224 et seq ante; and as to local returning officers appointed for the purposes of elections to the European Parliament see PARA 365 ante.

2 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 46(1). As to the appointment of counting agents by a candidate, and as to the effect of their non-attendance, see PARA 399 ante.

3 Ibid Sch 1 para 46(1)(a). As to the ballot paper account see PARA 410 ante.

4 Ibid Sch 1 para 46(1)(b).

5 For these purposes, the manner in which a postal ballot paper (or declaration of identity) may be returned to a polling station is by hand (ibid reg 10, Sch 2 para 41(1)); and the manner in which such a paper (or declaration) may be returned to the returning officer is by post or by hand (Sch 2 para 41(2)). As to the means by which a postal voter may validly return a postal ballot paper or declaration of identity see further PARA 425 ante.

6 For the meaning of 'local counting area' see PARA 230 note 11 ante.

7 As to the declaration of identity see PARA 411 ante.

8 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 46(2). See note 5 supra.

- 9 Ibid Sch 1 para 46(4).
- 10 Ibid Sch 1 para 46(3). As to tendered ballot papers see PARA 408 ante. As to adding votes on a scrutiny see PARA 842 post.
- 11 As to the local returning officer's duty to record the number of ballot papers counted see head (1) in the text.
- 12 As to spoilt ballot papers see PARA 409 ante.
- 13 As to the tendered votes list see PARA 408 ante.
- 14 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 46(5).
- 15 Ibid Sch 1 para 46(6).
- 16 Ibid Sch 1 para 46(7).
- 17 Ibid Sch 1 para 46(8)(a). The text refers to the provision for verification to take place at the same time as the counting of votes under Sch 1 para 48 (see PARA 471 post).
- 18 Ibid Sch 1 para 46(8)(b).
- 19 Ibid Sch 1 para 46(8)(c).
- 20 As to polls at elections or referendums which are taken together see PARA 16 et seq ante.

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

468-477 Attendance at verification of ballot paper accounts at a European parliamentary election ... The procedure at uncontested elections

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

469 The verification of ballot paper accounts at a European parliamentary election

NOTE 5--SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2009/293 Sch 2 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/ (E) Counting at European Parliamentary Elections/470. Attendance at counting of votes at a European parliamentary election.

470. Attendance at counting of votes at a European parliamentary election.

The local returning officer at a European parliamentary election¹ must make arrangements for counting the votes in the presence of the counting agents²: (1) in the case of a general election of members of the European Parliament ('MEPs')³, before or after the material time⁴ (and in either case so that the requirement to notify the returning officer of the local result⁵ is satisfied as soon as practicable after the material time)⁶; and (2) in the case of a by-election⁷, as soon as practicable after the close of the poll⁸. He must give to the counting agents and the returning officer notice in writing of the time and place at which he will begin to count the votes⁹.

No person other than: (a) the returning officer, the local returning officer and his clerks¹⁰; (b) the candidates and their spouses or civil partners¹¹; (c) the election agents¹²; (d) the counting agents¹³; and (e) representatives of the Electoral Commission¹⁴, may be present at the counting of the votes, unless permitted by the local returning officer to attend¹⁵. A person not entitled to attend at the counting of the votes may not be permitted to do so by the local returning officer unless he is satisfied that the efficient counting of the votes will not be impeded and he has either consulted the election agents or thought it impracticable to do so¹⁶. The local returning officer must make such arrangements as he thinks fit to ensure that every person attending at the counting of the votes (other than any constable on duty at the counting) has been given a copy in writing of the statutory provisions relating to the requirement of secrecy that apply to such attendance¹⁷.

The local returning officer must give the counting agents all such reasonable facilities for overseeing the proceedings, and all such information with respect to them, as he can give them consistently with the orderly conduct of the proceedings and the discharge of his duties in connection with them¹⁸. In particular, where the votes are counted by sorting the ballot papers according to the registered party¹⁹ or individual candidate²⁰ for whom the vote is given and then counting the number of ballot papers for each registered party or individual candidate, the counting agents are entitled to satisfy themselves that the ballot papers are correctly sorted²¹.

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for the counting of votes at the European parliamentary election²².

1 As to European parliamentary elections generally see PARA 224 et seq ante; and as to local returning officers appointed for the purposes of elections to the European Parliament see PARA 365 ante.

2 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 47(1). As to the appointment of counting agents by a candidate, and as to the effect of their non-attendance, see PARA 399 ante.

3 As to European parliamentary general elections see PARA 224 ante.

4 For these purposes, the 'material time' means, in relation to a general election of MEPs, the close of the polling in the member state whose electors are the last to vote in the election: European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 47(1).

5 Ie under ibid Sch 1 para 52(1) (see PARA 475 post). As to returning officers appointed for the purposes of elections to the European Parliament see PARA 365 ante.

6 Ibid Sch 1 para 47(1)(a). If the amendments made to the Act concerning the election of the representatives of the European Parliament by direct universal suffrage (OJ L278, 8.10.76, p 5) (the '1976 Act') (amended and renumbered by EC and Euratom Decision 2002/772 (OJ L283, 21.10.2002, p 1); and annexed to ECSC, EEC, and Euratom Decision 76/787 (OJ L278, 8.10.76, p 1)) (as to which see PARA 6 ante) have not entered into force by the close of the poll, the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 45(1)(a) has effect as if the words 'before or' and 'in either case' were omitted: Sch 1 para 47(6).

7 As to European by-elections and the filling of vacancies see PARA 225 ante.

8 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 47(1)(b).

9 Ibid Sch 1 para 47(1).

10 Ibid Sch 1 para 47(2)(a).

11 Ibid Sch 1 para 47(2)(b)(i) (amended by SI 2005/2214). For the meaning of 'candidate' generally see PARA 237 ante.

12 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 47(2)(c). As to the appointment of election agents at a European parliamentary election see PARA 246 et seq ante.

13 Ibid Sch 1 para 47(2)(d).

14 Ibid Sch 1 para 47(2)(e). As to the Electoral Commission see PARA 31 et seq ante; and as to authorised representatives of the Electoral Commission attending electoral proceedings see PARA 48 ante.

15 Ibid Sch 1 para 47(2).

16 Ibid Sch 1 para 47(3).

17 See PARAS 390 ante, 742-744 post.

18 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 47(4).

19 For the meaning of 'registered party', in the context of a European parliamentary election, see PARA 237 note 30 ante.

20 For the meaning of 'individual candidate', in the context of a European parliamentary election, see PARA 237 note 32 ante.

21 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 47(5).

22 As to polls at elections or referendums which are taken together see PARA 16 et seq ante.

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

468-477 Attendance at verification of ballot paper accounts at a European parliamentary election ... The procedure at uncontested elections

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

470 Attendance at counting of votes at a European parliamentary election

NOTE 6--As from 24 July 2002, by virtue of art 97, the ECSC Treaty has now expired.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/ (E) Counting at European Parliamentary Elections/471. The count at a European parliamentary election.

471. The count at a European parliamentary election.

The local returning officer at a European parliamentary election¹ must, where the ballot papers and other documents have been placed in packets following completion of the procedure to verify the ballot paper accounts², open the packets of ballot papers other than unused, spoilt³ and tendered ballot papers⁴ and, in any case, mix together all of the ballot papers other than unused, spoilt and tendered ballot papers⁵.

While counting the votes, the local returning officer must keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers printed on the back of the papers⁶. He must not count any tendered ballot paper⁷. The local returning officer must so far as practicable proceed continuously with counting the votes, allowing only time for refreshment, except that he may, in so far as he and the counting agents⁸ agree, exclude the hours between seven in the evening and nine on the following morning⁹. For the purposes of this exception the agreement of an individual candidate¹⁰ or the election agent of a registered party¹¹ is as effective as the agreement of the counting agents of that counting agent or party¹². During the time so excluded the local returning officer must: (1) place the ballot papers and other documents relating to the election under his own seal and the seals of such of the counting agents as desire to affix their seals¹³; and (2) otherwise take proper precautions for the security of the papers and documents¹⁴.

In the case of a general election of members of the European Parliament ('MEPs')¹⁵, if the counting of the votes has commenced before the close of the polling in the member state whose electors are the last to vote in the election¹⁶, the local returning officer or his clerks must not disclose the number of votes given for each registered party and individual candidate to anyone other than the returning officer or his clerks until after that time, and the counting of the votes is deemed not to have been completed until after that time¹⁷.

1 As to European parliamentary elections see PARA 224 et seq ante; and as to local returning officers appointed for the purposes of elections to the European Parliament see PARA 365 ante.

2 Ie under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 46(8) (see PARA 469 ante).

3 As to spoilt ballot papers see PARA 409 ante.

4 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 48(1)(a). As to tendered ballot papers see PARA 408 ante.

5 Ibid Sch 1 para 48(1)(b).

6 Ibid Sch 1 para 48(3). As to the number which must be printed on the back of every ballot paper see PARA 392 ante.

7 Ibid Sch 1 para 48(2). As to scrutiny, which may look at ballot papers and investigate how votes have been recorded, see PARA 837 et seq post.

8 As to the appointment of counting agents by a candidate, and as to the effect of their non-attendance, see PARA 399 ante.

9 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 48(4).

10 For the meaning of 'individual candidate', in the context of a European parliamentary election, see PARA 237 note 32 ante.

11 For the meaning of 'registered party', in the context of a European parliamentary election, see PARA 237 note 30 ante. As to the appointment of election agents at a European parliamentary election see PARA 246 et seq ante.

12 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 48(4).

13 Ibid Sch 1 para 48(5)(a).

14 Ibid Sch 1 para 48(5)(b).

15 As to European parliamentary general elections see PARA 224 ante.

16 Is the 'material time' for the purposes of the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 47(1) (see PARA 470 note 4 ante).

17 Ibid Sch 1 para 48(6).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

468-477 Attendance at verification of ballot paper accounts at a European parliamentary election ... The procedure at uncontested elections

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/ (E) Counting at European Parliamentary Elections/472. Rejected ballot papers at a European parliamentary election.

472. Rejected ballot papers at a European parliamentary election.

Any ballot paper at a European parliamentary election¹ which does not bear the official mark², or on which votes are given for more than one registered party³ or individual candidate⁴ or for a registered party and an individual candidate⁵, or on which anything is written or marked by which the voter can be identified except the printed number on the back⁶, or which is unmarked or void for uncertainty⁷, is void and not counted⁸. However, a ballot paper on which a vote is marked elsewhere than in the proper place⁹, or otherwise than by means of a cross¹⁰, or by more than one mark¹¹, is not for such reason deemed to be void if an intention that the vote is to be for one or other of the registered parties or individual candidates clearly appears, and the way the paper is marked does not itself identify the voter and it is not shown that he can be identified by it¹². A ballot paper on which a vote is marked for a particular candidate on a party's list of candidates must, if otherwise valid, be treated as a vote for that party, whether or not there is also a vote for that party¹³.

The local returning officer¹⁴ must endorse the word 'rejected' on any ballot paper which is not to be counted and must add to the endorsement the words 'rejection objected to' if an objection is made by a counting agent¹⁵ to his decision¹⁶. The local returning officer must draw up a statement showing the number of ballot papers rejected under the several heads of: (1) want of official mark¹⁷; (2) voting for more than one registered party or candidate¹⁸; (3) writing or mark by which the voter could be identified¹⁹; (4) unmarked or void for uncertainty²⁰.

1 As to European parliamentary elections see PARA 224 et seq ante.

2 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 50(1)(a). As to the official mark see PARA 392 ante.

3 For the meaning of 'registered party', in the context of a European parliamentary election, see PARA 237 note 30 ante.

4 For the meaning of 'individual candidate', in the context of a European parliamentary election, see PARA 237 note 32 ante.

5 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 50(1)(b).

6 Ibid Sch 1 para 50(1)(c). As to the number which must be printed on the back of every ballot paper see PARA 392 ante.

7 Ibid Sch 1 para 50(1)(d).

8 Ibid Sch 1 para 50(1). As to scrutiny, which may look at ballot papers and investigate how votes have been recorded, see PARA 837 et seq post.

9 Ibid Sch 1 para 50(2)(a).

10 Ibid Sch 1 para 50(2)(b).

11 Ibid Sch 1 para 50(2)(c).

12 Ibid Sch 1 para 50(2).

13 Ibid Sch 1 para 50(3).

14 As to local returning officers appointed for the purposes of elections to the European Parliament see PARA 365 ante.

15 As to the discharge of this function by the candidate or (where there is such an agent) his election agent see PARA 399 ante.

16 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 50(4).

17 Ibid Sch 1 para 50(5)(a).

18 Ibid Sch 1 para 50(5)(b).

19 Ibid Sch 1 para 50(5)(c).

20 Ibid Sch 1 para 50(5)(d).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

468-477 Attendance at verification of ballot paper accounts at a European parliamentary election ... The procedure at uncontested elections

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/ (E) Counting at European Parliamentary Elections/473. Conclusiveness of returning officer's decision as to ballot papers at a European parliamentary election.

473. Conclusiveness of returning officer's decision as to ballot papers at a European parliamentary election.

The decision of the local returning officer at a European parliamentary election¹ on any question arising in respect of a ballot paper is final, but is subject to review on an election petition².

1 As to European parliamentary elections see PARA 224 et seq ante; and as to local returning officers appointed for the purposes of elections to the European Parliament see PARA 365 ante.

2 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 51. As to the rejection of ballot papers at a European parliamentary election see PARA 472 ante; and as to petitions questioning such an election see PARA 765 et seq post.

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

468-477 Attendance at verification of ballot paper accounts at a European parliamentary election ... The procedure at uncontested elections

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/ (E) Counting at European Parliamentary Elections/474. Recount at a European parliamentary election.

474. Recount at a European parliamentary election.

A candidate¹, the election agent of a registered party² or individual candidate³ or a duly authorised counting agent⁴ may, if present when the counting of the votes at a European parliamentary election⁵ is completed (or, if later, when it is deemed to be completed⁶) or any recount of the votes is completed, require the local returning officer⁷ to have the votes recounted or again recounted but the local returning officer may refuse to do so if in his opinion the request is unreasonable⁸.

No step may be taken on the completion of the counting (or, if later, its deemed completion) or any recount of votes until any persons who are present at its completion (or, if later, its deemed completion) have been given a reasonable opportunity to exercise the right to request a recount⁹.

1 For the meaning of 'candidate' generally see PARA 237 ante.

2 For the meaning of 'registered party', in the context of a European parliamentary election, see PARA 237 note 30 ante. As to the appointment of election agents at a European parliamentary election see PARA 246 et seq ante.

3 For the meaning of 'individual candidate', in the context of a European parliamentary election, see PARA 237 note 32 ante.

4 I.e. a counting agent authorised under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 31(2) by the terms of his appointment to require a recount at that count: see PARA 399 note 5 ante.

5 As to European parliamentary elections see PARA 224 et seq ante; and as to the count at such elections see PARA 471 ante.

6 As to the deemed completion of the counting of the votes in cases where the count has commenced before the close of the polling in the member state whose electors are the last to vote in the election see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 48(6); and PARA 471 ante.

7 As to local returning officers appointed for the purposes of elections to the European Parliament see PARA 365 ante.

8 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 49(1).

9 Ibid Sch 1 para 49(2).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

468-477 Attendance at verification of ballot paper accounts at a European parliamentary election ... The procedure at uncontested elections

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/ (E) Counting at European Parliamentary Elections/475. Procedure at conclusion of count at a European parliamentary election.

475. Procedure at conclusion of count at a European parliamentary election.

As soon as practicable after the completion of the count at a European parliamentary election¹ (or, if later, its deemed completion²), the local returning officer³ must draw up a statement showing the number of votes given for each registered party⁴ and individual candidate⁵, excluding any votes given on ballot papers which have been rejected⁶. The local returning officer must forthwith inform the returning officer⁷ of the contents of that statement⁸.

The local returning officer must give public notice of the statement so prepared showing the number of votes given for each registered party and individual candidate and the statement showing the number of ballot papers rejected under the various heads⁹ as soon as practicable after the returning officer has agreed that he should do so¹⁰.

1 As to European parliamentary elections see PARA 224 et seq ante; and as to the count at such elections see PARA 471 ante.

2 As to the deemed completion of the counting of the votes in cases where the count has commenced before the close of the polling in the member state whose electors are the last to vote in the election see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 48(6); and PARA 471 ante.

3 As to local returning officers appointed for the purposes of elections to the European Parliament see PARA 365 ante.

4 For the meaning of 'registered party', in the context of a European parliamentary election, see PARA 237 note 30 ante.

5 For the meaning of 'individual candidate', in the context of a European parliamentary election, see PARA 237 note 32 ante.

6 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 52(1). The text refers to ballot papers rejected under Sch 1 para 50 (see PARA 472 ante).

7 As to returning officers appointed for the purposes of elections to the European Parliament see PARA 365 ante.

8 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 52(2).

9 I.e. the statement prepared under ibid Sch 1 para 50 (see PARA 472 ante).

10 Ibid Sch 1 para 52(3).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

468-477 Attendance at verification of ballot paper accounts at a European parliamentary election ... The procedure at uncontested elections

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(vi) Contested Elections/D. COUNTING OF THE VOTES/ (E) Counting at European Parliamentary Elections/476. The calculation and the allocation of seats at a European parliamentary election.

476. The calculation and the allocation of seats at a European parliamentary election.

The returning officer at a European parliamentary election¹ must make arrangements for making the calculation and allocation of seats². No person other than: (1) the returning officer and his clerks³; (2) the election agent of each registered party⁴ standing at the election or a person acting on his behalf⁵; (3) each candidate on the list of such a party⁶ and the candidate's spouse or civil partner⁷; (4) the election agent of each individual candidate⁸ or a person acting on his behalf⁹; (5) each individual candidate and the candidate's spouse or civil partner¹⁰; and (6) representatives of the Electoral Commission¹¹, may be present at that calculation and allocation unless permitted by the returning officer to attend¹². The returning officer must give to the election agent of each registered party standing at the election¹³, and each individual candidate¹⁴, notice in writing of the place at which he will conduct the calculation and allocation of seats¹⁵ and of the time after which he will begin those proceedings¹⁶.

As soon as practicable after the returning officer has been informed of the contents of the statements showing the number of votes given for each registered party and individual candidate, prepared¹⁷ by local returning officers¹⁸ in his region¹⁹, he must calculate the total number of votes given to each registered party and individual candidate in all of the local counting areas²⁰ wholly or partly contained within the electoral region, as shown in those statements²¹.

The returning officer must then allocate the seats in accordance with the rules²². The returning officer must give the persons entitled to be present reasonable facilities for satisfying themselves that the results of the calculation and allocation which he is required to make are accurate²³. In particular, a person entitled to be present may require the returning officer to make a calculation or allocation again but the returning officer may refuse to do so if in his opinion the request is unreasonable²⁴. At a by-election at which there is only one vacancy²⁵, the rules governing the allocation of seats²⁶ have effect as though they provided that the party or individual candidate to whom the majority of the votes have been given is to be declared to be elected²⁷.

1 As to European parliamentary elections see PARA 224 et seq ante; and as to returning officers appointed for the purposes of elections to the European Parliament see PARA 365 ante.

2 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 53(1). The text refers to the calculation and allocation of seats required by Sch 1 para 54 (see the text and notes 17-27 infra).

3 Ibid Sch 1 para 53(2)(a).

4 For the meaning of 'registered party', in the context of a European parliamentary election, see PARA 237 note 30 ante. As to the appointment of election agents at a European parliamentary election see PARA 246 et seq ante.

5 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 53(2)(b).

6 For the meaning of 'list' in this context see PARA 237 note 30 ante.

7 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 53(2)(c)(i) (amended by SI 2005/2114).

8 For the meaning of 'individual candidate', in the context of a European parliamentary election, see PARA 237 note 32 ante.

9 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 53(2)(d).

10 Ibid Sch 1 para 53(2)(e)(i) (amended by SI 2005/2114).

11 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 53(2)(f). As to the Electoral Commission see PARA 31 et seq ante; and as to authorised representatives of the Electoral Commission attending electoral proceedings see PARA 48 ante.

12 Ibid Sch 1 para 53(2).

13 Ibid Sch 1 para 53(3)(a).

14 Ibid Sch 1 para 53(3)(b).

15 Ie the proceedings under ibid Sch 1 para 54 (see the text and notes 17-27 infra).

16 Ibid Sch 1 para 53(3).

17 Ie under ibid Sch 1 para 52(1) (see PARA 475 ante).

18 As to local returning officers appointed for the purposes of elections to the European Parliament see PARA 365 ante.

19 As to electoral regions constituted for the purposes of European parliamentary elections see PARA 76 ante.

20 For the meaning of 'local counting area' see PARA 230 note 11 ante.

21 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 54(1).

22 Ibid Sch 1 para 54(2). The text refers to the allocation of seats in accordance with the European Parliamentary Elections Act 2002 s 2(5)-(9) (see PARA 345 ante), subject to the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 54(4) (by-elections with only one vacancy: see the text and notes 25-27 infra) and Sch 1 para 55 (equality of seats: see PARA 345 ante).

23 Ibid Sch 1 para 54(3).

24 Ibid Sch 1 para 54(3).

25 As to European by-elections and the filling of vacancies see PARA 225 ante.

26 Ie the European Parliamentary Elections Act 2002 s 2(5)-(9) (see PARA 345 ante).

27 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 54(4).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

468-477 Attendance at verification of ballot paper accounts at a European parliamentary election ... The procedure at uncontested elections

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/ (vii) Uncontested Elections/477. The procedure at uncontested elections.

(vii) Uncontested Elections

477. The procedure at uncontested elections.

At a parliamentary¹ or Welsh Assembly constituency election², if the statement of persons nominated³ shows only one person standing nominated, that person is declared to be elected in accordance with the appropriate rules⁴.

If, after any withdrawals under the appropriate rules⁵ at a local government election⁶, the number of persons remaining validly nominated for the electoral area⁷ or London Assembly constituency⁸ does not exceed the number of councillors or London Assembly constituency members to be elected, such person or persons must be declared to be elected in accordance with the appropriate rules⁹. If the number of persons remaining validly nominated at an election for the return of London members of the London Assembly, after any withdrawals under the appropriate rules¹⁰, does not exceed the number of seats available for allocation, the seats are allocated in accordance with the appropriate rules¹¹.

If the number of candidates remaining at a poll consequent on a parish meeting on a question involving appointment to office, after any withdrawals, does not exceed the number of persons to be elected, such candidates are deemed to be elected and the returning officer must as soon as possible give public notice of the abandonment of the poll¹² which must: (1) refer to the meeting at which the poll was demanded and the offices in respect which the poll was demanded¹³; (2) set out the full names, home addresses and (if required) descriptions of the candidates¹⁴; (3) indicate which of those candidates has withdrawn¹⁵; (4) state that no poll will be taken¹⁶; and (5) list the candidates deemed to be elected¹⁷. The returning officer must send a copy of that notice to each of the candidates and the chairman of the meeting at which the poll was demanded¹⁸.

If, after any withdrawals under the appropriate rules at a local authority or London mayoral election¹⁹, only one candidate remains validly nominated, that person is declared to be elected in accordance with the appropriate rules²⁰.

At a Welsh Assembly regional election²¹, if the statement of persons standing nominated shows more persons standing nominated than the number of seats for that Assembly electoral region²², and where each person is included on the same party list²³, those persons are declared to be elected in accordance with the appropriate rules²⁴ in the order that they are included on that list (starting with the highest) up to the number of seats for the Assembly electoral region²⁵.

If the statement of persons nominated at a European parliamentary election²⁶ shows a number of candidates (whether on a registered party's list²⁷ or individual candidates²⁸) which is the same as, or less than, the number of seats to be filled, those candidates are declared to be elected in accordance with the appropriate rules²⁹.

1 For the meaning of 'parliamentary election' see PARA 9 ante. As to parliamentary elections see PARA 196 et seq ante.

2 For the meaning of 'constituency election' in the context of Welsh Assembly elections, and for the meaning of 'Assembly election', see PARA 3 note 1 ante.

3 As to the statement of persons nominated at any election see PARA 272 ante.

4 Representation of the People Act 1983 s 23(1), Sch 1 r 17(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 20(b). The text refers to the rules set out, in relation to a parliamentary election, in the Representation of the People Act 1983 Sch 1 Pt IV (rr 50-53) (as amended) (see PARAS 478-480 post) and, in relation to a Welsh Assembly election, in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 Pt IV (paras 57-60) (see PARAS 487-488, 490 post). As to the appropriate rules for use in parliamentary and Welsh Assembly constituency elections see PARA 388 ante. As to the withdrawal of candidates at any election see PARA 269 ante. As to contested elections see PARA 344 et seq ante.

5 As to the appropriate rules for use in local government elections see PARA 388 et seq ante.

6 Ie excluding an election for the return of London members of the London Assembly (as to which see the text and notes 10-11 infra) or an election for the Mayor of London (as to which see the text and notes 19-20 infra). For the meanings of 'local government election' and 'London member' see PARA 10 ante. As to elections for the return of London members of the London Assembly and the Mayor of London see PARA 206 et seq ante.

7 For the meaning of 'electoral area' see PARA 10 ante.

8 For the meaning of 'Assembly constituency' in the context of elections to the London Assembly see PARA 10 note 6 ante.

9 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), Sch 1 r 13(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 14(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 14(2). The rules referred to in the text are: in relation to a local government election for a principal area, the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 Pt 4 (r 50); in relation to a local government election for a parish and community council, the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 Pt 4 (r 50) (see PARA 481 post); and, in relation to an election for the return of constituency members of the London Assembly, the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 Pt V (rr 45-46) (see PARA 484 et seq post). At an election for the return of constituency members of the London Assembly, a contested election must be held if the number of persons remaining validly nominated for the constituency exceeds one: Sch 1 r 13(1). For the meaning of 'constituency member' in this context see PARA 10 note 6 ante. As to the election of councillors for local government principal areas see PARA 204 et seq ante; as to ordinary elections of constituency members of the London Assembly see PARA 206 et seq ante; and as to the election of councillors for parish or community councils see PARA 207 et seq ante.

10 As to the appropriate rules for use in elections for the return of London members of the London Assembly see PARA 388 ante.

11 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 2 r 14. As to the allocation of seats at a London members election see PARA 449 ante; and see further PARA 483 et seq post.

12 Parish and Community Meetings (Polls) Rules 1987, r 5, Schedule r 3(2).

13 Ibid Schedule r 3(2)(a).

14 Ibid Schedule r 3(2)(b).

15 Ibid Schedule r 3(2)(c).

16 Ibid Schedule r 3(2)(d).

17 Ibid Schedule r 3(2)(e).

18 Ibid Schedule r 3(2).

19 Ie, in relation to a local authority mayoral election, the local authority mayoral election rules and, in relation to an election for the Mayor of London, the London mayoral election rules (see PARA 388 ante).

20 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 14(c); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 14(c). The rules referred to in the text are: in relation to a London mayoral election, those contained in the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 Pt VI (rr 50-51); and, in relation to a local authority mayoral election, those contained in the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 Pt VI (regs 48-49) (see PARAS 485-486 post). As to elections for a local authority elected mayor see PARA 205 et seq ante.

- 21 For the meaning of 'regional election' in relation to a Welsh Assembly election see PARA 3 note 1 ante.
- 22 For the meaning of 'Assembly electoral region' in relation to a Welsh Assembly election see PARA 3 note 1 ante.
- 23 For the meaning of 'party list' in relation to a Welsh Assembly regional election see PARA 237 note 23 ante.
- 24 As to the appropriate rules for use in Welsh Assembly regional elections see PARA 388 ante.
- 25 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 21(1) (b). The text refers to the rules contained in Sch 5 Pt IV (see PARAS 487-488, 490 post). If the statement of persons standing nominated shows the same number of persons standing nominated as, or fewer such persons than, the number of seats for the Assembly electoral region, those persons standing nominated are declared to be elected in accordance with the relevant rules: Sch 5 para 21(2). However, no person at an ordinary election may be declared to be elected in the circumstances described in Sch 5 para 21(1)(b) or Sch 5 para 21(2) until the regional returning officer: (1) has received from each constituency returning officer for an Assembly constituency in the Assembly electoral region the notification required by Sch 5 para 57(3) (declaration of result at a constituency election: see PARA 487 post), unless in any case a poll at a constituency election has been postponed under Sch 5 para 65(1) (see PARA 510 post); and (2) has disregarded any party list candidate who has been returned as a member for an Assembly constituency in the Assembly electoral region: Sch 5 para 21(4). Where notice of the poll at a regional election is countermanded or the poll is abandoned under Sch 5 para 65(5) (election uncontested through death of candidate: see PARA 510 post), Sch 5 para 21(1)(b) or Sch 5 para 21(2) also apply: Sch 5 para 21(3). For the meaning of 'Assembly constituency' in relation to a Welsh Assembly election see PARA 3 note 1 ante; and for the meanings of 'constituency returning officer' and 'regional returning officer' see PARA 18 note 2 ante.
- 26 As to European parliamentary elections see PARA 224 et seq ante.
- 27 For the meanings of 'registered party' and 'list' in the case of a European parliamentary election see PARA 237 note 30 ante.
- 28 For the meaning of 'individual candidate' in relation to a European parliamentary election see PARA 237 note 32 ante.
- 29 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 19(2). The text refers to the rules contained in Sch 1 Pt 4 (paras 56-57) (see PARAS 491-492 post). As to the appropriate rules for use in European parliamentary elections see PARA 388 ante.

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

468-477 Attendance at verification of ballot paper accounts at a European parliamentary election ... The procedure at uncontested elections

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

477 The procedure at uncontested elections

NOTE 20--SI 2002/185 reg 3(1), Sch 1 rr 14, 48, 49 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 rr 16, 54, 55.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(viii) Final Proceedings/A. PARLIAMENTARY ELECTIONS/478. Declaration of result at parliamentary election.

(viii) Final Proceedings

A. PARLIAMENTARY ELECTIONS

478. Declaration of result at parliamentary election.

In a contested parliamentary election¹, when the result of the poll has been ascertained², the returning officer³ must forthwith: (1) declare to be elected the candidate to whom the majority of votes has been given⁴; (2) return his name to the Clerk of the Crown⁵; and (3) give public notice⁶ of his name and of the total number of votes given for each candidate together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers⁷.

In an uncontested parliamentary election⁸, the statement of persons nominated⁹, in addition to showing the person standing nominated, must also declare that person to be elected and the returning officer must forthwith return his name to the Clerk of the Crown¹⁰.

1 For the meaning of 'parliamentary election' see PARA 9 ante. As to parliamentary elections see PARA 196 et seq ante.

2 As to the method of election at a parliamentary election see PARA 389 et seq ante.

3 As to returning officers for parliamentary elections see PARA 355 et seq ante.

4 Representation of the People Act 1983 s 23(1), Sch 1 r 50(1)(a). The returning officer is not a judge of the qualifications of the successful candidate: *Pritchard v Bangor Corpn* (1888) 13 App Cas 241, HL.

5 Representation of the People Act 1983 Sch 1 r 50(1)(b). 'Clerk of the Crown' means Clerk of the Crown in Chancery: s 202(1). As to the Clerk of the Crown in Chancery see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 921.

6 As to the giving of public notice by returning officers for parliamentary elections see PARA 355 ante.

7 Representation of the People Act 1983 Sch 1 r 50(1)(c). As to the statement of rejected ballot papers see PARA 438 ante.

8 As to the procedure at uncontested elections see PARA 477 ante.

9 As to the statement of persons nominated see PARA 272 ante.

10 Representation of the People Act 1983 Sch 1 r 50(2). See also *R v Soothill, ex p Ashdown* (1955) Times, 21 April (cited in PARA 270 note 32 ante).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(viii) Final Proceedings/A. PARLIAMENTARY ELECTIONS/479. Return to the writ and record of returns in parliamentary elections.

479. Return to the writ and record of returns in parliamentary elections.

The returning officer at a parliamentary election¹ must return the name of the member elected at a parliamentary election by endorsing on the writ a certificate in the proper form². Any rule of law or enactment as to the effect of, or manner of dealing with, the return of a member to serve in Parliament applies to the certificate³.

On receiving a receipt, the returning officer may deliver the writ with the certificate endorsed on it to an official designated for that purpose by a universal postal service provider who is providing a universal postal service⁴ for the area in which the election is being held or to his deputy, provided that the official or deputy is at that time within the area concerned⁵. The designated official or his deputy must send the writ so endorsed by the first post, free of charge, under cover to the Clerk of the Crown⁶ with the words 'Election Writ and Return' endorsed on it⁷.

From the certificate on each writ returned to him, the Clerk of the Crown must enter the name of the member returned in a book to be kept by him at the Crown Office⁸ (known as the 'return book'). The return is not completed until it reaches his hands so that he can act upon it; he transmits what is in substance a copy of the return book to the Clerk of the House of Commons⁹. The Clerk of the Crown must also enter in the return book any alteration or amendment made by him in the certificate endorsed on any writ¹⁰. The return book kept by the Clerk of the Crown is open to public inspection at reasonable times and any person may, on payment of a reasonable fee, take copies from the book¹¹.

1 For the meaning of 'parliamentary election' see PARA 9 ante. As to parliamentary elections see PARA 196 et seq ante; and as to returning officers for parliamentary elections see PARA 355 et seq ante.

2 Representation of the People Act 1983 s 23(1), Sch 1 r 51(1). As to the proper form of the certificate referred to in the text see Sch 1 Appendix of Forms (Certificate endorsed on writ). Where the returning officer lost the writ and was therefore unable to endorse on the writ the certificate in the prescribed form, the returning officer sent to the Speaker of the House of Commons a statutory declaration as to the person elected and the House of Commons then instructed the Clerk of the Crown to receive the names: see *Portsmouth Election Case* (1910) 21 HC Deb 22. For cases where a special return was made see *Hackney Case* (1874) 2 O'M & H 77; *Knaresborough Case* (1805) 2 Peck 382.

3 Representation of the People Act 1983 Sch 1 r 51(2). As to the effect of a defective return see *Pontefract Case* (1623) Glanv El Cas 133.

4 For these purposes, 'universal postal service provider' means a universal service provider within the meaning of the Postal Services Act 2000 (see s 4(3), (4); and POST OFFICE): Representation of the People Act 1983 s 202(1) (definition added by the Postal Services Act 2000 (Consequential Modifications No 1) Order 2001, SI 2001/1149, art 3(1), Sch 1 para 57(1), (4)).

5 Representation of the People Act 1983 Sch 1 r 51(3) (amended by the Postal Services Act 2000 (Consequential Modifications No 1) Order 2001, SI 2001/1149, Sch 1 para 57(1), (5)(a)).

6 'Clerk of the Crown' means Clerk of the Crown in Chancery: Representation of the People Act 1983 s 202(1). As to the Clerk of the Crown in Chancery see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 921.

7 Ibid Sch 1 r 51(4) (amended by the Postal Services Act 2000 (Consequential Modifications No 1) Order 2001, SI 2001/1149, Sch 1 para 57(1), (5)(b)).

- 8 Representation of the People Act 1983 Sch 1 r 52(1).
- 9 *Poole Case, Hurdle v Waring* (1874) LR 9 CP 435.
- 10 Representation of the People Act 1983 Sch 1 r 52(2).
- 11 Ibid Sch 1 r 52(3).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(viii) Final Proceedings/A. PARLIAMENTARY ELECTIONS/480. Return or forfeiture of candidate's deposit at parliamentary election.

480. Return or forfeiture of candidate's deposit at parliamentary election.

A candidate's deposit at a parliamentary election¹ is forfeited to the Crown if a poll is taken and, after the counting of the votes by the returning officer² (including any recount) is completed, the candidate is found not to have polled more than one-twentieth of the total number of votes polled by all the candidates³.

Otherwise, the deposit must be returned, not later than the next day⁴ after that on which the result of the election is declared, to the person making it or to his personal representatives⁵. For these purposes, a deposit is to be treated as being returned on a day if a cheque for the amount of the deposit is posted on that day⁶. However, if the candidate is not shown as standing nominated in the statement of persons nominated or if the poll is countermanded or abandoned by reason of his death⁷, the deposit must be returned⁸ as soon as practicable after the publication of the statement or after his death, as the case may be⁹. If, at a general election, a candidate is shown as standing nominated in more than one constituency¹⁰ in the statements of persons nominated, not more than one of the deposits is to be returned and, if necessary, the Treasury must direct which it is to be¹¹.

1 For the meaning of 'parliamentary election' see PARA 9 ante. As to parliamentary elections see PARA 196 et seq ante; and as to deposits made in relation to such an election see PARA 266 ante.

2 As to the returning officers appointed for parliamentary elections see PARA 355 et seq ante; and as to the count at such elections see PARA 432 et seq ante.

3 Representation of the People Act 1983 s 23(1), Sch 1 r 53(1), (4) (Sch 1 r 53(4) amended by the Representation of the People Act 1985 s 13(b)). Votes rejected by the returning officer are not included in the number of votes polled: see PARA 478 ante.

3 For the purposes of this provision, a day is to be disregarded if it would be disregarded under the Representation of the People Act 1983 Sch 1 r 2 (as amended) (see PARA 203 note 1 ante) in computing any period of time for the purposes of the timetable for an election of the kind in question: Sch 1 r 53(2A)(a) (Sch 1 r 53(2A) added by the Representation of the People Act 1985 s 24, Sch 4 para 83(b)). Accordingly, as to the computation of time for these purposes see PARA 203 note 1 ante. Bank holidays in Scotland or Northern Ireland which are not also bank holidays in England and Wales are disregarded for the purposes of parliamentary general elections but not for by-elections: see the Representation of the People Act 1983 Sch 1 r 53(2A)(a) (as added).

5 Ibid Sch 1 r 53(1), (2) (Sch 1 r 53(2) amended by the Representation of the People Act 1985 Sch 4 para 83(a)).

6 Representation of the People Act 1983 Sch 1 r 53(2A)(b) (as added: see note 3 supra).

7 As to countermand on the death of the candidate at a parliamentary election see PARA 509 post.

8 I.e., by virtue of the Representation of the People Act 1983 Sch 1 r 53(1) (see the text and note 5 supra), to the person making the deposit or his personal representatives, as the case may be.

9 Ibid Sch 1 r 53(3).

10 For the meaning of 'constituency' in relation to a parliamentary election see PARA 9 ante.

11 Representation of the People Act 1983 Sch 1 r 53(5).

UPDATE

**442-512 Arrangements for counting the votes at elections of London
Assembly members ... Fresh election following countermand or abandonment
of poll on death of candidate**

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(viii) Final Proceedings/B. LOCAL GOVERNMENT ELECTIONS/481. Declaration of result at local government election.

B. LOCAL GOVERNMENT ELECTIONS

481. Declaration of result at local government election.

In a contested local government election¹, when the result of the poll has been ascertained, the returning officer² must forthwith: (1) declare to be elected the candidate or candidates to whom more votes have been given than to the other candidates, up to the number of councillors (or constituency members of the London Assembly, as the case may be) to be elected³; (2) give notice of the name of each such candidate to the proper officer of the council for which the election is held⁴; and (3) give public notice⁵ of the name of each candidate elected and of the total number of votes given for each candidate, whether elected or not, together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers⁶.

In an uncontested election⁷, the returning officer must, as soon as practicable after the latest time for the delivery of notices of withdrawals of candidature⁸: (a) declare to be elected the person (or persons, as the case may be) remaining validly nominated⁹; (b) give notice of the name of each such person to the proper officer of the council for which the election is held¹⁰; and (c) give public notice of the name of each such person¹¹.

At any election for the return of constituency members of the London Assembly, each constituency returning officer must inform the proper officer of the London Authority of the result of the election for the constituency¹².

1 le excluding elections for the return of London members of the London Assembly (as to which see PARA 483 post) and elections for the Mayor of London (as to which see PARA 485 post). For the meaning of 'local government election' see PARA 10 ante. As to contested local government elections see PARA 368 et seq ante.

2 As to returning officers at local government elections see PARA 359 et seq ante. In the case of an election for the return of constituency members of the London Assembly, the appropriate returning officer is the constituency returning officer (for the meaning of which see PARA 218 note 8 ante).

3 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), Sch 1 r 45(1)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 50(1)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 50(1)(a).

4 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 45(1)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 50(1)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 50(1)(b)(i). For the meaning of 'proper officer' see PARA 155 note 2 ante. At a parish or community council election, notice must be given also to the proper officer of the council of the district in which the parish is situate or to the proper officer of the county or county borough in which the community is situate: Sch 2 r 50(1)(b)(ii). In the case of an election for the return of constituency members of the London Assembly, the candidate's name and, if he was the candidate of a party, the name of that party, must be returned to the Greater London returning officer (for the meaning of which see PARA 218 note 7 ante): Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 45(1)(b). For this purpose, 'candidate of a party' means a person who was the subject of an authorisation under Sch 1 r 6(4) (see PARA 263 ante) and whose particulars on the ballot paper included the party's registered emblem (if any): Sch 1 r 45(4).

5 As to the giving of public notice by a returning officer at a local government election see PARA 359 ante.

6 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 45(1)(c); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 50(1)(c); Local Elections (Parishes and

Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 50(1)(c). As to the statement of rejected ballot papers see PARA 438 ante.

7 As to the procedure at uncontested elections see PARA 477 ante.

8 As to the time for the delivery of notices of withdrawals of candidature see PARA 269 ante.

9 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 45(2)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 50(2)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 50(2)(a). See *R v Soothill, ex p Ashdown* (1955) Times, 21 April (cited in PARA 270 note 32 ante).

10 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 45(2)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 50(2)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 50(2)(b)(i). At a parish or community council election, notice must be given also to the proper officer of the council of the district in which the parish is situate or to the proper officer of the county or county borough in which the community is situate: Sch 2 r 50(2)(b)(ii). In the case of an election for the return of constituency members of the London Assembly, the constituency returning officer must give notice to the Greater London returning officer of the name of the person remaining validly nominated and, if he was a candidate of a party, of the name of the party: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 45(2)(b).

11 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 45(2)(c); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 50(2)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 50(2)(c).

12 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), Sch 1 r 45(3), Sch 4 r 13(1). For the meaning of 'Assembly constituency' in the context of elections to the London Assembly see PARA 10 note 6 ante. For the meaning of 'proper officer' in this context see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 83.

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(viii) Final Proceedings/B. LOCAL GOVERNMENT ELECTIONS/482. Declaration of result at a poll consequent on a parish meeting.

482. Declaration of result at a poll consequent on a parish meeting.

At a poll consequent on a parish meeting taken on a question of appointment to any office, when the result of the poll has been ascertained, the returning officer¹ must forthwith: (1) declare to be elected the candidate or candidates to whom more votes have been given than to the other candidates up to the number of appointments to be made²; (2) give notice of each person elected to the chairman of the meeting at which the poll was demanded³; (3) give public notice⁴ of the name of each candidate elected and of the total number of votes given for each candidate whether elected or not, together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers⁵.

1 As to the returning officer at a poll consequent on parish meeting see PARA 361 ante.

2 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 32(a)(i). As to the procedure at uncontested elections see PARA 477 ante.

3 Ibid Schedule r 32(a)(ii).

4 As to public notice required to be given by a returning officer for the purposes of a poll consequent on a parish meeting see PARA 361 ante.

5 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 32(a)(iii). As to the statement of rejected ballot papers at a poll consequent on a parish meeting see PARA 438 ante.

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(viii) Final Proceedings/B. LOCAL GOVERNMENT ELECTIONS/483. Declaration of result at election of London Authority London members.

483. Declaration of result at election of London Authority London members.

The Greater London returning officer¹ must declare the allocation of the seats for London members² and, where seats are allocated to a registered party³, the names of the persons on the party list⁴ who⁵ are to fill those seats⁶.

The Greater London returning officer must give public notice of: (1) the registered parties to which seats for London members have been allocated and the names of the list candidates by whom those seats are to be filled⁷; (2) the names of the successful individual candidates⁸; (3) the total number of London votes⁹ given for each registered party and each individual candidate¹⁰; (4) the total number of candidates of registered parties returned as constituency members¹¹; (5) the number of rejected ballot papers under each head shown in the statement of rejected ballot papers¹²; (6) the name of every person included on a party list who has been omitted from or¹³ is to be treated as ceasing to be on that list together with the reason for the omission or cessation, as the case may be¹⁴; and (7) without prejudice to head (6) above, where, at a contested election, proof is given before the result of the election is declared that one of the persons named as an individual candidate in the ballot papers or whose name appears on a party list has died¹⁵, the name of the deceased candidate¹⁶.

The Greater London returning officer must inform the proper officer of the London Authority¹⁷ of the result of ordinary elections for the return of the London members¹⁸.

1 For the meaning of 'Greater London returning officer' see PARA 218 note 7 ante.

2 As to the allocation of seats at a London members election see PARA 449 ante. As to the declaration of the result at a London mayoral election see PARA 485 post.

3 For the meaning of 'registered political party' in this context see PARA 233 note 16 ante.

4 As to the submission of lists of candidates to be London members of the London Assembly see PARA 233 ante; and as to references to party lists in elections for the return of such members see PARA 262 note 24 ante.

5 Ie in accordance with the Greater London Authority Act 1999 s 4, Sch 2 para 8(5) (see PARA 345 ante).

6 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 2 r 48(1).

7 Ibid Sch 2 r 48(2)(a).

8 Ibid Sch 2 r 48(2)(b). As to individual candidates to be London members of the London Assembly see PARA 233 ante.

9 As to the counting of London votes see PARA 442 et seq ante.

10 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 48(2)(c).

11 Ibid Sch 2 r 48(2)(d).

12 Ibid Sch 2 r 48(2)(e). As to the statement of rejected ballot papers at elections of London Assembly members see PARA 444 ante.

13 Ie pursuant to the Greater London Authority Act 1999 Sch 2 para 8(10) (person included on a list submitted by a registered political party returned as the Mayor of London or as a London Assembly member: see PARA 345 ante).

- 14 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 48(2)(f).
- 15 ie where ibid Sch 2 r 47(2) applies (see PARA 449 ante).
- 16 Ibid Sch 2 r 48(2)(g).
- 17 For the meaning of 'proper officer' in this context see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 83.
- 18 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 4 r 13(2).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(viii) Final Proceedings/B. LOCAL GOVERNMENT ELECTIONS/484. Return or forfeiture of candidate's deposit at London Authority election of London or constituency members.

484. Return or forfeiture of candidate's deposit at London Authority election of London or constituency members.

The deposit required to be made by a candidate at an election for the return of constituency members or London members of the London Assembly¹ is forfeited to the Greater London Authority² if a poll is taken and: (1) in the case of a constituency members election, after the counting of the votes by the constituency returning officer³ (including any recount) is completed⁴, the candidate is found not to have polled more than one-twentieth of the total number of votes polled by all the candidates⁵; or (2) in the case of a London members election, after the declaration of the result⁶, the candidate or registered party⁷ is found not to have polled more than one-fortieth of the total number of votes polled by all the candidates and registered parties⁸.

Otherwise, the deposit must be returned, not later than the next day⁹ after that on which the result of the election is declared, to the person making it or to his personal representatives¹⁰. For these purposes, a deposit is to be treated as being returned on a day if a cheque for the amount of the deposit is posted on that day¹¹. However, if the candidate is not shown as standing nominated in the statement of persons nominated¹² or if, in the case of a constituency members election, the poll is countermanded or abandoned by reason of his death¹³ or if, in the case of a London members election, proof of his death has been given to the Greater London returning officer¹⁴ before the allocation of seats¹⁵, the deposit must be returned¹⁶ as soon as practicable after the publication of the statement or after his death, as the case may be¹⁷.

1 As to elections for the return of elected members of the London Assembly see PARA 206 et seq ante; and as to deposits made in relation to such an election see PARA 266 ante. As to the return or forfeiture of candidate's deposits made for the purpose of elections for the return of an elected Mayor of London see PARA 486 post.

2 As to the Greater London Authority see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 79 et seq.

3 For the meaning of 'constituency returning officer' in the context of an election for the return of members of the London Assembly see PARA 218 note 8 ante.

4 As to the counting of the votes at a London Authority election of London constituency members see PARA 443 et seq ante.

5 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), Sch 1 r 46(1), (5).

6 As to the declaration referred to in the text see PARA 483 ante.

7 For the meaning of 'registered political party' in this context see PARA 233 note 16 ante.

8 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 2 r 49(1), (5).

9 For these purposes, a day is to be disregarded if it would be disregarded under *ibid* Sch 1 r 3 or Sch 2 r 3 (see PARA 218 note 6 ante) in computing any period of time for the purposes of the timetable for an election of the kind in question: Sch 1 r 46(3)(a), Sch 2 r 49(3)(a). Accordingly, as to the computation of time for these purposes see PARA 218 note 6 ante.

10 *Ibid* Sch 1 r 46(1), (2), Sch 2 r 49(1), (2).

11 *Ibid* Sch 1 r 46(3)(b), Sch 2 r 49(3)(b).

- 12 As to the statement of persons nominated at any election see PARA 272 ante.
- 13 As to countermand on the death of the candidate at a London Authority election of London or constituency members see PARA 510 post.
- 14 For the meaning of 'Greater London returning officer' see PARA 218 note 7 ante.
- 15 As to the allocation of seats at a London members election see PARA 449 ante.
- 16 le, by virtue of the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 46(1), Sch 2 r 49(1) (see the text and note 10 supra), either to the person making it or to his personal representatives.
- 17 Ibid Sch 1 r 46(4), Sch 2 r 49(4).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(viii) Final Proceedings/C. MAYORAL ELECTIONS/485. Declaration of result at local authority or London mayoral election.

C. MAYORAL ELECTIONS

485. Declaration of result at local authority or London mayoral election.

The returning officer at an election for the return of an elected local authority mayor or for the return of London Mayor¹ must declare the elected mayor to be the candidate who, either under the simple majority system² or, where there are three or more candidates, under the supplementary vote system³, is to be returned as the elected mayor at that election⁴. The returning officer must give public notice of⁵: (1) the name of the successful candidate⁶; (2) the total number of first preference votes given for each candidate⁷; (3) the number of rejected ballot papers at the election under each head shown in the statement of rejected ballot papers⁸; and (4) if second preference votes were counted⁹: (a) the total number of second preference votes given for each of the candidates remaining in the contest after the count of the first preference votes¹⁰; and (b) in the case of a local authority mayoral election only, the number of ballot papers rejected for the purposes of the count of second preference votes on the ground that they were unmarked or void for uncertainty as to the second preference vote¹¹.

In an uncontested election¹², the returning officer must, as soon as practicable after the latest time for the delivery of notices of withdrawals of candidature¹³, declare to be elected the person remaining validly nominated¹⁴ and give public notice of the name of the person declared to be elected¹⁵.

At an election for the return of an elected local authority mayor, the returning officer must inform the proper officer¹⁶ of the local authority¹⁷ concerned of the result of the election¹⁸; and at any election for the return of London Mayor, the Greater London returning officer must inform the proper officer of the London Authority¹⁹ of the result of the election²⁰.

1 As to returning officers at local government elections (including elections for the return of an elected local authority mayor) see PARA 359 et seq ante. In the case of an election for the return of London Mayor, the returning officer is the Greater London returning officer (for the meaning of which see PARA 218 note 7 ante). As to elections for the return of an elected local authority mayor see PARA 205 et seq ante; and as to elections for the return of London Mayor see PARA 206 et seq ante.

2 I.e., for the purposes of an election for London Mayor, in accordance with the Greater London Authority Act 1999 s 4(2) or, for the purposes of elections for the return of an elected local authority mayor, in accordance with the Local Government Act 2000 s 42(2) (see PARA 346 ante).

3 I.e., for the purposes of an election for London Mayor, the Greater London Authority Act 1999 s 4(3)(a), Sch 2 Pt I paras 1-4 or, for the purposes of elections for the return of an elected local authority mayor, in accordance with the Local Government Act 2000 s 42(3), Sch 2 (see PARA 346 ante).

4 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 50(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 48(1).

5 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 50(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 48(2). As to the giving of public notice by the returning officer at an election for the return of an elected local authority mayor or for the return of London Mayor see PARA 359 ante.

6 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 50(2)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 48(2)(a).

- 7 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 50(2)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 48(2)(b).
- 8 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 50(2)(d); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 48(2)(c). As to the statement of rejected ballot papers at local authority or London mayoral elections see PARA 453 ante.
- 9 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 50(2)(c); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 48(2)(d).
- 10 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 50(2)(c); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 48(2)(d)(i).
- 11 Ibid Sch 1 r 48(2)(d)(ii).
- 12 As to the procedure at uncontested elections see PARA 477 ante.
- 13 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 50(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 48(3). As to withdrawals of candidature see PARA 269 ante.
- 14 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 50(3)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 48(3)(a).
- 15 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 50(3)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 48(3)(b).
- 16 For the meaning of 'proper officer' see PARA 155 note 2 ante.
- 17 For the meaning of 'local authority' for these purposes see LOCAL GOVERNMENT vol 69 (2009) PARA 23.
- 18 Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 48(4).
- 19 For the meaning of 'proper officer' in this context see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 83.
- 20 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 50(4), Sch 4 r 13(2).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

485 Declaration of result at local authority or London mayoral election

NOTES--SI 2002/185 reg 3(1), Sch 1 r 48 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 54.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(viii) Final Proceedings/C. MAYORAL ELECTIONS/486. Return or forfeiture of candidate's deposit at local authority or London mayoral election.

486. Return or forfeiture of candidate's deposit at local authority or London mayoral election.

A candidate's deposit at an election for the return of an elected local authority mayor or for the return of London Mayor¹ is forfeited to the local authority² of the electoral area³ concerned or to the Greater London Authority⁴ (as the case may be) if a poll is taken and if, after the first calculation is completed⁵, the candidate is found not to have polled more than one-twentieth of the total number of first preference votes polled by all the candidates⁶.

Otherwise, the deposit must be returned, not later than the next day⁷ after that on which the result of the election is declared, to the person making it or to his personal representatives⁸. For these purposes, a deposit is to be treated as being returned on a day if a cheque for the amount of the deposit is posted on that day⁹. However, if the candidate is not shown as standing nominated in the statement of persons nominated or if proof of his death has been given to the returning officer¹⁰ before the first calculation is completed¹¹, the deposit must be returned¹² as soon as practicable after the publication of the statement or after his death, as the case may be¹³.

1 As to elections for the return of an elected local authority mayor see PARA 205 et seq ante; and as to elections for the return of London Mayor see PARA 206 et seq ante. As to deposits made in relation to such an election see PARA 266 ante.

2 For the meaning of 'local authority' for these purposes see LOCAL GOVERNMENT vol 69 (2009) PARA 23.

3 For the meaning of 'electoral area' see PARA 10 ante.

4 As to the Greater London Authority see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 79 et seq.

5 I.e., for the purposes of an election for London Mayor, under the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 47 or, for the purposes of elections for the return of an elected local authority mayor, under the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 45 (see PARA 456 ante).

6 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 51(1), (5); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 49(1), (5).

7 For the purposes of this provision, a day is to be disregarded if it would be disregarded under the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 3 (see PARA 218 note 6 ante) or the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 4 (see PARA 218 note 1 ante), as the case may be, in computing any period of time for the purposes of the timetable for an election of the kind in question: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 51(3)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 49(3)(a). Accordingly, as to the computation of time for these purposes see PARA 218 notes 1, 6 ante. The calculation of a period of time for the purposes of a London mayoral election takes place under the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 4 rather than Sch 3 r 3 (which sets out the timetable): see PARA 218 note 6 ante.

8 Ibid Sch 3 r 51(1), (2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 49(1), (2).

9 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 51(3)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 49(3)(b).

10 As to returning officers at local government elections (including elections for the return of an elected local authority mayor) see PARA 359 et seq ante. In the case of an election for the return of London Mayor, the returning officer is the Greater London returning officer (for the meaning of which see PARA 218 note 7 ante).

11 See note 5 supra.

12 Ie, by virtue of the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 51(1) or the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 49(1) (see the text and note 8 supra), to the person making the deposit or his personal representatives, as the case may be.

13 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 51(4); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 49(4).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

486 Return or forfeiture of candidate's deposit at local authority or London mayoral election

NOTES--SI 2002/185 reg 3(1), Sch 1 r 49 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 55.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(viii) Final Proceedings/D. ELECTIONS TO THE NATIONAL ASSEMBLY FOR WALES/487. Declaration of result at Welsh Assembly constituency election.

D. ELECTIONS TO THE NATIONAL ASSEMBLY FOR WALES

487. Declaration of result at Welsh Assembly constituency election.

At a contested Welsh Assembly constituency election¹, when the result of the poll has been ascertained², the constituency returning officer³ must forthwith⁴: (1) declare to be elected the candidate to whom the majority of votes has been given⁵; (2) return his name and, if a certificate has been received by the constituency returning officer issued by the registered nominating officer of a registered political party⁶ in respect of the candidate, the name of the party to the National Assembly for Wales⁷; (3) give public notice of his name and, if applicable, the registered political party and the total number of votes given for each candidate together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers⁸.

At an uncontested constituency election⁹, the statement of persons nominated, in addition to showing the person standing nominated, must also declare that person elected, and the constituency returning officer must forthwith return his name and, if applicable, the name of the registered political party to the Assembly¹⁰.

In either case, at an ordinary election, the constituency returning officer must forthwith also notify the regional returning officer¹¹ for the Assembly electoral region¹² in which the Assembly constituency¹³ is situated as to the name of the candidate who has been returned and, if applicable, the name of the registered political party; and where the name of a candidate and registered political party is so notified, the candidate is to be treated¹⁴ as a candidate of the party¹⁵.

¹ For the meanings of 'Assembly election' and 'Assembly constituency election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

² As to ascertainment of the result mentioned in the text see PARA 466 ante.

³ For the meaning of 'constituency returning officer' in the context of Welsh Assembly elections see PARA 18 note 2 ante.

⁴ National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 57(1).

⁵ Ibid Sch 5 para 57(1)(a). As to the method of election at a Welsh Assembly constituency election see PARA 389 et seq ante.

⁶ Ie a certificate issued under ibid Sch 5 para 5(1) (see PARA 263 ante). For the meaning of 'registered political party' in the context of a Welsh Assembly regional election see PARA 237 note 23 ante. As to the registered nominating officer of a registered political party see PARA 260 ante.

⁷ Ibid Sch 5 para 57(1)(b). For these purposes, and for the purposes of Sch 5 para 57(2) (see the text and notes 9-10 infra), the constituency returning officer must return those names required to be returned, by: (1) completing a certificate in the form set out in English and Welsh in Sch 5 Appendix of Forms (Form of certificate referred to in PARAGRAPH 57(4)(a)) (Sch 5 para 57(4)(a)); and (2) delivering it, or causing it to be delivered, to the Assembly (Sch 5 para 57(4)(b)). A candidate must be treated as having been returned as an Assembly member when his name is so returned: Sch 5 para 57(4).

8 Ibid Sch 5 para 57(1)(c). As to the statement of rejected ballot papers at a Welsh Assembly election see PARA 463 ante.

9 As to the procedure at uncontested elections see PARA 477 ante.

10 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 57(2). The text refers to returns made in accordance with Sch 5 para 57(4) (see note 7 supra).

11 For the meaning of 'regional returning officer' see PARA 18 note 2 ante.

12 For the meaning of 'Assembly regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

13 For the meaning of 'Assembly constituency' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

14 Ie for the purposes of the Government of Wales Act 2006 s 8(3)(b) (see PARA 345 ante).

15 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 57(3).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(viii) Final Proceedings/D. ELECTIONS TO THE NATIONAL ASSEMBLY FOR WALES/488. Declaration of result at Welsh Assembly regional election.

488. Declaration of result at Welsh Assembly regional election.

After the regional returning officer¹ at a Welsh Assembly regional election² has ascertained the results of the poll³, he must forthwith⁴: (1) announce the individual candidates⁵ or the registered political parties⁶ to whom seats have been allocated (together with the names of the party list candidates⁷ who are to fill such seats)⁸; (2) declare those individual candidates or party list candidates to have been elected⁹; (3) return the names of those persons to the National Assembly for Wales and, in respect of any party list candidate, the name of the registered political party for which he was such a candidate¹⁰; (4) give public notice of: (a) the name of any individual candidate elected¹¹; (b) the name of any party list candidate elected (and the name of the registered political party for which he was such a candidate)¹²; (c) the total number of votes given for each individual candidate or registered political party together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers¹³; and (d) in respect of that number of votes, a breakdown of the number of votes given for each such candidate or party in each Assembly constituency in the Assembly electoral region¹⁴.

At an ordinary election, heads (1) to (3) and heads (4)(a) and (4)(b) above apply at an uncontested regional election¹⁵ after the regional returning officer has: (i) received the required notification of results from each constituency returning officer for an Assembly constituency in the Assembly electoral region¹⁶; and (ii) disregarded any party list candidate who has been returned as a member for an Assembly constituency in the Assembly electoral region¹⁷. At an uncontested regional election other than at an ordinary election, the statement of persons nominated, in addition to showing the persons standing nominated and the registered political parties which have submitted a party list must also set out the individual candidates or the registered political parties to whom seats have been allocated (together with the names of the party list candidates who are to fill such seats)¹⁸ and declare those individual or party list candidates to have been elected¹⁹. The regional returning officer must forthwith return the names of those persons to the Assembly (and, in respect of any party list candidate, the name of the registered political party for which he was such a candidate)²⁰.

1 For the meaning of 'regional returning officer' see PARA 18 note 2 ante.

2 For the meaning of 'Assembly regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

3 As to ascertainment of results at a contested Welsh Assembly regional election see PARA 467 ante.

4 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 59(1).

5 For the meaning of 'individual candidate' in the context of a Welsh Assembly regional election see PARA 237 note 23 ante.

6 For the meaning of 'registered political party' in the context of a Welsh Assembly regional election see PARA 237 note 23 ante.

7 For the meaning of 'party list candidate' in relation to a Welsh Assembly election see PARA 237 note 23 ante.

8 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 59(1)(a). As to the allocation of seats see PARA 467 ante.

9 Ibid Sch 5 para 59(1)(b).

10 Ibid Sch 5 para 59(1)(c). For these purposes, and for the purposes of Sch 5 para 59(3) (see the text and notes 18-20 infra), the regional returning officer must return those names required to be returned: (1) by completing a certificate in the form set out in English and Welsh in Sch 5 Appendix of Forms (Form of certificate referred to in PARAGRAPH 59(4)(a)) (Sch 5 para 59(4)(a)); and (2) by delivering it, or causing it to be delivered, to the Assembly (Sch 5 para 59(4)(b)). A candidate must be treated as having been returned as an Assembly member when his name is so returned: Sch 5 para 59(4).

11 Ibid Sch 5 para 59(1)(d)(i).

12 Ibid Sch 5 para 59(1)(d)(ii).

13 Ibid Sch 5 para 59(1)(d)(iii). As to the statement of rejected ballot papers at a Welsh Assembly election see PARA 463 ante.

14 Ibid Sch 5 para 59(1)(d)(iv). For the meanings of 'Assembly constituency' and 'Assembly electoral region' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

15 As to the procedure at uncontested elections see PARA 477 ante.

16 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 paras 21(4)(a), 59(2). The text refers to the notification required by Sch 5 para 57(3) (see PARA 487 ante) unless in any case a poll at a constituency election has been postponed under Sch 5 para 65(1) (as to which see PARA 510 post).

17 Ibid Sch 5 paras 21(4)(b), 59(2).

18 Ibid Sch 5 para 59(3)(a).

19 Ibid Sch 5 para 59(3)(b).

20 Ibid Sch 5 para 59(3). The text refers to returns made in accordance with Sch 5 para 59(4) (see note 10 supra).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(viii) Final Proceedings/D. ELECTIONS TO THE NATIONAL ASSEMBLY FOR WALES/489. Return of members to the National Assembly for Wales and record of returns and vacancies.

489. Return of members to the National Assembly for Wales and record of returns and vacancies.

The National Assembly for Wales must on receipt of a certificate of returns¹ enter the information contained in the certificate in a book kept for that purpose at the Assembly (the 'returns book')². Where the presiding officer of the Assembly³ sends a notice of a vacancy⁴, he must record in the returns book the fact of the vacancy in the Assembly constituency⁵ or electoral region concerned⁶.

Where the presiding officer of the Assembly concludes that an election to fill a casual vacancy in an Assembly constituency must not be held because the date of poll is within three months preceding an ordinary election⁷, he must record in the returns book the fact of the vacancy in the Assembly constituency concerned⁸ and record that no election is to be held to fill the vacancy because the restriction applies⁹. Where it comes to the notice of the presiding officer of the Assembly that the seat of an Assembly member returned for an Assembly electoral region is vacant¹⁰ and the person was returned as an individual candidate¹¹, he must record in the returns book the fact of that vacancy in the Assembly electoral region concerned¹², and that the seat¹³ is to remain vacant until the next ordinary election¹⁴.

The returns book must be open to public inspection at reasonable times and any person may, on payment of a reasonable fee, obtain copies from the book¹⁵.

1 I.e. a certificate delivered under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 57(4) (see PARA 487 ante), Sch 5 para 59(4) (see PARA 488 ante) or Sch 5 para 67(10) or (11) (see PARA 222 ante).

2 Ibid Sch 5 para 68(1).

3 As to the presiding officer of the Assembly see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

4 I.e. under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 66 (Assembly constituency seats: see PARA 221 ante) or Sch 5 para 67(1) (return of electoral region members: see PARA 222 ante).

5 For the meaning of 'Assembly constituency' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

6 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 68(2). For the meaning of 'Assembly electoral region' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

7 I.e. because the Government of Wales Act 2006 s 10(7) applies (see CONSTITUTIONAL LAW AND HUMAN RIGHTS).

8 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 68(3)(a).

9 Ibid Sch 5 para 68(3)(b). The text refers to recording the fact that the Government of Wales Act 2006 s 10(7) applies (see CONSTITUTIONAL LAW AND HUMAN RIGHTS).

10 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 68(4) (a).

11 Ibid Sch 5 para 68(4)(b). For the meaning of 'individual candidate' in the context of a Welsh Assembly regional election see PARA 237 note 23 ante.

12 Ibid Sch 5 para 68(4)(i).

13 le in accordance with the Government of Wales Act 2006 s 11(7)(a) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS).

14 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 68(4)(ii).

15 Ibid Sch 5 para 68(5).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(viii) Final Proceedings/D. ELECTIONS TO THE NATIONAL ASSEMBLY FOR WALES/490. Return or forfeiture of candidate's deposit at Welsh Assembly election.

490. Return or forfeiture of candidate's deposit at Welsh Assembly election.

The deposit made at an Assembly election¹ must be: (1) returned to the person making it or his personal representatives, in the case of a candidate at a constituency election² or an individual candidate³ at a regional election⁴; (2) returned to the registered nominating officer of a registered political party⁵ which has submitted a party list⁶, in the case of regional election⁷; or (3) forfeited to the Secretary of State⁸.

Generally, a deposit must be returned not later than the next day after that on which the result or results of the election are declared⁹. For these purposes, the deposit must be treated as being returned on a day if a cheque for the amount of the deposit is posted on that day¹⁰.

However, if a poll is taken, the deposit must be forfeited in any case where, after the counting of the votes (including any recount), a candidate (in the case of a constituency election)¹¹ or an individual candidate or a registered political party (in the case of a regional election)¹² is found not to have polled more than one-twentieth of the total number of votes polled by all the candidates or, as the case may be, all the individual candidates and registered political parties¹³. If at an Assembly election a person is shown as standing nominated as a candidate at a constituency election¹⁴ or an individual or party list candidate at a regional election¹⁵ and, by virtue of such nomination, he is in breach of the requirements for inclusion in a party list¹⁶ or in breach of the requirements to be an individual candidate¹⁷, either his deposit¹⁸, or the deposit paid in respect of the group of party list candidates of which he is such a candidate¹⁹, must be forfeited²⁰.

If a candidate at a constituency election²¹ or an individual candidate or each and every candidate included on a party list at a regional election²² is not shown as standing nominated in the statement of persons nominated²³, or if notice of the poll is countermanded or the poll is abandoned by reason of a candidate's death²⁴, the deposit must be returned²⁵ as soon as practicable after the publication of the statement or after his death²⁶.

1 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante. As to deposits made in relation to such an election see PARA 266 ante.

2 For the meaning of 'Assembly constituency election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

3 For the meaning of 'individual candidate' in the context of a Welsh Assembly regional election see PARA 237 note 23 ante.

4 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 60(1)(a). For the meaning of 'Assembly regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

5 For the meaning of 'registered political party' in the context of a Welsh Assembly regional election see PARA 237 note 23 ante. As to the registered nominating officer of a registered political party see PARA 260 ante.

6 As to the submission of lists of candidates to be members for a Welsh Assembly region see PARA 234 ante.

7 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 60(1)(b).

8 Ibid Sch 5 para 60(1)(c). As to the Secretary of State see PARA 2 ante.

9 Ibid Sch 5 para 60(2). For this purpose, a day is to be disregarded if it would be disregarded under Sch 5 para 2 (see PARA 223 note 1 ante) in computing any period of time for the purposes of the timetable for the election: Sch 5 para 60(3)(a). Accordingly, as to the computation of time for these purposes see PARA 223 note 1 ante.

10 Ibid Sch 5 para 60(3)(b).

11 Ibid Sch 5 para 60(5)(a).

12 Ibid Sch 5 para 60(5)(b).

13 Ibid Sch 5 para 60(5).

14 Ibid Sch 5 para 60(6)(a).

15 Ibid Sch 5 para 60(6)(b).

16 Ie in breach of the Government of Wales Act 2006 s 7(5) (see PARA 234 ante).

17 Ie in breach of ibid s 7(6) (see PARA 234 ante).

18 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 60(6)(i).

19 Ibid Sch 5 para 60(6)(ii). For the meaning of references to a group of party list candidates see PARA 237 note 23 ante.

20 Ibid Sch 5 para 60(6).

21 Ibid Sch 5 para 60(4)(a).

22 Ibid Sch 5 para 60(4)(b).

23 As to the statement of persons nominated at an election see PARA 272 ante.

24 As to countermand on the death of the candidate at a Welsh Assembly election see PARA 510 post.

25 Ie, by virtue of head (1) or head (2) in the text, either to the person making it or his personal representatives (in the case of a candidate at a constituency election or an individual candidate at a regional election) or to the registered nominating officer of a registered political party which has submitted a party list (in the case of regional election).

26 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 60(4).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(viii) Final Proceedings/E. EUROPEAN PARLIAMENTARY ELECTIONS/491. Declaration of result.

E. EUROPEAN PARLIAMENTARY ELECTIONS

491. Declaration of result.

In a contested European parliamentary election¹, when the result of the allocation and the filling of seats has been ascertained², the returning officer³ must: (1) forthwith declare to be elected those candidates on a registered party's list⁴ by whom seats are filled and those individual candidates⁵ to whom seats are allocated⁶; (2) prepare a statement setting out: (a) the total number of valid votes (as notified to him) given to each registered party and individual candidate⁷; (b) the number of votes which such a party or candidate had⁸ at any stage when a seat was allocated to that party or candidate⁹; (c) the names in full and home address in full of each candidate who fills a seat or to whom a seat has been allocated¹⁰; and (d) whether, in the case of a party, there are remaining candidates on that party's list who have not been declared to be elected¹¹; and (3) give public notice¹² of that statement and send a copy to the Secretary of State¹³.

In the case of an uncontested election¹⁴, the statement of parties and individual candidates nominated¹⁵, in addition to showing the registered parties, the candidates on the list of those parties and individual candidates standing nominated, must also declare to be elected any candidate so shown¹⁶. The returning officer must send a copy of that statement and declaration to the Secretary of State¹⁷.

1 As to European parliamentary elections see PARA 224 et seq ante; and as to contested elections generally see PARA 368 et seq ante.

2 As to the allocation of seats at a European parliamentary election see PARA 476 ante.

3 As to returning officers appointed for the purposes of elections to the European Parliament see PARA 365 ante.

4 For the meanings of 'registered party' and 'list' in the context of a European parliamentary election see PARA 237 note 30 ante.

5 For the meaning of 'individual candidate' in the context of a European parliamentary election see PARA 237 note 32 ante.

6 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 56(1)(a). The text refers to those candidates on a registered party's list by whom seats are filled and those individual candidates to whom seats are allocated under Sch 1 para 54 (ie by the calculation and allocation of seats: see PARA 476 ante) and Sch 1 para 55 (ie by drawing lots where there is an equality of seats: see PARA 345 ante).

7 Ibid Sch 1 para 56(1)(b)(i).

8 Ie after the application of the European Parliamentary Elections Act 2002 s 2(4)-(9) (see PARA 345 ante).

9 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 56(1)(b)(ii).

10 Ibid Sch 1 para 56(1)(b)(iii).

11 Ibid Sch 1 para 56(1)(b)(iv).

12 As to the giving of public notice by the returning officer or local returning officer for a European parliamentary election see PARA 246 note 30 ante.

13 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 56(1)(c). As to the Secretary of State see PARA 2 ante.

14 As to the procedure at uncontested elections see PARA 477 ante.

15 As to the statement of parties and individual candidates nominated see PARA 272 ante.

16 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 56(2).

17 Ibid Sch 1 para 56(2).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

491-493 Declaration of result ... Sealing up of ballot papers

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(viii) Final Proceedings/E. EUROPEAN PARLIAMENTARY ELECTIONS/492. Return or forfeiture of candidate's deposit.

492. Return or forfeiture of candidate's deposit.

A candidate's deposit at a European parliamentary election¹ is forfeited to the Crown if a poll is taken and, after the total number of valid votes for each registered party² and individual candidate³ has been ascertained⁴, the party or candidate is found not to have polled more than one-fortieth of the total number of votes polled by all the parties and candidates⁵.

Otherwise, a deposit must be returned, not later than the next day⁶ after that on which the result of the election is declared, to the person making it or to his personal representatives⁷. For these purposes, a deposit is to be treated as being returned on a day if a cheque for the amount of the deposit is posted on that day⁸.

However, where a registered party or an individual candidate is not shown as standing nominated in the statement of parties and individual candidates nominated⁹ or where, in the case of an individual candidate, the candidate has died¹⁰, the deposit must be returned¹¹ as soon as practicable after the publication of that statement or the time when the returning officer is satisfied of the candidate's death, as the case may be¹².

1 As to European parliamentary elections see PARA 224 et seq ante; and as to the making of the deposit see PARA 266 ante.

2 For the meaning of 'registered party' in the context of a European parliamentary election see PARA 237 note 30 ante.

3 For the meaning of 'individual candidate' in the context of a European parliamentary election see PARA 237 note 32 ante.

4 Ie under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 54(1) (see PARA 476 ante).

5 Ibid Sch 1 para 57(1), (5).

6 For these purposes, a day must be disregarded if it would be disregarded under ibid Sch 1 para 2 (see PARA 230 note 1 ante) in computing any period of time for the purposes of the timetable for an election of the kind in question: Sch 1 para 57(3)(a). Accordingly, as to the computation of time for these purposes see PARA 230 note 1 ante.

7 Ibid Sch 1 para 57(1), (2).

8 Ibid Sch 1 para 57(3)(b).

9 Ibid Sch 1 para 57(4)(a). As to the statement of parties and individual candidates nominated see PARA 272 ante.

10 Ibid Sch 1 para 57(4)(b). There is no further provision as to countermand on the death of the candidate at a European parliamentary election: see PARA 509 et seq post.

11 Ie, by virtue of ibid Sch 1 para 57(1) (see the text and note 7 supra), to the person making the deposit or his personal representatives, as the case may be.

12 Ibid Sch 1 para 57(4).

UPDATE

**442-512 Arrangements for counting the votes at elections of London
Assembly members ... Fresh election following countermand or abandonment
of poll on death of candidate**

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

491-493 Declaration of result ... Sealing up of ballot papers

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(ix) Disposal of Documents/A. SEALING OF BALLOT PAPERS/493. Sealing up of ballot papers.

(ix) Disposal of Documents

A. SEALING OF BALLOT PAPERS

493. Sealing up of ballot papers.

On the completion of the counting at a contested election or at a poll consequent on a parish meeting involving an appointment to office¹, the returning officer² must seal up in separate packets the counted and rejected ballot papers³.

The returning officer must not open the sealed packets of: (1) tendered ballot papers⁴; (2) the completed corresponding number lists (in the case of a parliamentary election or a local government election for a principal area, parish or community)⁵ or counterfoils (in the case of any other election)⁶; (3) certificates as to employment on duty on the day of the poll⁷; or (4) marked copies of the register of electors⁸ and lists of proxies⁹.

1 As to contested elections and polls consequent on a parish or community meeting involving an appointment to office see PARA 368 et seq ante. As to the deemed completion of the counting of the votes at a European parliamentary election in cases where the count has commenced before the close of the polling in the member state whose electors are the last to vote in the election see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 48(6); and PARA 471 ante. As to European parliamentary elections see PARA 224 et seq ante.

2 As to returning officers for parliamentary elections see PARA 355 et seq ante; as to returning officers for local government elections (including local authority mayoral elections) see PARA 359 et seq ante; and as to the returning officer at a poll consequent on parish meeting see PARA 361 ante. In the case of a London Authority election, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which see PARA 218 note 8 ante). In the case of a Welsh Assembly election, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which see PARA 18 note 2 ante). In the case of European parliamentary elections, the appropriate returning officer is the local returning officer (as to which see PARA 365 et seq ante).

3 Representation of the People Act 1983 s 23(1), Sch 1 r 54(1); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 33(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)-(3), Sch 1 r 47(1), Sch 2 r 50(1), Sch 3 r 52(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 50(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 61(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 58(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 51(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 51(1). In the case of local government elections for principal areas, parishes and communities, and a poll consequent on a parish meeting involving an appointment to office, the packet of rejected ballot papers must include those rejected in part also: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 33(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 51(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 51(1). At an ordinary Welsh Assembly election, the packets sealed up as mentioned in the text must not contain ballot papers relating to different elections: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 61(2).

As to the procedure to be followed when, the result of an election having been declared by the returning officer, a parcel of ballot papers is discovered uncounted see PARA 854 note 3 post.

4 Representation of the People Act 1983 Sch 1 r 54(2)(a) (Sch 1 r 54(2) substituted by the Electoral Administration Act 2006 s 31(1), (5)); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 33(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 47(2), Sch 2 r 50(2), Sch 3 r

52(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 50(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 61(3)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 58(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 51(2)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 51(2)(a). As to tendered ballot papers see PARA 408 ante.

Any amendment effected by the Electoral Administration Act 2006 s 31 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

5 Representation of the People Act 1983 Sch 1 r 54(2)(b) (as substituted: see note 4 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 51(2)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 51(2)(b). See note 4 supra. As to the completed corresponding number lists see PARA 410 note 10 ante.

6 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 33(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 47(2), Sch 2 r 50(2), Sch 3 r 52(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 50(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 61(3)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 58(2). As to the retention of counterfoils see PARA 410 ante.

7 Representation of the People Act 1983 Sch 1 r 54(2)(c) (as substituted: see note 4 supra); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 47(2), Sch 2 r 50(2), Sch 3 r 52(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 50(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 61(3)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 58(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 51(2)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 51(2)(c). See note 4 supra. As to certificates of employment on duty on the day of the poll see PARA 402 ante. There is no provision for certificates as to employment on duty at a poll consequent on a parish meeting on a question involving appointment to office and accordingly head (3) in the text does not apply in that case: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 33(2).

8 Ie including, in the case of a parliamentary election or a local government election for a principal area, parish or community, any marked copy notices issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) (notices specifying appropriate alterations to the register: see PARA 175 ante): Sch 1 r 54(2)(d) (as substituted: see note 4 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 51(2)(d); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 51(2)(d). See note 4 supra.

9 Representation of the People Act 1983 Sch 1 r 54(2)(d) (as substituted: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 33(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 47(2), Sch 2 r 50(2), Sch 3 r 52(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 50(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 61(3)(d); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 51(2)(d); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 51(2)(d). See note 4 supra. As to the list of proxies see PARA 378 ante. There is no provision for voting by proxy at a poll consequent on a parish meeting on a question involving appointment to office and accordingly the reference to the list of proxies is omitted in that case: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 33(2). The documents relating to a European parliamentary election are retained by the local returning officer (see PARA 501 post) and he is required to make the marked copies of the register of electors and list of proxies open to inspection by the public (see PARA 507 post); accordingly, in that case, head (4) in the text does not apply: see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 58(2).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

491-493 Declaration of result ... Sealing up of ballot papers

SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

493 Sealing up of ballot papers

NOTES--SI 2002/185 reg 3(1), Sch 1 r 50 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 56.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(ix) Disposal of Documents/B. CONTROL OF ELECTION DOCUMENTS/494. Transfer of documents relating to parliamentary elections.

B. CONTROL OF ELECTION DOCUMENTS

494. Transfer of documents relating to parliamentary elections.

The returning officer at a parliamentary election¹ must, after sealing up the ballot papers², forward to the relevant registration officer³: (1) the packets of ballot papers in his possession⁴; (2) the ballot paper accounts, and the statements of rejected ballot papers and of the result of the verification of the ballot paper accounts⁵; (3) the tendered votes lists⁶, the lists of voters with disabilities assisted by companions⁷, the lists of votes marked by the presiding officers and the statements relating to them⁸, the lists maintained of persons to whom ballot papers are delivered in consequence of an alteration to the register which takes effect on the day of the poll⁹ and the declarations made by the companions of voters with disabilities¹⁰; (4) the packets of the completed corresponding number lists¹¹; (5) the packets of certificates as to employment on duty on the day of the poll¹²; (6) the packets containing marked copies of the registers of electors¹³ and of the postal voters list¹⁴, of lists of proxies¹⁵ and of the proxy postal voters list¹⁶; and (7) such other documents relating to elections as are prescribed¹⁷, endorsing on each packet a description of its contents, the date of the election to which they relate, and the name of the constituency for which the election was held¹⁸.

1 As to returning officers for parliamentary elections see PARA 355 et seq ante. For the meaning of 'parliamentary election' see PARA 9 ante.

2 As to the sealing up of ballot papers see PARA 493 ante.

3 Representation of the People Act 1983 s 23(1), Sch 1 r 55(1) (amended by the Electoral Administration Act 2006 s 41(1), (3)(a)). For the purposes of the Representation of the People Act 1983 Sch 1 rr 55-57 (as amended), references to the relevant registration officer are to the registration officer of the local authority in whose area the constituency is situated or, if the constituency comprises any part of the area of more than one local authority, to the registration officer of the local authority in whose area the greater or greatest (as the case may be) number of electors is registered: Sch 1 r 55(1A) (added by the Electoral Administration Act 2006 s 41(1), (3)(b)). For the meaning of 'constituency' for these purposes see PARA 9 ante. As to registration officers and the areas for which they act see PARA 154 ante.

Any amendment effected by the Electoral Administration Act 2006 s 41(1), (3) has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. Until that date, the relevant officer at a parliamentary election is the Clerk of the Crown (ie the Clerk of the Crown in Chancery: see the Representation of the People Act 1983 s 202(1)); and as to delivery of election documents to the Clerk of the Crown see Sch 1 r 55(2)-(4) (repealed by the Electoral Administration Act 2006 ss 41(1), (3)(c), 74, Sch 2). As to the Clerk of the Crown in Chancery see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 921.

4 Representation of the People Act 1983 Sch 1 r 55(1)(a).

5 Ibid Sch 1 r 55(1)(b). As to the verification of the ballot paper account at a parliamentary election see PARA 433 ante; and as to the statement of rejected ballot papers see PARA 438 ante.

6 As to the tendered votes list see PARA 408 ante.

7 As to the list of voters with disabilities assisted by companions see PARA 407 ante.

8 As to the list of votes marked by the presiding officer see PARA 406 ante.

9 The lists maintained under the Representation of the People Act 1983 Sch 1 r 41A (as added) (see PARA 404 ante): Sch 1 r 55(1)(c) (amended by the Electoral Administration Act 2006 s 11(6), Sch 1 paras 31, 33, 40(a)).

The amendments effected by the Electoral Administration Act 2006 Sch 1 paras 31, 33, 40 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

10 Representation of the People Act 1983 Sch 1 r 55(1)(c) (amended by the Representation of the People Act 2000 s 13(1), (4)). See also note 9 supra. As to declarations made by the companions of voters with disabilities see PARA 407 ante.

11 Representation of the People Act 1983 Sch 1 r 55(1)(ca) (added by the Electoral Administration Act 2006 s 31(1), (6)(a)). See note 9 supra. As to the completed corresponding number lists see PARA 410 note 10 ante.

12 Representation of the People Act 1983 Sch 1 r 55(1)(d) (amended by the Electoral Administration Act 2006 ss 31(1), (6)(b), 74(2), Sch 2). See note 9 supra. As to certificates of employment on duty on the day of the poll see PARA 402 ante.

13 The including any marked copy notices issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) (notices specifying appropriate alterations to the register: see PARA 175 ante): Sch 1 r 55(1)(e) (amended by the Electoral Administration Act 2006 Sch 1 paras 31, 33, 40(b)). See note 9 supra.

14 As to the postal voters list see PARA 378 ante.

15 As to the list of proxies see PARA 378 ante.

16 Representation of the People Act 1983 Sch 1 r 55(1)(e) (amended by the Electoral Administration Act 2006 s 45(1), (3)(a)). See also note 13 supra. As to the proxy postal voters list see PARA 386 ante.

Any amendment effected by the Electoral Administration Act 2006 s 45 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

17 Representation of the People Act 1983 Sch 1 r 55(1)(f) (added by the Electoral Administration Act 2006 s 45(1), (3)(b)). See note 16 supra.

18 Representation of the People Act 1983 Sch 1 r 55(1). For the meaning of 'constituency' in relation to a parliamentary election see PARA 9 ante.

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(ix) Disposal of Documents/B. CONTROL OF ELECTION DOCUMENTS/495. Forwarding of documents after postal voting at a parliamentary election.

495. Forwarding of documents after postal voting at a parliamentary election.

The returning officer at a parliamentary election¹, at the same time as he forwards the election documents collated from polling stations², must forward to the relevant registration officer³ certain packets⁴ containing documents relating to postal voting⁵. He must endorse on each packet a description of its contents, the date of the election to which it relates, and the name of the constituency for which the election was held⁶. He must also forward to the relevant registration officer a completed statement in the prescribed form⁷ of the number of postal ballot papers issued⁸ at a parliamentary election⁹. A copy of that statement must be provided by the returning officer to the Secretary of State¹⁰ and the Electoral Commission¹¹ in the period which starts ten days after the day of the poll and ends 15 days after that day¹².

Where any covering envelopes¹³ are received by the returning officer after the close of the poll¹⁴ or any envelopes addressed to postal voters¹⁵ are returned as undelivered too late to be re-addressed, or any spoilt postal ballot papers¹⁶ are returned too late to enable other postal ballot papers to be issued, the returning officer must put them unopened into a separate packet, seal up the packet and endorse and forward it at a subsequent date in the same manner as the postal voting packets previously forwarded¹⁷.

Any packet or statement forwarded under the provisions set out above is deemed to have been forwarded in pursuance of the parliamentary elections rules¹⁸ and is subject to the usual provisions which govern orders for the production of election documents¹⁹ and the retention and public inspection of election documents²⁰.

1 For the meaning of 'parliamentary election' see PARA 9 ante. As to returning officers for parliamentary elections see PARA 355 et seq ante.

2 I.e the documents referred to in the Representation of the People Act 1983 s 23(1), Sch 1 r 55 (as amended) (see PARA 494 ante).

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91(1) (amended by SI 2006/2910). The text refers to the relevant registration officer determined in accordance with the Representation of the People Act 1983 Sch 1 r 55(1A) (as added) (see PARA 494 ante).

4 I.e the packets referred to in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 75 (counterfoils and special lists: see PARA 418 ante), reg 77(6) (spoilt postal ballot papers: see PARA 420 ante), reg 78(2C) (as added) (cancelled postal ballot papers: see PARA 421 ante), reg 84(9) (as added) (copy of the marked postal voters list and proxy postal voters list: see PARA 428 ante) and reg 89 (contents of receptacles: see PARA 430 ante).

5 Ibid reg 91(1)(a) (amended by SI 2006/752; SI 2006/2910). This is subject to the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 90 (countermand or abandonment of poll after postal ballot papers have been issued: see PARA 511 post).

6 Ibid reg 91(1)(a) (as amended: see note 5 supra). For the meaning of 'constituency' in relation to a parliamentary election see PARA 9 ante.

7 The prescribed form is set out for the purposes of a parliamentary election in ibid reg 91(1)(b), Sch 3 Forms (Form K: statement as to postal ballot papers) (substituted by SI 2006/2910). The version partly in Welsh and partly in English must be used at a parliamentary election in Wales as set out in the Parliamentary Elections (Welsh Forms) Order 2005, SI 2005/1105, art 6(1)(j), Sch 2 (Form 13: statement as to postal ballot papers).

8 For the meaning of 'postal ballot paper' see PARA 412 note 3 ante. As to the issue of postal ballot papers see PARA 411 et seq ante.

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91(1)(b) (reg 91(1) as amended (see note 3 supra); and reg 91(1)(b) amended by SI 2006/752).

10 As to the Secretary of State see PARA 2 ante.

11 As to the Electoral Commission see PARA 31 et seq ante.

12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91(5) (amended by SI 2006/752).

13 For the meaning of 'covering envelope' see PARA 416 ante.

14 Ie apart from those delivered by the presiding officer in accordance with the provisions of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 79(3) (as amended) (see PARA 425 ante).

15 For the meaning of 'postal voter' see PARA 412 note 3 ante.

16 As to spoilt postal ballot papers see PARA 420 ante.

17 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91(3).

18 For the meaning of 'parliamentary elections rules' see PARA 388 ante.

19 Ie the Representation of the People Act 1983 Sch 1 r 56 (as amended) (see PARAS 834, 849 post).

20 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91(4). The text refers to the provisions set out in the Representation of the People Act 1983 Sch 1 r 57 (as amended) (see PARA 503 post).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

495 Forwarding of documents after postal voting at a parliamentary election

NOTE 7--SI 2005/1105 replaced: Parliamentary Elections (Welsh Forms) Order 2007, SI 2007/1014.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(ix) Disposal of Documents/B. CONTROL OF ELECTION DOCUMENTS/496. Transfer of documents relating to certain local government elections and local authority mayoral elections.

496. Transfer of documents relating to certain local government elections and local authority mayoral elections.

The returning officer at certain local government elections or at a local authority mayoral election¹, must, after sealing up the ballot papers², forward to the appropriate officer³: (1) the packets of ballot papers in his possession⁴; (2) the ballot paper accounts, and the statements of rejected ballot papers and of the result of the verification of the ballot paper accounts⁵; (3) the tendered votes lists⁶, the lists of voters with disabilities assisted by companions⁷, the lists of votes marked by the presiding officers and the statements relating to them⁸, the declarations made by the companions of voters with disabilities⁹ and (in the case of a local government election for a principal area, parish or community council) the list of persons to whom ballot papers were delivered in consequence of an alteration to the register which took effect on the day of the poll¹⁰; (4) the packets of the completed corresponding number lists (in the case of a local government election for a principal area, parish or community council)¹¹ or of the counterfoils of the used ballot papers (otherwise)¹²; (5) the packets of certificates as to employment on duty on the day of the poll¹³; and (6) the packets containing marked copies of the registers of electors and of lists of proxies and (in the case of a local government election for a principal area, parish or community council) of the postal voters list and of the proxy postal voters list¹⁴.

At a poll consequent on a parish meeting on a question involving appointment to office, or at a local authority mayoral election, the returning officer must endorse on each packet a description of its contents, the date of the poll or election (as the case may be) to which they relate, and the name of the parish for which the poll was held or the name of the electoral area for which the election was held (as the case may be)¹⁵.

1 Ie in relation to local government elections, except Authority elections (as to which see PARA 497 post), but including a poll consequent on a parish meeting taken on the question of appointment to any office and local authority mayoral elections. For the meanings of 'Authority election' and 'local government election' see PARA 10 ante. As to elections for the return of an elected local authority mayor see PARA 205 et seq ante; as to polls consequent on a parish meeting involving an appointment to office see PARA 207 et seq ante; as to returning officers for local government elections (including local authority mayoral elections) see PARA 359 et seq ante; and as to the returning officer at a poll consequent on parish meeting see PARA 361 ante.

2 As to the sealing up of ballot papers see PARA 493 ante.

3 Ie, in the case of a local government election for a principal area, parish or community council, the relevant registration officer; at a poll consequent on a parish meeting involving an appointment to office, the proper officer of the council of the district in which the parish is situate; and, at a local authority mayoral election, the proper officer of the local authority concerned. For these purposes, in relation to a local government election for a principal area, parish or community council, references to the relevant registration officer are to the registration officer of the local authority in whose area the election is held and, in the case of a parish or community election, in which the parish or community is situate: Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 52(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 52(2). For the purposes of a poll consequent on a parish meeting, any references to a proper officer of a council means any officer appointed for the purpose by that council: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 38(3). For the meaning of 'proper officer' generally see PARA 155 note 2 ante. For the meaning of 'local authority' for the purposes of a local authority mayoral election see LOCAL GOVERNMENT vol 69 (2009) PARA 23.

- 4 Ibid Schedule r 34(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 51(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 52(1)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 52(1)(a).
- 5 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 34(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 51(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 52(1)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 52(1)(b).
- 6 As to the tendered votes list see PARA 408 ante.
- 7 As to the list of voters with disabilities assisted by companions see PARA 407 ante.
- 8 As to the list of votes marked by the presiding officer see PARA 406 ante.
- 9 As to declarations made by the companions of voters with disabilities see PARA 407 ante.
- 10 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 34(c); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 51(e); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 52(1)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 52(1)(c). The list referred to in the text of persons to whom ballot papers were delivered in consequence of an alteration to the register which took effect on the day of the poll is a reference to the list maintained by the presiding officer, in relation to a local government election for a principal area, under the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 41 and, in relation to a local government election for a parish and community council, under the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 41 (see PARA 404 ante): see the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 52(1)(c); and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 52(1)(c). At a poll consequent on a parish meeting on a question involving appointment to office, the provision set out in the text applies only to voters with blindness and all references to other disabilities must be ignored in that case: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 34(c).
- 11 Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 52(1)(d); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 52(1)(d). As to the completed corresponding number lists see PARA 410 note 10 ante.
- 12 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 34(d); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 51(c).
- 13 Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 51(c); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 52(1)(e); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 52(1)(e). As to certificates of employment on duty on the day of the poll see PARA 402 ante. There is no provision for certificates as to employment on duty at a poll consequent on a parish meeting on a question involving appointment to office, and accordingly the reference to such certificates in head (5) in the text is omitted in that case.
- 14 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 34(e); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 51(d); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 52(1)(f); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 52(1)(f). In the case of a local government election for a principal area, parish or community, the reference to the marked copies of registers includes any marked copy notices of alteration to the register issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) (see PARA 175 ante): see the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 52(1)(f); and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 52(1)(f). There is no provision for voting by proxy at a poll consequent on a parish meeting on a question involving appointment to office, and accordingly the reference to the list of proxies in head (6) in the text is omitted in that case. As to the postal voters list and the list of proxies see PARA 378 post; and as to the proxy postal voters list see PARA 386 ante.
- 15 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 34; Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 51.

UPDATE

**442-512 Arrangements for counting the votes at elections of London
Assembly members ... Fresh election following countermand or abandonment
of poll on death of candidate**

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

**496 Transfer of documents relating to certain local government elections
and local authority mayoral elections**

NOTES--SI 2002/185 reg 3(1), Sch 1 r 51 now Local Authorities (Mayoral Elections)
(England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 57.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(ix) Disposal of Documents/B. CONTROL OF ELECTION DOCUMENTS/497. Transfer of documents relating to London Authority elections.

497. Transfer of documents relating to London Authority elections.

The constituency returning officer at a London Authority election¹ must, after sealing up the ballot papers², transfer to the control of the Greater London returning officer ('GLRO')³: (1) the packets of ballot papers in his possession⁴; (2) the ballot paper accounts and the statements of rejected ballot papers and of the result of the verification of the ballot paper accounts⁵; and (3) the packets of counterfoils and certificates as to employment on duty on the day of the poll⁶, endorsing on each packet a description of its contents, the date of the election to which they relate and the name of the constituency⁷ for which the election was held⁸. The packets containing: (a) the marked copies of registers and of lists of proxies⁹; and (b) the tendered votes lists¹⁰, the lists of voters with disabilities assisted by companions¹¹, the lists of votes marked by the presiding officer and the related statements¹², and the declarations made by the companions of voters with disabilities¹³, must be retained by the constituency returning officer¹⁴.

Any document which has been transferred to the control of the GLRO in this way must be either kept by the constituency returning officer on behalf of the GLRO¹⁵ or forwarded by the constituency returning officer to the GLRO¹⁶, as the GLRO may decide¹⁷.

1 For the meaning of 'Authority election' see PARA 10 ante; and for the meaning of 'constituency returning officer' in the context of such an election see PARA 218 note 8 ante.

2 As to the sealing up of ballot papers see PARA 493 ante.

3 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)-(3), Sch 1 r 48(1), Sch 2 r 51(1), Sch 3 r 53(1) (Sch 1 r 48(1), Sch 2 r 51(1), Sch 3 r 53(1) all amended by SI 2004/227). For the meaning of 'Greater London returning officer' see PARA 218 note 7 ante.

4 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 48(1)(a), Sch 2 r 51(1)(a), Sch 3 r 53(1)(a).

5 Ibid Sch 1 r 48(1)(b), Sch 2 r 51(1)(b), Sch 3 r 53(1)(b).

6 Ibid Sch 1 r 48(1)(c), Sch 2 r 51(1)(c), Sch 3 r 53(1)(c). As to certificates of employment on duty on the day of the poll see PARA 402 ante.

7 For the meaning of 'Assembly constituency' in the context of elections to the London Assembly see PARA 10 note 6 ante.

8 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 48(1), Sch 2 r 51(1), Sch 3 r 53(1).

9 Ibid Sch 1 r 48(2)(a), Sch 2 r 51(2)(a), Sch 3 r 53(2)(a). As to the list of proxies see PARA 378 ante.

10 As to the tendered votes list see PARA 408 ante.

11 As to the list of voters with disabilities assisted by companions see PARA 407 ante.

12 As to the list of votes marked by the presiding officer see PARA 406 ante.

13 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 48(2)(b), Sch 2 r 51(2)(b), Sch 3 r 53(2)(b) (all amended by SI 2004/227). As to declarations made by the companions of voters with disabilities see PARA 407 ante.

14 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 48(2), Sch 2 r 51(2), Sch 3 r 53(2).

15 Ibid Sch 1 r 48(3)(a), Sch 2 r 51(3)(a), Sch 3 r 53(3)(a) (Sch 1 r 48(3), Sch 2 r 51(3), Sch 3 r 53(3) all added by SI 2004/227).

16 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 48(3)(b), Sch 2 r 51(3)(b), Sch 3 r 53(3)(b) (all as added: see note 15 supra).

17 Ibid Sch 1 r 48(3), Sch 2 r 51(3), Sch 3 r 53(3) (all as added: see note 15 supra).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(ix) Disposal of Documents/B. CONTROL OF ELECTION DOCUMENTS/498. Forwarding of documents after postal voting at a local government election.

498. Forwarding of documents after postal voting at a local government election.

The returning officer at a local government election¹, at the same time as he forwards the election documents collated from polling stations², must forward to the proper officer of the authority to which councillors (or a mayor) are to be elected³, or, in the case of a parish or community council election, the proper officer of the council of the district in England or county or county borough in Wales in which the parish or community is situated, certain packets⁴ containing documents relating to postal voting⁵. He must endorse on each packet a description of its contents, the date of the election to which it relates, and the name of the electoral area (or areas) for which the election was held⁶. He must also forward to the proper officer a completed statement in the prescribed form⁷ of the number of postal ballot papers issued⁸ at a local government election⁹. A copy of that statement must be provided by the returning officer to the Secretary of State¹⁰ and the Electoral Commission¹¹ in the period which starts ten days after the day of the poll and ends 15 days after that day¹².

Where any covering envelopes¹³ are received by the returning officer after the close of the poll¹⁴ or where any envelopes addressed to postal voters¹⁵ are returned as undelivered too late to be re-addressed, or where any spoilt postal ballot papers¹⁶ are returned too late to enable other postal ballot papers to be issued, the returning officer must put them unopened into a separate packet, seal up the packet and endorse and forward it at a subsequent date in the same manner as the postal voting packets previously forwarded¹⁷.

Any packet or statement forwarded under the provisions set out above is deemed to have been forwarded in pursuance of the elections rules and is subject to the usual provisions which govern orders for the production of election documents¹⁸ and the retention and public inspection of election documents¹⁹.

1 Ie including an election for the return of a local authority mayor. For the meaning of 'local government election' see PARA 10 ante. As to elections for the return of a local authority mayor see PARA 205 ante. As to returning officers for local government elections (including local authority mayoral elections) see PARA 359 et seq ante. As to elections in the City of London see PARA 30 ante.

References in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91(1), (2) (reg 91(1) as amended) to the case of a local government election have been repealed with effect from 1 January 2007, except in relation to any election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Representation of the People (England and Wales) (Amendment) (No 2) Regulations 2006, SI 2006/2910, reg 1(1), (2), (3)(d).

2 Ie the documents referred to in the Representation of the People Act 1983 s 23(1), Sch 1 r 55 (as amended) (see PARA 494 ante).

3 For the meaning of 'proper officer' see PARA 155 note 2 ante. In the case of an election for the return of a local authority mayor, the documents are held by the local authority (for the meaning of which for these purposes see LOCAL GOVERNMENT vol 69 (2009) PARA 23).

4 Ie the packets referred to in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 75 (counterfoils and special lists: see PARA 418 ante), reg 77(6) (spoilt postal ballot papers: see PARA 420 ante), reg 78(2C) (as added) (cancelled postal ballot papers: see PARA 421 ante) and reg 89 (contents of receptacles: see PARA 430 ante).

5 Ibid reg 91(1)(a), (2) (reg 91(1)(a) amended by SI 2006/752). As to the effect of this provision see note 1 supra. This is subject to the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 90 (countermand or abandonment of poll: see PARA 511 post).

6 Ibid reg 91(1)(a) (as amended: see note 5 supra). As to the effect of this provision see note 1 supra. For the meaning of 'electoral area' see PARA 10 ante.

7 The prescribed form is set out in ibid reg 91(1)(b), Sch 3 (Form K: statement as to postal ballot papers) (substituted by SI 2006/2910). As to the effect of this provision see note 1 supra.

8 For the meaning of 'postal ballot paper' see PARA 412 note 3 ante. As to the issue of postal ballot papers see PARA 411 et seq ante.

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91(1)(b) (amended by SI 2006/752). As to the effect of this provision see note 1 supra.

10 As to the Secretary of State see PARA 2 ante.

11 As to the Electoral Commission see PARA 31 et seq ante.

12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91(5) (amended by SI 2006/752).

13 For the meaning of 'covering envelope' see PARA 416 ante.

14 In addition to those delivered by the presiding officer in accordance with the provisions of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 79(3) (as amended) (see PARA 425 ante).

15 For the meaning of 'postal voter' see PARA 412 note 3 ante.

16 As to spoilt postal ballot papers see PARA 420 ante.

17 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91(3).

18 See PARAS 834, 849 post.

19 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91(4). As to the provisions referred to in the text see PARA 504 post.

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(ix) Disposal of Documents/B. CONTROL OF ELECTION DOCUMENTS/499. Transfer of documents relating to elections to the National Assembly for Wales.

499. Transfer of documents relating to elections to the National Assembly for Wales.

Where a constituency returning officer¹ has conducted a count at an ordinary Welsh Assembly election² for both a constituency³ and a regional election⁴, he must then forward to the clerk to the National Assembly for Wales⁵: (1) the packets of ballot papers in his possession relating to the constituency election⁶; (2) the packets of ballot papers in his possession relating to the regional election⁷; (3) the ballot paper accounts and the statements of rejected ballot papers and of the result of the verification of the ballot paper accounts relating to the constituency election⁸; (4) the ballot paper accounts and the statements of rejected ballot papers and of the result of the verification of the ballot paper accounts relating to the regional election⁹; (5) the tendered votes lists¹⁰, the lists of voters with disabilities assisted by companions¹¹, the lists of votes marked by the presiding officer and the related statements¹², and the declarations made by the companions of voters with disabilities relating to those elections¹³; (6) the packets of counterfoils relating to the constituency election¹⁴; (7) the packets of counterfoils relating to the regional election¹⁵; (8) the packets of the certificates as to employment on duty on the day of the poll relating to those elections¹⁶; and (9) the packets containing marked copies of registers and of lists of proxies relating to those elections¹⁷, endorsing on each packet: (a) a description of its contents¹⁸; (b) the date of the election or elections to which they relate¹⁹; (c) where the packet relates to the constituency election, the name of the Assembly constituency²⁰ for which the election was held²¹; (d) where the packet relates to a regional election, the name of the Assembly electoral region²² for which the election was held and the name of the Assembly constituency in which the electoral region votes were given²³; and (e) where the packet relates to both elections, the name of the Assembly constituency and electoral region for which the elections were held²⁴.

Where a constituency returning officer has conducted a count at an Assembly election other than at an ordinary Welsh Assembly election for both a constituency and a regional election, he must then forward to the National Assembly for Wales: (i) the packets of ballot papers in his possession²⁵; (ii) the ballot paper accounts and the statements of rejected ballot papers and of the result of the verification of the ballot paper accounts²⁶; (iii) the tendered votes lists, the lists of voters with disabilities assisted by companions, the lists of votes marked by the presiding officer and the related statements, and the declarations made by the companions of voters with disabilities²⁷; (iv) the packets of counterfoils²⁸; (v) the packets of the certificates as to employment on duty on the day of the poll²⁹; and (vi) the packets containing marked copies of registers and of lists of proxies³⁰, endorsing on each packet: (A) a description of its contents³¹; (B) the date of the election to which they relate³²; (C) the name of the Assembly constituency or electoral region for which the election was held³³; and (D) in the case of a regional election, the name of the Assembly constituency in which the electoral region votes were given³⁴.

The constituency returning officer may forward the documents either by delivering them himself or by his agent to the clerk to the Assembly or by sending them by post³⁵. If the constituency returning officer sends them by post, he must deliver the documents to the official designated by the universal postal service provider concerned or the deputy of that official³⁶. The designated official or his deputy must give a receipt in respect of those documents to the constituency returning officer and send the documents by the first post to the clerk to the Assembly³⁷. The constituency returning officer must send a letter to the clerk to the Assembly

by the same post as the one by which he sends the documents, specifying the number and description of the documents so sent³⁸ and a copy of the receipt given him by the designated official or his deputy must be signed by him and retained by the designated official or his deputy³⁹. On receipt of the documents by the clerk to the Assembly, a receipt must be given to the person delivering them, and the receipt of those documents must be registered in books kept for the purpose by the Assembly specifying the date and time of receipt⁴⁰. Any receipt to be given for the documents must show the date and time of their receipt⁴¹.

1 For the meaning of 'constituency returning officer' in the context of Welsh Assembly elections see PARA 18 note 2 ante.

2 For the meaning of 'Assembly election' in this context see PARA 3 note 1 ante. As to counts made in relation to such an election see PARA 460 et seq ante.

3 For the meaning of 'Assembly constituency election' in this context see PARA 3 note 1 ante.

4 For the meaning of 'Assembly regional election' in this context see PARA 3 note 1 ante.

5 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 62(1).

6 Ibid Sch 5 para 62(1)(a).

7 Ibid Sch 5 para 62(1)(b).

8 Ibid Sch 5 para 62(1)(c).

9 Ibid Sch 5 para 62(1)(d).

10 As to the tendered votes list see PARA 408 ante.

11 As to the list of voters with disabilities assisted by companions see PARA 407 ante.

12 As to the list of votes marked by the presiding officer see PARA 406 ante.

13 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 62(1) (e). As to declarations made by the companions of voters with disabilities see PARA 407 ante.

14 Ibid Sch 5 para 62(1)(f).

15 Ibid Sch 5 para 62(1)(g).

16 Ibid Sch 5 para 62(1)(h). As to certificates of employment on duty on the day of the poll see PARA 402 ante.

17 Ibid Sch 5 para 62(1)(i). As to the list of proxies see PARA 378 ante.

18 Ibid Sch 5 para 62(1)(i).

19 Ibid Sch 5 para 62(1)(ii).

20 For the meaning of 'constituency' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

21 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 62(1) (iii).

22 For the meaning of 'electoral region' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

23 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 62(1) (iv).

24 Ibid Sch 5 para 62(1)(v).

25 Ibid Sch 5 para 62(2)(a).

- 26 Ibid Sch 5 para 62(2)(b).
- 27 Ibid Sch 5 para 62(2)(c).
- 28 Ibid Sch 5 para 62(2)(d).
- 29 Ibid Sch 5 para 62(2)(e).
- 30 Ibid Sch 5 para 62(2)(f).
- 31 Ibid Sch 5 para 62(2)(i).
- 32 Ibid Sch 5 para 62(2)(ii).
- 33 Ibid Sch 5 para 62(2)(iii).
- 34 Ibid Sch 5 para 62(2)(iv).
- 35 Ibid Sch 5 para 62(3).
- 36 Ibid Sch 5 para 62(4)(a).
- 37 Ibid Sch 5 para 62(4)(b).
- 38 Ibid Sch 5 para 62(4)(c).
- 39 Ibid Sch 5 para 62(4)(d).
- 40 Ibid Sch 5 para 62(5).
- 41 Ibid Sch 5 para 62(6).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(ix) Disposal of Documents/B. CONTROL OF ELECTION DOCUMENTS/500. Forwarding of documents after postal voting at an election to the National Assembly for Wales.

500. Forwarding of documents after postal voting at an election to the National Assembly for Wales.

The constituency returning officer at a Welsh Assembly election¹, at the same time as he forwards the election documents collated from polling stations², must forward to the National Assembly for Wales³ certain packets⁴ containing documents relating to postal voting⁵. He must endorse on each packet a description of its contents, the date of the election to which it relates, and the name of the constituency⁶ or electoral area or areas⁷ for which the election was held⁶. He must also forward to the Assembly a completed 'statement as to postal ballot papers' in the prescribed form⁹, stating the number of postal ballot papers issued¹⁰ at the election¹¹. A copy of that statement must be provided by the constituency returning officer to the Assembly and the Electoral Commission¹² in the period which starts ten days after the day of the poll and ends 15 days after that day¹³.

Where any covering envelopes¹⁴ are received by the returning officer after the close of the poll¹⁵ or any envelopes addressed to postal voters¹⁶ are returned as undelivered too late to be re-addressed, or any spoilt postal ballot papers¹⁷ are returned too late to enable other postal ballot papers to be issued, the constituency returning officer must put them unopened into a separate packet, seal up the packet and endorse and forward it at a subsequent date in the same manner as the postal voting packets previously forwarded¹⁸.

Any packet or statement forwarded under the provisions set out above is deemed to have been forwarded in pursuance of the elections rules¹⁹ and is subject to the usual provisions which govern the delivery of election documents to the Assembly and orders for their production²⁰.

1 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante; and for the meaning of 'constituency returning officer' see PARA 18 note 2 ante.

2 I.e. the documents referred to in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 62 (delivery of documents to the Assembly: see PARA 499 ante).

3 As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

4 I.e. the packets referred to in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 13 (see PARA 418 ante), Sch 3 para 14(6) (see PARA 420 ante), Sch 3 para 15(2C) (as added) (see PARA 421 ante) and Sch 3 para 25 (see PARA 430 ante).

5 Ibid Sch 3 para 27(1)(a) (amended by SI 2006/884). This is subject to the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 26 (countermand or abandonment of poll after postal ballot papers have been issued: see PARA 511 post).

6 For the meaning of 'Assembly constituency' for these purposes see PARA 3 note 1 ante.

7 I.e. in the case of combined polls (as to which see PARA 20 ante). For the meaning of 'electoral area' see PARA 10 ante.

8 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 27(1)(a) (as amended: see note 5 supra).

9 The prescribed form is set out for the purposes of a Welsh Assembly election in ibid Sch 3 Appendix of Forms (Form of statement as to postal ballot papers).

- 10 For the meaning of 'postal ballot paper' see PARA 412 note 3 ante. As to the issue of postal ballot papers see PARA 411 et seq ante.
- 11 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 27(1) (b).
- 12 As to the Electoral Commission see PARA 31 et seq ante.
- 13 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 27(4) (amended by SI 2006/884).
- 14 For the meaning of 'covering envelope' see PARA 416 ante.
- 15 Ie apart from those delivered by the presiding officer in accordance with the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 50(6) (see PARA 425 ante).
- 16 For the meaning of 'postal voter' see PARA 412 note 3 ante.
- 17 As to spoilt postal ballot papers see PARA 420 ante.
- 18 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 27(2).
- 19 Ie the rules contained in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended) (see PARA 388 ante).
- 20 Ibid Sch 3 para 27(3). This provision refers to Sch 5 para 61 and Sch 5 para 62, but it is submitted that this should be a reference to Sch 5 para 62 (delivery of election documents to the Assembly: see PARA 499 ante) and Sch 5 para 63 (order for production of documents: see PARAS 834, 849 post). Schedule 5 para 61 deals with the sealing up of ballot papers: see PARA 493 ante.

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(ix) Disposal of Documents/B. CONTROL OF ELECTION DOCUMENTS/501. Retention of documents relating to European parliamentary elections.

501. Retention of documents relating to European parliamentary elections.

The local returning officer at a European parliamentary election¹ must, after sealing up the ballot papers², retain³: (1) the packets of ballot papers in his possession⁴; (2) the ballot paper accounts, and the statements of rejected ballot papers and of the result of the verification of the ballot paper accounts⁵; (3) the tendered votes lists⁶, the lists of voters with disabilities assisted by companions⁷, the lists of votes marked by the presiding officers and the statements relating to them⁸, and the declarations made by the companions of voters with disabilities⁹; (4) the packets of counterfoils and certificates as to employment on duty on the day of the poll¹⁰; and (5) the packets containing marked copies of the registers of electors and of lists of proxies¹¹, endorsing on each packet a description of its contents¹².

1 As to European parliamentary elections see PARA 224 et seq ante; and as to local returning officers appointed for the purposes of European parliamentary elections see PARA 365 et seq ante.

2 As to the sealing up of ballot papers see PARA 493 ante.

3 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 59.

4 Ibid Sch 1 para 59(a).

5 Ibid Sch 1 para 59(b).

6 As to the tendered votes list see PARA 408 ante.

7 As to the list of voters with disabilities assisted by companions see PARA 407 ante.

8 As to the list of votes marked by the presiding officer see PARA 406 ante.

9 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 59(c). As to declarations made by the companions of voters with disabilities see PARA 407 ante.

10 Ibid Sch 1 para 59(d). As to certificates of employment on duty on the day of the poll see PARA 402 ante.

11 Ibid Sch 1 para 59(e). As to the list of proxies see PARA 378 ante.

12 Ibid Sch 1 para 59.

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

501 Retention of documents relating to European parliamentary elections

TEXT AND NOTES--SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(ix) Disposal of Documents/B. CONTROL OF ELECTION DOCUMENTS/502. Retention of documents after postal voting at a European parliamentary election.

502. Retention of documents after postal voting at a European parliamentary election.

At a European parliamentary election¹, the local returning officer² must retain for a period of one year after the date of the poll certain packets containing election documents relating to postal voting³ and endorse on each packet a description of its contents⁴. After the expiry of that period, he must cause those packets to be destroyed, unless otherwise directed by order of the High Court⁵. A completed statement in the prescribed form⁶ of the number of postal ballot papers issued⁷ must be provided by the local returning officer to the Secretary of State⁸.

Where any covering envelopes⁹ are received by the local returning officer after the close of the poll¹⁰ or any envelopes addressed to postal voters¹¹ are returned as undelivered too late to be re-addressed, or any spoilt ballot papers¹² are returned too late to enable other postal ballot papers to be issued, the local returning officer must put them unopened into a separate packet, seal up the packet and endorse and retain it and subsequently deal with it in the same manner as the postal voting packets¹³.

Any packet or statement retained under the provisions set out above is deemed to have been retained in pursuance of the European parliamentary elections rules¹⁴ and is subject to the usual provisions which govern orders for the production of election documents and the retention and public inspection of election documents¹⁵.

1 As to European parliamentary elections see PARA 224 et seq ante.

2 As to local returning officers appointed for the purposes of elections to the European Parliament see PARA 365 ante.

3 I.e. the packets referred to in the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 37 (see PARA 418 ante), Sch 2 para 39(6) (see PARA 420 ante) and Sch 2 para 51 (see PARA 430 ante).

4 Ibid Sch 2 para 52(1). This is subject to a proviso where the proceedings on the issue and receipt of postal ballot papers are taken together under Sch 2 para 27 (ie where polls are combined: see PARA 20 ante): see Sch 2 para 52(2).

5 Ibid Sch 2 para 52(1).

6 The prescribed form is set out for the purposes of a European parliamentary election in ibid Sch 2 Appendix of Forms (Form H: statement as to postal ballot papers). The version partly in Welsh and partly in English which must be used at a European parliamentary election in Wales is set out in the European Parliamentary Elections (Welsh Forms) Order 2004, SI 2004/1373, art 6(1)(g), Sch 2 (Form 10: statement as to postal ballot papers, datganiad ynghylch papurau pleidleisio drwy'r post).

7 For the meaning of 'postal ballot paper' see PARA 412 note 3 ante. As to the issue of postal ballot papers see PARA 411 et seq ante.

8 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 52(5). Such a statement must identify the local counting areas or parts of such areas within the electoral region for which it is prepared: Sch 2 para 52(6). For the meaning of 'local counting area' see PARA 230 note 11 ante. As to the electoral areas established for the purposes of European parliamentary elections see PARA 76 ante. As to the Secretary of State see PARA 2 ante.

9 For the meaning of 'covering envelope' see PARA 416 ante.

10 le apart from those delivered by the presiding officer in accordance with the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 41(3) (see PARA 425 ante).

11 For the meaning of 'postal voter' see PARA 412 note 3 ante.

12 As to spoilt postal ballot papers see PARA 420 ante.

13 le the manner described in European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 52(1) (see the text and notes 1-5 supra): Sch 2 para 52(3).

14 For the meaning of 'European parliamentary elections rules' see PARA 388 ante.

15 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 52(4). The text refers to the provisions set out in Sch 1 para 60 (see PARAS 834, 849 post) and Sch 1 para 61 (see PARA 507 post).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

502 Retention of documents after postal voting at a European parliamentary election

TEXT AND NOTES--SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

NOTE 6--SI 2004/1373 replaced: European Parliamentary Elections (Welsh Forms) Order 2009, SI 2009/781.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(ix) Disposal of Documents/C. RETENTION AND INSPECTION OF ELECTION DOCUMENTS/503. Retention and inspection of documents relating to parliamentary elections.

C. RETENTION AND INSPECTION OF ELECTION DOCUMENTS

503. Retention and inspection of documents relating to parliamentary elections.

The relevant registration officer¹ must retain for a year all documents relating to a parliamentary election² forwarded to him by a returning officer³; and then, unless otherwise directed by an order of the House of Commons or the High Court, the Crown Court or a magistrates' court⁴, must cause them to be destroyed⁵. All documents so forwarded (except ballot papers, the completed corresponding number lists⁶ and certificates as to employment on the day of the poll⁷) must be open to public inspection⁸. The relevant registration officer must, on request, supply to any person copies of or extracts from such description of the documents open to public inspection as is prescribed by regulations⁹; and a copy of the marked copies of the register, the postal voters list¹⁰, the list of proxies¹¹ and the proxy postal voters list¹² must, on request, be supplied to a registered party¹³ or to a person who was a candidate at the election in relation to the constituency for which he was a candidate¹⁴.

Any person entitled to be supplied¹⁵ with copies of the full register¹⁶ at a particular parliamentary election is also a person entitled¹⁷ to request¹⁸ that a relevant registration officer supply copies of the relevant part¹⁹ of the marked register or lists he is required to keep²⁰. The relevant registration officer must supply a copy of the relevant part of the marked register or lists where a request is duly made²¹, and if: (1) he is satisfied that the requestor needs to see the marks on the marked register or lists in order to achieve the purpose for which it is requested²²; and (2) he has received payment of a fee²³. If the relevant registration officer is not satisfied in accordance with head (1) above, he may treat the request for a marked register or list as a request for information in unmarked lists²⁴, or as a request for the published copy of the full register²⁵, or both²⁶.

Any person is entitled to request that the relevant registration officer make available for inspection a copy of any of the marked register or lists or such other documents relating to an election as the relevant registration officer is required by or under any enactment to retain for any period (except ballot papers, completed corresponding number lists and certificates as to employment on the day of the election)²⁷. The relevant registration officer must make the documents open to public inspection available for inspection under supervision not later than 10 days²⁸ after the date of receipt of a request that has been duly made²⁹. However, where a request has been made to inspect copies of the marked register or lists³⁰ and the relevant registration officer is not satisfied that the purposes of the requestor cannot be met by inspection of the full register, he must inform the requestor of his decision to this effect and he must provide the requestor with information concerning the availability of the published full register³¹. The relevant registration officer must, on request, supply free of charge copies of any documents open to public inspection to a person who has inspected those documents and who is entitled to be supplied with a copy of the marked register or lists³².

1 For the meaning of references to the relevant registration officer for these purposes see PARA 494 note 3 ante.

2 For the meaning of 'parliamentary election' see PARA 9 ante.

3 As to returning officers for parliamentary elections see PARA 355 et seq ante; and as to the delivery of documents relating to parliamentary elections see PARA 494 ante. As to the penalty for breach of duty by persons responsible for used ballot papers and other documents see PARA 740 post; and as to offences which relate to persons who interfere with access to or the control of election documents see PARA 748 post.

4 As to the production and inspection of documents by order of the House of Commons or the court see PARAS 834, 849 post.

5 Representation of the People Act 1983 s 23(1), Sch 1 r 57(1) (amended by the Electoral Administration Act 2006 ss 41(1), (5)(a), 70(2), 78(3)). For the purposes of prosecuting an offence under the Representation of the People Act 1983, an application may be made for an order to extend the period of time for which election documents are required to be retained under Sch 1 r 57(1) (as amended): see PARA 881 post.

The amendments effected by the Electoral Administration Act 2006 s 41(5) have no effect in relation to any documents which have been or must be forwarded to the Clerk of the Crown on or before 2 May 2007, in accordance with either the Representation of the People Act 1983 Sch 1 r 55 (as amended) (see PARA 494 ante) or the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91 (as amended) (see PARA 495 ante): see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 4. As to the Clerk of the Crown see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 921.

6 As to the completed corresponding number lists see PARA 410 note 10 ante.

7 As to certificates of employment on duty on the day of the poll see PARA 402 ante.

8 Representation of the People Act 1983 Sch 1 r 57(2) (substituted by the Electoral Administration Act 2006 s 31(1), (8)).

Regulations may impose conditions in relation to the inspection of any document in pursuance of the Representation of the People Act 1983 Sch 1 r 57(2) (as substituted): Sch 1 r 57(5)(a) (Sch 1 r 57(4)-(9) added by the Electoral Administration Act 2006 s 41(1), (5)(c)). Conditions which may be imposed for these purposes include conditions as to: (1) whether a person may take any copy of a document he is permitted to inspect (Representation of the People Act 1983 Sch 1 r 57(7)(a) (as so added)); (2) the manner in which any such copy is to be taken (Sch 1 r 57(7)(b) (as so added)); and (3) the purposes for which information contained in any document or part of a document which is inspected in pursuance of Sch 1 r 57(2) (as substituted) may be used (Sch 1 r 57(7)(c) (as so added)). As to the regulations made see the text and notes 27-32 *infra*. As to the making of regulations under the Representation of the People Act 1983 generally see PARA 24 note 16 ante.

The amendment effected by the Electoral Administration Act 2006 s 31(8) has no effect in relation to any documents which have been or must be forwarded to the Clerk of the Crown on or before 2 May 2007, in accordance with either the Representation of the People Act 1983 Sch 1 r 55 (as amended) (as to which see PARA 494 ante) or the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91 (as amended) (as to which see PARA 495 ante): see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 4. As to the effect of amendments effected by the Electoral Administration Act 2006 s 41(5) see note 5 *supra*.

9 Representation of the People Act 1983 Sch 1 r 57(3) (substituted by the Electoral Administration Act 2006 s 41(1), (5)(b)).

Regulations may impose conditions in relation to the supply of any document or part of a document in pursuance of the Representation of the People Act 1983 Sch 1 r 57(3) (as substituted): Sch 1 r 57(5)(b) (as added: see note 8 *supra*). Conditions which may be imposed for these purposes include conditions as to: (1) the purposes for which information contained in any document or part of a document which is supplied in pursuance of Sch 1 r 57(3) (as substituted) may be used (Sch 1 r 57(7)(c) (as so added)); and (2) conditions as to the extent to which a person to whom a document or part of a document has been supplied may: (a) supply that document or part to any other person (Sch 1 r 57(8)(a) (as so added)); (b) disclose to any other person any information contained in the document or part (Sch 1 r 57(8)(b) (as so added)); and (c) use any such information for a purpose other than that for which the document or part was supplied to him (Sch 1 r 57(8)(c) (as so added)). Regulations may also make provision as to the form in which any such document or part is supplied and for the payment of a fee in respect of the supply of a document or part: Sch 1 r 57(6) (as so added). As to the regulations made see the text and notes 15-26 *infra*.

As to the effect of the amendment effected by the Electoral Administration Act 2006 s 41(5) see note 5 *supra*.

10 As to the postal voters list see PARA 378 ante.

11 As to the list of proxies see PARA 378 ante.

12 As to the proxy postal voters list see PARA 386 ante.

13 le within the meaning of the Political Parties, Elections and Referendums Act 2000 Pt II (ss 22-40) (as amended) (see PARA 260 ante).

14 Representation of the People Act 1983 Sch 1 r 57(4) (as added: see note 8 supra).

Regulations may impose conditions in relation to the supply of any document or part of a document in pursuance of Sch 1 r 57(4) (as added): Sch 1 r 57(5)(c) (as so added). Conditions which may be imposed for these purposes include conditions as to the extent to which a person to whom a document or part of a document has been supplied may: (1) supply that document or part to any other person (Sch 1 r 57(8)(a) (as so added)); (2) disclose to any other person any information contained in the document or part (Sch 1 r 57(8)(b) (as so added)); and (3) use any such information for a purpose other than that for which the document or part was supplied to him (Sch 1 r 57(8)(c) (as so added)). Regulations may also make provision as to the form in which any such document or part is supplied and for the payment of a fee in respect of the supply of a document or part: Sch 1 r 57(6) (as so added). Regulations may also impose conditions corresponding to those mentioned in Sch 1 r 57(8) (as added) in respect of persons who have obtained a document or part of a document mentioned in Sch 1 r 57(4) (as added) which was supplied to another person in pursuance of Sch 1 r 57(4) (as added) or otherwise than in accordance with regulations made under Sch 1 r 57 (as amended): Sch 1 r 57(9) (as so added). As to the regulations made see the text and notes 15-26 infra.

As to the effect of Sch 1 r 57(4) (as added) see note 5 supra.

15 le in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 100 (as added) (supply of full register to Electoral Commission: see PARA 180 ante), reg 103 (as added) (supply of full register to elected representatives for electoral purposes: see PARA 182 ante), reg 105 (as added) (supply of full register to local constituency parties: see PARA 182 ante), reg 106 (as added) (supply of full register to registered political parties: see PARA 182 ante), reg 108 (as added) (supply of full register to certain candidates: see PARA 182 ante), reg 109 (as added and amended) (supply of full register to police forces and other agencies: see PARA 182 ante) or reg 113 (as added and amended) (sale of full register to government departments and other bodies: see PARA 184 ante).

16 For the meaning of 'full register' see PARA 166 note 2 ante.

17 le subject to the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 117 (as added) and reg 119 (as added) (see note 20 infra).

18 A person whose entitlement to request copies of the marked register or lists under *ibid* reg 117(1) (as added) arises from being in a category of persons covered by reg 103 (as added) (supply of full register to elected representatives for electoral purposes: see PARA 182 ante), reg 105 (as added) (supply of full register to local constituency parties: see PARA 182 ante), reg 106 (as added) (supply of full register to registered political parties: see PARA 182 ante) or reg 108 (as added) (supply of full register to certain candidates: see PARA 182 ante) before a particular election, is entitled to request those documents regardless of whether he remains in a entitled category after that election for which the marked register or list was prepared: reg 117(2) (regs 116-120 added by SI 2006/2910).

19 le within the meaning of the regulations specified in note 15 supra.

20 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 117(1) (reg 117 as added: see note 18 supra). A request such as is mentioned in the text must be made in writing and must specify which of the marked register or lists (or the relevant part of the register or lists) are requested, state whether a printed copy of the records or lists is requested or a copy in data form, and state the purposes for which the marked register or lists will be used and why the supply or purchase of a copy of the full register or unmarked lists would not be sufficient to achieve that purpose: reg 117(3) (as so added). For the meaning of 'data form' see PARA 177 note 11 ante. Subject to any direction by the Secretary of State under the Representation of the People Act 1983 s 52(1) (as amended) (discharge of registration duties: see PARA 156 ante), any duty on a relevant registration officer to supply records or lists under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt 7 (regs 116-120) (as added) imposes only a duty to provide that information in the form in which he holds it: reg 116(4) (reg 116 as added: see note 18 supra). As to the Secretary of State see PARA 2 ante.

A person who obtains a copy of any part of a marked register or list under reg 117 (as added) may use it only for the permitted purposes specified in reg 119(2) (as added), and any conditions specified therein (or which would apply to the use of the full register under whichever of the regulations (specified in note 15 supra) entitled that person to obtain that document) apply to such use: reg 117(6) (as so added). The conditions referred to in reg 117(6) (as added) apply to a person to whom the marked register or list, or any information contained in it (that is not contained in the edited register) has been so supplied or disclosed as they apply to the person to whom those regulations apply: reg 117(7) (as so added). For the meaning of 'edited register' see PARA 166 note 4 ante. Any person who has obtained or is entitled to obtain a copy of the marked register or lists under reg 117 (as added) may supply a copy of the marked register or lists to a processor for the purpose of processing the information contained therein, or procure that a processor processes and supplies to him any

copy of the information in the marked register or lists which the processor has obtained under reg 117 (as added), for use in respect of the purposes for which that person is entitled to obtain any such copy or information (as the case may be): reg 117(8) (as so added). The processor may not disclose the information so supplied except to the person who supplied it to the processor or an employee of that person or a person who is entitled to obtain a copy of the full register under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) or any employee of such a person: reg 92(9) (reg 92 added by SI 2002/1871); applied by the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 116(3) (as so added). As to references to an employee of any person who has access to a copy of the full register see PARA 177 note 6 ante; and for the meaning of 'processor' see PARA 177 note 11 ante (provisions applied by virtue of reg 116(3) (as so added)). Where a person obtains copies of the information in the marked register or lists in accordance with reg 117(1) (as added), the permitted purpose (as to which see PARA 176 note 18 ante) means either research purposes within the meaning of that term in the Data Protection Act 1998 s 33 (see CONFIDENCE AND DATA PROTECTION vol 8(1) (2003 Reissue) PARA 551) or electoral purposes: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 119(2) (reg 119 as added: see note 18 supra). In Pt 7 (as added), references to the 'marked register or lists' means any part of the marked copies of the full register, the postal voters list, the list of proxies and the proxy postal voters list, forwarded to the relevant registration officer either under the Representation of the People Act 1983 Sch 1 r 55(1)(b), (c) (as amended) (see PARA 494 ante) or under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91 (as amended) (see PARA 495 ante): reg 116(1) (as so added).

21 Ibid reg 117(4) (as added: see note 18 supra).

22 Ibid reg 117(4)(a) (as added: see note 18 supra).

23 Ibid reg 117(4)(b) (as added: see note 18 supra). The fee referred to in the text must be calculated in accordance with reg 120 (as added): reg 117(4)(b) (as so added). Accordingly, the formula used for this purpose is the same as for calculation of the fee for sale of the full register and notices, set out in reg 111(5) (as added) (as to which see PARA 184 ante): reg 120 (reg 120 as added: see note 18 supra).

24 Ie under ibid reg 61 (as substituted) (see PARAS 378, 386 ante).

25 Ie in accordance with ibid reg 102 (as added and amended) (see PARA 182 ante).

26 Ibid reg 117(5) (as added: see note 18 supra).

27 Ibid reg 118(1) (reg 118 as added: see note 18 supra). The documents specified in the text are referred to in reg 118 (as added) and reg 119 (as added) as the 'documents open to public inspection': reg 118(1) (as so added). A request such as is mentioned in the text must be made in writing and must specify which documents are requested, the purposes for which the information in any document will be used, any reason why inspecting the full register or unmarked lists would not be sufficient to achieve that purpose (where the request is to inspect the marked register or lists), who will inspect the documents, the date on which they wish to inspect the documents, and whether they would prefer to inspect the documents in a printed or data form: reg 118(2) (as so added). Subject to any direction by the Secretary of State under the Representation of the People Act 1983 s 52(1) (as amended) (discharge of registration duties: see PARA 156 ante), any duty on a registration officer to make records or lists available for inspection under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt 7 (as added) imposes only a duty to provide that information in the form in which he holds it: reg 116(4) (reg 116 as added: see note 18 supra).

A person who obtains a copy of or information in any document open to public inspection under reg 118 (as added) may use it only for the permitted purposes specified in reg 119 (as added), and any conditions specified in reg 119 (as added) or in reg 118(7) (as added), or which would apply to the use of the full register under reg 109 (as added and amended) (supply of full register to police forces and other agencies: see PARA 182 ante) where such a person has obtained a copy of that document under reg 118(8) (as added) (see the text and note 32 infra), apply to such use: reg 118(5) (as so added). The restrictions on the supply, disclosure and use of the full register in reg 94 (as added) (restrictions on supply of full register and disclosure of information from it by the registration officer and his staff: see PARA 176 ante) and reg 96 (as added and amended) (restrictions on use of full register or information contained in it: see PARA 176 ante) apply to documents open to public inspection, as they apply to the full register (reg 119(1) (reg 119 as added: see note 18 supra)), except that, where a person inspects information in accordance with reg 118(1) (as added), the permitted purpose (as to which see PARA 176 note 18 ante) means either research purposes within the meaning of that term in the Data Protection Act 1998 s 33 (see CONFIDENCE AND DATA PROTECTION vol 8(1) (2003 Reissue) PARA 551) or electoral purposes (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 119(2) (as so added)).

28 For these purposes, any period of days must be calculated in accordance with ibid reg 56(6) (as amended) and reg 56(7) (see PARA 372 note 6 ante): reg 116(2) (as added: see note 18 supra).

29 Ibid reg 118(3) (reg 118 as added: see note 18 supra). Where inspection takes place by providing a copy of the records or lists on a computer screen or otherwise in data form, the relevant registration officer must ensure that the manner in, and equipment on, which that copy is provided do not permit any person consulting

that copy to search it by electronic means by reference to the name of any person or to copy or transmit any part of that copy by electronic or any other means: reg 118(6) (as so added). Subject to reg 118(8) (as added) (see the text and note 32 *infra*), a person who inspects a copy of a document open to public inspection, whether a printed copy or in data form, may not make copies of any part of it, or record any particulars in it, except that a person who inspects a copy of the marked register or lists may make handwritten notes: reg 118(7) (as so added). The provision allowing copying that usually applies where a document is made available for inspection under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) does not apply to any of the documents open to public inspection under reg 118 (as added): reg 7(6) (added by SI 2006/2910).

30 *Ibid* under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 118(2) (as added) (see note 27 *supra*).

31 *Ibid* reg 118(4) (as added: see note 18 *supra*). The text refers to the availability of the published full register for inspection in accordance with reg 43 (as amended) (publication of register: see PARA 164 *ante*).

32 *Ibid* reg 118(8) (as added: see note 18 *supra*). The text refers to entitlement to be supplied with a copy of the marked register or lists by virtue of being a person to whom reg 109 (as added and amended) (supply of full register to police forces and other agencies: see PARA 182 *ante*) applies: reg 118(8) (as so added). Where a copy of any information was supplied in the circumstances to which reg 118(8) (as added) applies, the permitted purpose means the purposes set out in reg 109(4) (as added) (see PARA 182 *ante*): reg 119(3) (as added: see note 18 *supra*). As to further conditions imposed regarding the use of information so obtained see note 27 *supra*.

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

503 Retention and inspection of documents relating to parliamentary elections

TEXT AND NOTES--These provisions, subject to modifications, apply in respect of the marked Assembly register or lists and the other relevant Assembly election documents as it applies in respect of the marked register or lists and other documents open to inspection: SI 2001/341 reg 122 (added by the Representation of the People (National Assembly for Wales) (Access to Election Documents) Regulations 2007, SI 2007/1368. 'The marked Assembly register or lists' means any part of the marked copies, forwarded to the relevant registration officer under Sch 3 para 31; or SI 2007/236 Sch 5 r 67(1)(h), (2)(f) of (1) the full register; (2) the Assembly postal voters list; (3) the Assembly list of proxies; and (4) the Assembly proxy postal voters list.

NOTES 20, 23--SI 2001/341 reg 116(1) amended, reg 120 substituted: SI 2008/1901.

TEXT AND NOTE 32--SI 2001/341 reg 118(8) substituted, reg 119(3) amended: Counter-Terrorism Act 2008 Sch 1 para 2.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(ix) Disposal of Documents/C. RETENTION AND INSPECTION OF ELECTION DOCUMENTS/504. Retention and inspection of documents relating to certain local elections and local authority mayoral elections.

504. Retention and inspection of documents relating to certain local elections and local authority mayoral elections.

Following a local government election¹, the relevant registration officer² must retain for one year all documents relating to such an election forwarded to him³ by a returning officer⁴ and then, unless otherwise directed by an order of a county court, a Crown court, a magistrates' court or an election court⁵, must cause them to be destroyed⁶. The relevant registration officer⁷ must make available for inspection by members of the public such documents relating to a local government election as he is required by or under any enactment to retain for any period (except ballot papers, the completed corresponding number lists⁸ and certificates as to employment on the day of the poll)⁹. On request, the relevant registration officer must supply copies of or extracts from such description of the relevant election documents as is prescribed by regulations¹⁰; and a copy of the marked copies of the register¹¹, the postal voters list¹², the list of proxies¹³ and the proxy postal voters list¹⁴ must be supplied to a registered party¹⁵ or to a person who was a candidate at the election (in relation to the electoral area for which he was a candidate) or, at an election where a registered party submits a list of candidates¹⁶, to a person who was appointed as an agent for the candidates on the party's list¹⁷.

Any person entitled to be supplied¹⁸ with copies of the full register¹⁹ at a particular local government election is also a person entitled²⁰ to request²¹ that a relevant registration officer supply copies of the relevant part²² of the marked register or lists he is required to keep²³. The relevant registration officer must supply a copy of the relevant part of the marked register or lists where a request is duly made²⁴, and if: (1) he is satisfied that the requestor needs to see the marks on the marked register or lists in order to achieve the purpose for which it is requested²⁵, and (2) he has received payment of a fee²⁶. If the relevant registration officer is not satisfied in accordance with head (1) above, he may treat the request for a marked register or list as a request for information in unmarked lists²⁷, or as a request for the published copy of the full register²⁸, or both²⁹.

Any person is entitled to request that the relevant registration officer make available for inspection a copy of any of the marked register or lists or such other documents relating to an election as the relevant registration officer is required by or under any enactment to retain for any period (except ballot papers, completed corresponding number lists and certificates as to employment on the day of the election)³⁰. The relevant registration officer must make the documents open to public inspection available for inspection under supervision not later than 10 days³¹ after the date of receipt of a request that has been duly made³². However, where a request has been made to inspect copies of the marked register or lists³³ and the relevant registration officer is not satisfied that the purposes of the requestor cannot be met by inspection of the full register, he must inform the requestor of his decision to this effect and he must provide the requestor with information concerning the availability of the published full register³⁴. The relevant registration officer must, on request, supply free of charge copies of any documents open to public inspection to a person who has inspected those documents and who is entitled to be supplied with a copy of the marked register or lists³⁵.

Following a local authority mayoral election³⁶, or a poll consequent on a parish meeting taken on the question of appointment to any office³⁷, the proper officer of the appropriate local authority³⁸ must retain for six months among the records of the authority all documents relating

to an election (or poll, as the case may be) which are forwarded to him by a returning officer³⁹, and then, unless otherwise directed by an order of the county court or election court, must cause them to be destroyed⁴⁰. The documents so forwarded to the proper officer (except ballot papers, counterfoils and certificates as to employment on duty on the day of the poll⁴¹) must be open to public inspection at such time and in such manner as may be determined by the authority of which he is an officer⁴². On request, the proper officer must supply copies of or extracts from the documents open to public inspection on payment of such fees, and subject to such conditions, as may be determined by the authority of which he is an officer⁴³.

1 Ie a local government election, except an Authority election (as to which see PARA 505 post). For the meanings of 'Authority election' and 'local government election' see PARA 10 ante.

2 For the meaning of references to the relevant registration officer for these purposes see PARA 496 note 3 ante.

3 Ie, in relation to a local government election for a principal area, in pursuance of the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, and, in relation to a local government election for a parish and community council, in pursuance of the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305 (see PARA 496 ante).

4 As to returning officers for local government elections see PARA 359 et seq ante.

5 As to the production and inspection of documents by order of the court see PARAS 834, 849 post.

6 Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 54; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 54. As to the penalty for breach of duty by persons responsible for used ballot papers and other documents see PARA 740 post; and as to offences which relate to persons who interfere with access to or the control of election documents see PARA 748 post.

7 For these purposes, the relevant registration officer is the registration officer of the local authority in whose area the election is held or, if the election is held in respect of an electoral area which comprises any part of the area of more than one local authority, such registration officer as the Secretary of State by order appoints: Electoral Administration Act 2006 s 44(1), (3). An electoral area is, in relation to a local government election, an electoral area within the meaning of the Representation of the People Act 1983 s 203(1) (definition as substituted and amended) (see PARA 10 ante): Electoral Administration Act 2006 s 44(1), (7)(a). As to the Secretary of State see PARA 2 ante.

The Electoral Administration Act 2006 ss 42, 44 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

8 A completed corresponding number list is a list prepared under provision corresponding to the Representation of the People Act 1983 s 23(1), Sch 1 r 19A (as added), which is completed in accordance with provision corresponding to Sch 1 r 37(1)(b) (as substituted) and Sch 1 r 37(1)(d) (prospectively substituted) (see PARA 410 note 10 ante): Electoral Administration Act 2006 s 44(1), (11). As to the effect of this provision see note 7 supra.

9 Ibid ss 42(1)(a), 44(1), (2)(a), (5). The Secretary of State may by regulations impose conditions in relation to the inspection of any document in pursuance of s 42(1)(a): s 42(3)(a). Conditions which may be imposed for these purposes include conditions as to: (1) whether a person may take any copy of a document he is permitted to inspect (s 42(5)(a)); (2) the manner in which any such copy is to be taken (s 42(5)(b)); and (3) the purposes for which information contained in any document or part of a document which is inspected in pursuance of s 42(1)(a) may be used (s 42(5)(c)). As to the regulations made see the text and notes 30-35 infra.

The power to make regulations under s 42 is exercisable by the Secretary of State by statutory instrument and includes power to make different provision for different purposes: s 42(8). However, the Secretary of State must not make such regulations unless he first consults the Electoral Commission (s 42(9)); and no such regulations may be made unless a draft of the statutory instrument containing the regulations has been laid before, and approved by resolution of, each House of Parliament (s 42(10)). As to the Secretary of State see PARA 2 ante; and as to the Electoral Commission see PARA 31 et seq ante.

As to the effect of these provisions see note 7 supra.

10 Ibid s 42(1)(b). The Secretary of State may by regulations impose conditions in relation to the supply of any document or part of a document in pursuance of s 42(1)(b): s 42(3)(b). Conditions which may be imposed for these purposes include conditions as to: (1) the purposes for which information contained in any document or part of a document which is supplied in pursuance of s 42(1)(b) may be used (s 42(5)(c)); and (2) the extent to which a person to whom a document or part of a document has been supplied may: (a) supply that document or part to any other person (s 42(6)(a)); (b) disclose to any other person any information contained in the document or part (s 42(6)(b)); and (c) use any such information for a purpose other than that for which the document or part was supplied to him (s 42(6)(c)). Regulations may also make provision as to the form in which any such document or part is supplied and for the payment of a fee in respect of the supply of a document or part: s 42(4). As to the regulations made see the text and notes 18-29 *infra*.

As to the effect of these provisions see note 7 *supra*.

11 For these purposes, the marked register is the copy of the register of electors marked in accordance with provision corresponding to the Representation of the People Act 1983 Sch 1 r 37(1)(c) (as substituted) (see PARA 404 *ante*): Electoral Administration Act 2006 s 44(1), (8). As to the effect of this provision see note 7 *supra*.

12 For these purposes, a marked copy of the postal voters list is the copy of that list marked in accordance with provision corresponding to the Representation of the People Act 1983 Sch 1 r 31A(1) (as added) (see PARA 425 *ante*): Electoral Administration Act 2006 s 44(1), (10). As to the effect of this provision see note 7 *supra*.

13 For these purposes, a marked copy of the list of proxies is the copy of that list marked in accordance with provision corresponding to the Representation of the People Act 1983 Sch 1 r 37(1)(e) (as substituted) (see PARA 404 *ante*): Electoral Administration Act 2006 s 44(1), (9). As to the effect of this provision see note 7 *supra*.

14 For these purposes, a marked copy of the proxy postal voters list is the copy of that list marked in accordance with provision corresponding to the Representation of the People Act 1983 Sch 1 r 31A(1) (as added) (see PARA 425 *ante*): Electoral Administration Act 2006 s 44(1), (10). As to the effect of this provision see note 7 *supra*.

15 *Ie* within the meaning of the Political Parties, Elections and Referendums Act 2000 Pt II (ss 22-40) (as amended) (see PARA 260 *ante*): see the Electoral Administration Act 2006 s 44(1), (6). As to the effect of this provision see note 7 *supra*.

16 As to such elections see PARA 345 *ante*.

17 Electoral Administration Act 2006 s 42(2). The Secretary of State may by regulations impose conditions in relation to the supply of any document or part of a document in pursuance of s 42(2): s 42(3)(c). Conditions which may be imposed for these purposes include conditions as to the extent to which a person to whom a document or part of a document has been supplied may: (1) supply that document or part to any other person (s 42(6)(a)); (2) disclose to any other person any information contained in the document or part (s 42(6)(b)); and (3) use any such information for a purpose other than that for which the document or part was supplied to him (s 42(6)(c)). Regulations may also make provision as to the form in which any such document or part is supplied and for the payment of a fee in respect of the supply of a document or part: s 42(4). Regulations may also impose conditions corresponding to those mentioned in 42(6) in respect of persons who have obtained a document or part of a document mentioned in s 42(2): (a) which was supplied to another person in pursuance of s 42(2); or (b) otherwise than in accordance with regulations under s 42: s 42(7). As to the regulations made see the text and notes 18-29 *infra*.

As to the effect of these provisions see note 7 *supra*.

18 *Ie* in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 100 (as added) (supply of full register to Electoral Commission: see PARA 180 *ante*), reg 103 (as added) (supply of full register to elected representatives for electoral purposes: see PARA 182 *ante*), reg 105 (as added) (supply of full register to local constituency parties: see PARA 182 *ante*), reg 106 (as added) (supply of full register to registered political parties: see PARA 182 *ante*), reg 108 (as added) (supply of full register to certain candidates: see PARA 182 *ante*), reg 109 (as added and amended) (supply of full register to police forces and other agencies: see PARA 182 *ante*) or reg 113 (as added and amended) (sale of full register to government departments and other bodies: see PARA 184 *ante*).

19 For the meaning of 'full register' see PARA 166 note 2 *ante*.

20 *Ie* subject to the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 117 (as added) and reg 119 (as added) (see note 23 *infra*).

21 A person whose entitlement to request copies of the marked register or lists under *ibid* reg 117(1) (as added) arises from being in a category of persons covered by reg 103 (as added) (supply of full register to elected representatives for electoral purposes: see PARA 182 *ante*), reg 105 (as added) (supply of full register to local constituency parties: see PARA 182 *ante*), reg 106 (as added) (supply of full register to registered political

parties: see PARA 182 ante) or reg 108 (as added) (supply of full register to certain candidates: see PARA 182 ante) before a particular election, is entitled to request those documents regardless of whether he remains in a entitled category after that election for which the marked register or list was prepared: reg 117(2) (regs 116-120 added by SI 2006/2910).

22 Ie within the meaning of the regulations specified in note 18 supra.

23 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 117(1) (reg 117 as added: see note 21 supra). A request such as is mentioned in the text must be made in writing and must specify which of the marked register or lists (or the relevant part of the register or lists) are requested, state whether a printed copy of the records or lists is requested or a copy in data form, and state the purposes for which the marked register or lists will be used and why the supply or purchase of a copy of the full register or unmarked lists would not be sufficient to achieve that purpose: reg 117(3) (as so added). For the meaning of 'data form' see PARA 177 note 11 ante. Subject to any direction by the Secretary of State under the Representation of the People Act 1983 s 52(1) (as amended) (discharge of registration duties: see PARA 156 ante), any duty on a relevant registration officer to supply records or lists under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt 7 (regs 116-120) (as added) imposes only a duty to provide that information in the form in which he holds it: reg 116(4) (reg 116 as added: see note 21 supra).

A person who obtains a copy of any part of a marked register or list under reg 117 (as added) may use it only for the permitted purposes specified in reg 119(2) (as added), and any conditions specified therein (or which would apply to the use of the full register under whichever of the regulations (specified in note 18 supra) entitled that person to obtain that document) apply to such use: reg 117(6) (as so added). The conditions referred to in reg 117(6) (as added) apply to a person to whom the marked register or list, or any information contained in it (that is not contained in the edited register), has been so supplied or disclosed as they apply to the person to whom those regulations apply: reg 117(7) (as so added). For the meaning of 'edited register' see PARA 166 note 4 ante. Any person who has obtained or is entitled to obtain a copy of the marked register or lists under reg 117 (as added) may supply a copy of the marked register or lists to a processor for the purpose of processing the information contained therein, or procure that a processor processes and supplies to him any copy of the information in the marked register or lists which the processor has obtained under reg 117 (as added), for use in respect of the purposes for which that person is entitled to obtain any such copy or information (as the case may be): reg 117(8) (as so added). The processor may not disclose the information so supplied except to the person who supplied it to the processor or an employee of that person or a person who is entitled to obtain a copy of the full register under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) or any employee of such a person: reg 92(9) (reg 92 added by SI 2002/1871); applied by the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 116(3) (as so added). As to references to an employee of any person who has access to a copy of the full register see PARA 177 note 6 ante; and for the meaning of 'processor' see PARA 177 note 11 ante (provisions applied by virtue of reg 116(3) (as so added)). Where a person obtains copies of the information in the marked register or lists in accordance with reg 117(1) (as added), the permitted purpose (as to which see PARA 176 note 18 ante) means either research purposes within the meaning of that term in the Data Protection Act 1998 s 33 (see CONFIDENCE AND DATA PROTECTION vol 8(1) (2003 Reissue) PARA 551) or electoral purposes: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 119(2) (as added: see note 21 supra). For the meaning of 'marked register or lists' see PARA 503 note 20 ante.

24 Ibid reg 117(4) (as added: see note 21 supra).

25 Ibid reg 117(4)(a) (as added: see note 21 supra).

26 Ibid reg 117(4)(b) (as added: see note 21 supra). The fee referred to in the text must be calculated in accordance with reg 120 (as added): reg 117(4)(b) (as so added). Accordingly, the formula used for this purpose is the same as for calculation of the fee for sale of the full register and notices, set out in reg 111(5) (as added) (as to which see PARA 184 ante): reg 120 (as added: see note 21 supra).

27 Ie under ibid reg 61 (as substituted) (see PARAS 378, 386 ante).

28 Ie in accordance with ibid reg 102 (as added and amended) (see PARA 182 ante).

29 Ibid reg 117(5) (as added: see note 21 supra).

30 Ibid reg 118(1) (reg 118 as added: see note 21 supra). The documents specified in the text are referred to in reg 118 (as added) and reg 119 (as added) as the 'documents open to public inspection': reg 118(1) (as so added). A request such as is mentioned in the text must be made in writing and must specify which documents are requested, the purposes for which the information in any document will be used, any reason why inspecting the full register or unmarked lists would not be sufficient to achieve that purpose (where the request is to inspect the marked register or lists), who will inspect the documents, the date on which they wish to inspect the documents, and whether they would prefer to inspect the documents in a printed or data form: reg 118(2) (as so added). Subject to any direction by the Secretary of State under the Representation of the People Act 1983 s 52(1) (as amended) (discharge of registration duties: see PARA 156 ante), any duty on a registration officer to

make records or lists available for inspection under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt 7 (as added) imposes only a duty to provide that information in the form in which he holds it: reg 116(4) (as added: see note 21 supra).

A person who obtains a copy of or information in any document open to public inspection under reg 118 (as added) may use it only for the permitted purposes specified in reg 119 (as added), and any conditions specified in reg 118(7) (as added) or in reg 119 (as added), or which would apply to the use of the full register under reg 109 (as added and amended) (supply of full register to police forces and other agencies: see PARA 182 ante) where such a person has obtained a copy of that document under reg 118(8) (as added) (see the text and note 35 infra), apply to such use: reg 118(5) (as so added). The restrictions on the supply, disclosure and use of the full register in reg 94 (as added) (restrictions on supply of full register and disclosure of information from it by the registration officer and his staff: see PARA 176 ante) and reg 96 (as added and amended) (restrictions on use of full register or information contained in it: see PARA 176 ante) apply to documents open to public inspection as they apply to the full register (reg 119(1) (reg 119 as added: see note 21 supra)), except that, where a person inspects information in accordance with reg 118(1) (as added), the permitted purpose (as to which see PARA 176 note 18 ante) means either research purposes within the meaning of that term in the Data Protection Act 1998 s 33 (see CONFIDENCE AND DATA PROTECTION vol 8(1) (2003 Reissue) PARA 551) or electoral purposes (reg 119(2) (as so added)).

31 For these purposes, any period of days must be calculated in accordance with *ibid* reg 56(6) (as amended) and reg 56(7) (see PARA 372 note 6 ante): reg 116(2) (as added: see note 21 supra).

32 *Ibid* reg 118(3) (reg 118 as added: see note 21 supra). Where inspection takes place by providing a copy of the records or lists on a computer screen or otherwise in data form, the relevant registration officer must ensure that the manner in, and equipment on, which that copy is provided do not permit any person consulting that copy to search it by electronic means by reference to the name of any person or to copy or transmit any part of that copy by electronic or any other means: reg 118(6) (as so added). Subject to reg 118(8) (as added) (see the text and note 35 infra), a person who inspects a copy of a document open to public inspection, whether a printed copy or in data form, may not make copies of any part of it, or record any particulars in it, except that a person who inspects a copy of the marked register or lists may make handwritten notes: reg 118(7) (as so added). The provision allowing copying that usually applies where a document is made available for inspection under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) does not apply to any of the documents open to public inspection under reg 118 (as added): reg 7(6) (added by SI 2006/2910).

33 *Ie* under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 118(2) (as added) (see note 30 supra).

34 *Ibid* reg 118(4) (as added: see note 21 supra). The text refers to the availability of the published full register for inspection in accordance with reg 43 (as amended) (publication of register: see PARA 164 ante).

35 *Ibid* reg 118(8) (as added: see note 21 supra). The text refers to entitlement to be supplied with a copy of the marked register or lists by virtue of being a person to whom reg 109 (as added and amended) (supply of full register to police forces and other agencies: see PARA 182 ante) applies: reg 118(8) (as so added). Where a copy of any information was supplied in the circumstances to which reg 118(8) (as added) applies, the permitted purpose means the purposes set out in reg 109(4) (as added) (see PARA 182 ante): reg 119(3) (reg 119 as added: see note 21 supra). As to further conditions imposed regarding the use of information so obtained see note 32 supra.

36 As to elections for the return of an elected local authority mayor see PARA 205 *et seq* ante.

37 At polls consequent on a parish meeting involving an appointment to office see PARA 207 *et seq* ante.

38 At a poll consequent on a parish meeting involving an appointment to office, the proper officer is the council of the district in which the parish is situate: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 36(1). In the case of a local authority mayoral election, it is the local authority concerned: Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 53(1). For the meaning of 'proper officer' generally see PARA 155 note 2 ante; but for the purposes of a poll consequent on a parish meeting, any references to a proper officer of a council means any officer appointed for the purpose by that council (Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 38(3)). For the meaning of 'local authority' for the purposes of a local authority mayoral election see LOCAL GOVERNMENT vol 69 (2009) PARA 23.

39 As to the returning officer at a poll consequent on parish meeting see PARA 361 ante; and as to returning officers for local authority mayoral elections see PARA 359 *et seq* ante. As to the delivery of documents relating to such elections or polls see PARA 496 ante.

40 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 36(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 53(1).

41 As to certificates of employment on duty on the day of the poll see PARA 402 ante. There are no certificates as to employment on duty on the day of the poll at a poll consequent on a parish meeting, and accordingly the reference to such certificates is omitted in that case: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 36(2).

42 Ibid Schedule r 36(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 53(2).

43 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 36(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 53(3).

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

504 Retention and inspection of documents relating to certain local elections and local authority mayoral elections

NOTES--SI 2002/185 reg 3(1), Sch 1 r 53 replaced by the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, Sch 1 r 59.

NOTE 26--SI 2001/341 reg 120 substituted: see PARA 503.

TEXT AND NOTE 35--SI 2001/341 reg 118(8) substituted, reg 119(3) amended: Counter-Terrorism Act 2008 Sch 1 para 2.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(ix) Disposal of Documents/C. RETENTION AND INSPECTION OF ELECTION DOCUMENTS/505. Retention and inspection of documents relating to London Authority elections.

505. Retention and inspection of documents relating to London Authority elections.

The Greater London returning officer ('GLRO')¹ must retain or cause to be retained for six months all documents relating to a London Authority election² placed under his control³ by a constituency returning officer⁴; and then, unless otherwise directed by an order of a county court or an election court, he must cause them to be destroyed⁵. Those documents (except ballot papers, counterfoils and certificates as to employment on duty on the day of the poll⁶) must be open to public inspection at such time and in such manner as the Greater London Authority⁷ may determine, until they are destroyed⁸.

The constituency returning officer must keep for six months the documents which have been retained by him⁹ and then, unless otherwise directed by an order of a county court or an election court, he must cause them to be destroyed¹⁰. Those documents, until they are destroyed, must be open to public inspection at all reasonable hours¹¹.

On request, the GLRO and the constituency returning officer must supply copies of or extracts from such of the documents in their possession as are open to public inspection on payment of such fees and subject to such conditions as may be determined by the Greater London Authority¹².

As from a day to be appointed¹³, the relevant registration officer¹⁴ must make available for inspection by members of the public such documents relating to a London Authority election as he is required by or under any enactment to retain for any period (except ballot papers, the completed corresponding number lists¹⁵ and certificates as to employment on the day of the poll)¹⁶. On request, the relevant registration officer must supply copies of or extracts from such description of the documents as is prescribed by regulations¹⁷; and a copy of the marked copies of the register¹⁸, the postal voters list¹⁹, the list of proxies²⁰ and the proxy postal voters list²¹ must be supplied to a registered party²² or to a person who was a candidate at the election (in relation to the electoral area for which he was a candidate) or, in the case of an election at which a registered party submits a list of candidates, to a person who was appointed as an agent for the candidates on the party's list²³. The Secretary of State may by regulations impose conditions in relation to: (1) the inspection of any relevant election document which must be made available for public inspection²⁴; (2) the supply of any relevant election document or part of any such document which must be supplied on request²⁵; and (3) the supply of any relevant election document or part of a document which must be supplied on request to a registered party or a person who was a candidate or an agent for party list candidates²⁶. Conditions which may be imposed for the purposes of head (1) or head (2) above include conditions as to whether a person may take any copy of a document he is permitted to inspect, the manner in which any such copy is to be taken and the purposes for which information contained in any document or part of a document which is inspected or supplied for the purposes of public inspection may be used²⁷. Conditions which may be imposed for the purposes of head (2) or head (3) above include conditions as to the extent to which a person to whom a document or part of a document has been supplied may supply that document or part to any other person, disclose to any other person any information contained in the document or part and use any such information for a purpose other than that for which the document or part was supplied to him²⁸. Regulations may also make provision as to the form in which any such document or part is supplied and for the payment of a fee in respect of the supply of a document or part²⁹.

- 1 For the meaning of 'Greater London returning officer' see PARA 218 note 7 ante.
- 2 For the meaning of 'Authority election' see PARA 10 ante.
- 3 In pursuance of the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427 (as amended). As to the documents so transferred see PARA 497 ante.
- 4 For the meaning of 'constituency returning officer' in this context see PARA 218 note 8 ante.
- 5 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)-(3), Sch 1 r 50(1), Sch 2 r 53(1), Sch 3 r 55(1) (Sch 1 r 50(1), Sch 2 r 53(1), Sch 3 r 55(1) all amended by SI 2004/227). As to the penalty for breach of duty by persons responsible for used ballot papers and other documents see PARA 740 post; and as to offences which relate to persons who interfere with access to or the control of election documents see PARA 748 post.
- 6 As to certificates of employment on duty on the day of the poll see PARA 402 ante.
- 7 As to the Greater London Authority see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 79 et seq.
- 8 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 50(2), Sch 2 r 53(2), Sch 3 r 55(2).
- 9 In accordance with, in relation to a constituency members election, *ibid* Sch 1 r 48(2) (as amended), in relation to a London members' election, Sch 2 r 51 (as amended) or, in relation to a London mayoral election, Sch 3 r 53(2) (as amended), as the case may be (see PARA 497 ante).
- 10 *Ibid* Sch 1 r 50(3), Sch 2 r 53(3), Sch 3 r 55(3).
- 11 *Ibid* Sch 1 r 50(4), Sch 2 r 53(4), Sch 3 r 55(4).
- 12 *Ibid* Sch 1 r 50(5), Sch 2 r 53(5) (amended by SI 2004/227), Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 55(5).
- 13 The Electoral Administration Act 2006 ss 42, 44 have effect as from a day to be appointed under s 77(2). At the date at which this volume states the law, no such day had been appointed for these purposes, although ss 42, 44 have been commenced in relation to any local government election as defined by the Representation of the People Act 1983 s 203(1) (definition as amended) (see PARA 10 ante) other than an Authority election (as so defined) (see PARA 10 ante): see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 3, Sch 1 para 15.
- 14 For these purposes, the relevant registration officer is the registration officer of the local authority in whose area the election is held or, if the election is held in respect of an electoral area which comprises any part of the area of more than one local authority, such registration officer as the Secretary of State by order appoints: Electoral Administration Act 2006 s 44(1), (3). An electoral area is, in relation to a local government election, an electoral area within the meaning of the Representation of the People Act 1983 s 203(1) (definition as substituted and amended) (see PARA 10 ante): Electoral Administration Act 2006 s 44(1), (7)(a). See note 13 *supra*. As to the Secretary of State see PARA 2 ante.
- 15 A completed corresponding number list is a list prepared under provision corresponding to the Representation of the People Act 1983 s 23(1), Sch 1 r 19A (as added), which is completed in accordance with provision corresponding to Sch 1 r 37(1)(b) (as substituted) and Sch 1 r 37(1)(d) (prospectively substituted) (see PARA 410 note 10 ante): Electoral Administration Act 2006 s 44(1), (11). See note 13 *supra*.
- 16 *Ibid* ss 42(1)(a), 44(1), (2)(a), (5). See note 13 *supra*.
- 17 *Ibid* s 42(1)(b). The power to make regulations under s 42 is exercisable by the Secretary of State by statutory instrument and includes power to make different provision for different purposes: s 42(8). However, the Secretary of State must not make such regulations unless he first consults the Electoral Commission (s 42(9)); and no such regulations may be made unless a draft of the statutory instrument containing the regulations has been laid before, and approved by resolution of, each House of Parliament (s 42(10)). See note 13 *supra*. As to the Electoral Commission see PARA 31 et seq ante.
- 18 The marked register is the copy of the register of electors marked in accordance with provision corresponding to the Representation of the People Act 1983 Sch 1 r 37(1)(c) (as substituted) (see PARA 404 ante): Electoral Administration Act 2006 s 44(1), (8). See note 13 *supra*.

19 A marked copy of the postal voters list is the copy of that list marked in accordance with provision corresponding to the Representation of the People Act 1983 Sch 1 r 31A(1) (as added) (see PARA 425 ante): Electoral Administration Act 2006 s 44(1), (10). See note 13 supra.

20 A marked copy of the list of proxies is the copy of that list marked in accordance with provision corresponding to the Representation of the People Act 1983 Sch 1 r 37(1)(e) (as substituted) (see PARA 404 ante): Electoral Administration Act 2006 s 44(1), (9). See note 13 supra.

21 A marked copy of the proxy postal voters list is the copy of that list marked in accordance with provision corresponding to the Representation of the People Act 1983 Sch 1 r 31A(1) (as added) (see PARA 425 ante): Electoral Administration Act 2006 s 44(1), (10). See note 13 supra.

22 le within the meaning of the Political Parties, Elections and Referendums Act 2000 Pt II (ss 22-40) (as amended) (see PARA 260 ante): see the Electoral Administration Act 2006 s 44(1), (6). See note 13 supra.

23 Ibid s 42(2). See note 13 supra. The election of London members of the London Assembly is an election at which a registered party submits a list of candidates: see PARA 345 ante.

24 Ibid s 42(3)(a). The text refers to inspection in pursuance of s 42(1)(a) (see the text and notes 14-16 supra). See note 13 supra.

25 Ibid s 42(3)(b). The text refers to supply in pursuance of s 42(1)(b) (see the text and note 17 supra). See note 13 supra.

26 Ibid s 42(3)(c). The text refers to supply in pursuance of s 42(2) (see the text and notes 18-23 supra). See note 13 supra.

27 Ibid s 42(5). See note 13 supra.

28 Ibid s 42(6). Regulations may also impose conditions corresponding to those mentioned in 42(6) in respect of persons who have obtained a document or part of a document mentioned in s 42(2) (see the text and notes 18-23 supra): (1) which was supplied to another person in pursuance of s 42(2); or (2) otherwise than in accordance with regulations under s 42: s 42(7). See note 13 supra.

29 Ibid s 42(4). See note 13 supra.

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

505 Retention and inspection of documents relating to London Authority elections

NOTE 13--Electoral Administration Act 2006 ss 42, 44 now in force in relation to an Authority election: SI 2007/3376.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(ix) Disposal of Documents/C. RETENTION AND INSPECTION OF ELECTION DOCUMENTS/506. Retention and inspection of documents relating to elections to the National Assembly for Wales.

506. Retention and inspection of documents relating to elections to the National Assembly for Wales.

The National Assembly for Wales must retain for a year all documents relating to a Welsh Assembly election¹ forwarded to it² by a constituency returning officer³; and then, unless otherwise directed by order of the High Court, it must cause them to be destroyed⁴. All such documents (except ballot papers, counterfoils and certificates as to employment on the day of the poll⁵) are to be open to public inspection at such time and subject to such conditions as may be sanctioned by the Assembly⁶. On request, the Assembly must supply copies of or extracts from the documents open to public inspection on payment of such fees and subject to such conditions as it may sanction⁷.

The relevant registration officer⁸ must make available for inspection by members of the public such documents relating to an election to the National Assembly for Wales as he is required by or under any enactment to retain for any period (except ballot papers, the completed corresponding number lists⁹ and certificates as to employment on the day of the poll)¹⁰. On request, the relevant registration officer must supply copies of or extracts from such description of the documents as is prescribed by regulations¹¹; and a copy of the marked copies of the register¹², the postal voters list¹³, the list of proxies¹⁴ and the proxy postal voters list¹⁵ must be supplied to a registered party¹⁶ or to a person who was a candidate at the election (in relation to the electoral area for which he was a candidate), or, in the case of an election at which a registered party submits a list of candidates, to a person who was appointed as an agent for the candidates on the party's list¹⁷. The Secretary of State may by regulations impose conditions in relation to: (1) the inspection of any relevant election document which must be made available for public inspection¹⁸; (2) the supply of any relevant election document or part of any such document which must be supplied on request¹⁹; and (3) the supply of any relevant election document or part of a document which must be supplied on request to a registered party or a person who was a candidate or an agent for party list candidates²⁰. Conditions which may be imposed for the purposes of head (1) or head (2) above include conditions as to whether a person may take any copy of a document he is permitted to inspect, the manner in which any such copy is to be taken and the purposes for which information contained in any document or part of a document which is inspected or supplied for the purposes of public inspection may be used²¹. Conditions which may be imposed for the purposes of head (2) or head (3) above include conditions as to the extent to which a person to whom a document or part of a document has been supplied may supply that document or part to any other person, disclose to any other person any information contained in the document or part and use any such information for a purpose other than that for which the document or part was supplied to him²². Regulations may also make provision as to the form in which any such document or part is supplied and for the payment of a fee in respect of the supply of a document or part²³.

1 For the meaning of 'Assembly election' in this context see PARA 3 note 1 ante.

2 Ie forwarded in pursuance of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 (as amended). As to the delivery of documents relating to elections to the National Assembly for Wales see PARA 499 ante.

3 For the meaning of 'constituency returning officer' in this context see PARA 18 note 2 ante.

4 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 64(1). As to the production and inspection of documents by order of the court see PARAS 834, 849 post. As to the penalty for breach of duty by persons responsible for used ballot papers and other documents see PARA 740 post; and as to offences which relate to persons who interfere with access to or the control of election documents see PARA 748 post.

5 As to certificates of employment on duty on the day of the poll see PARA 402 ante.

6 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 64(2).

7 Ibid Sch 5 para 64(3).

8 For these purposes, the relevant registration officer is the registration officer of the local authority in whose area the election is held or, if the election is held in respect of an electoral area which comprises any part of the area of more than one local authority, such registration officer as the Secretary of State by order appoints: Electoral Administration Act 2006 s 44(1), (3). An electoral area is, in relation to an election to the National Assembly for Wales, an Assembly constituency or an Assembly electoral region within the meaning of the Government of Wales Act 2006 s 2: Electoral Administration Act 2006 s 44(1), (7)(b). For the meanings of 'Assembly constituency' and 'Assembly electoral region' for these purposes see PARA 3 note 1 ante. As to the Secretary of State see PARA 2 ante.

The Electoral Administration Act 2006 ss 42, 44 have effect in relation to any election to the National Assembly for Wales under either the Government of Wales Act 1998 Pt I (ss 1-20) (prospectively repealed) or the Government of Wales Act 2006 Pt 1 (ss 1-44), (whose provisions are to come into force immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3: see PARA 12 ante): see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 3, Sch 1 para 15(a)(iv). However, the Electoral Administration Act 2006 ss 42, 44 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

9 A completed corresponding number list is a list prepared under provision corresponding to the Representation of the People Act 1983 s 23(1), Sch 1 r 19A (as added), which is completed in accordance with provision corresponding to Sch 1 r 37(1)(b) (as substituted) and Sch 1 r 37(1)(d) (prospectively substituted) (see PARA 410 note 10 ante): Electoral Administration Act 2006 s 44(1), (11). As to the effect of these provisions see note 8 supra.

10 Ibid ss 42(1)(a), 44(1), (2)(a), (5). As to the effect of these provisions see note 8 supra.

11 Ibid s 42(1)(b). The power to make regulations under s 42 is exercisable by the Secretary of State by statutory instrument and includes power to make different provision for different purposes: s 42(8). However, the Secretary of State must not make such regulations unless he first consults the Electoral Commission (s 42(9)); and no such regulations may be made unless a draft of the statutory instrument containing the regulations has been laid before, and approved by resolution of, each House of Parliament (s 42(10)). As to the effect of these provisions see note 8 supra. As to the Secretary of State see PARA 2 ante; and as to the Electoral Commission see PARA 31 et seq ante.

12 The marked register is the copy of the register of electors marked in accordance with provision corresponding to the Representation of the People Act 1983 Sch 1 r 37(1)(c) (as substituted) (see PARA 404 ante): Electoral Administration Act 2006 s 44(1), (8). As to the effect of these provisions see note 8 supra.

13 A marked copy of the postal voters list is the copy of that list marked in accordance with provision corresponding to the Representation of the People Act 1983 Sch 1 r 31A(1) (as added) (see PARA 425 ante): Electoral Administration Act 2006 s 44(1), (10). As to the effect of these provisions see note 8 supra.

14 A marked copy of the list of proxies is the copy of that list marked in accordance with provision corresponding to the Representation of the People Act 1983 Sch 1 r 37(1)(e) (as substituted) (see PARA 404 ante): Electoral Administration Act 2006 s 44(1), (9). As to the effect of these provisions see note 8 supra.

15 A marked copy of the proxy postal voters list is the copy of that list marked in accordance with provision corresponding to the Representation of the People Act 1983 Sch 1 r 31A(1) (as added) (see PARA 425 ante): Electoral Administration Act 2006 s 44(1), (10). As to the effect of these provisions see note 8 supra.

16 Ie within the meaning of the Political Parties, Elections and Referendums Act 2000 Pt II (ss 22-40) (as amended) (see PARA 260 ante): see the Electoral Administration Act 2006 s 44(1), (6). As to the effect of these provisions see note 8 supra.

17 Ibid s 42(2). As to the effect of this provision see note 8 supra. A Welsh Assembly regional election is an election at which a registered party submits a list of candidates: see PARA 345 ante.

18 Ibid s 42(3)(a). The text refers to inspection in pursuance of s 42(1)(a) (see the text and notes 8-10 supra). As to the effect of this provision see note 8 supra.

19 Ibid s 42(3)(b). The text refers to supply in pursuance of s 42(1)(b) (see the text and note 11 supra). As to the effect of this provision see note 8 supra.

20 Ibid s 42(3)(c). The text refers to supply in pursuance of s 42(2) (see the text and notes 12-17 supra). As to the effect of this provision see note 8 supra.

21 Ibid s 42(5). As to the effect of this provision see note 8 supra.

22 Ibid s 42(6). Regulations may also impose conditions corresponding to those mentioned in 42(6) in respect of persons who have obtained a document or part of a document mentioned in s 42(2) (see the text and notes 12-17 supra): (1) which was supplied to another person in pursuance of s 42(2); or (2) otherwise than in accordance with regulations under s 42: s 42(7). As to the effect of these provisions see note 8 supra.

23 Ibid s 42(4). As to the effect of this provision see note 8 supra.

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

506 Retention and inspection of documents relating to elections to the National Assembly for Wales

NOTE 8--2006 Act s 44(7)(b) amended: SI 2007/1388.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(ix) Disposal of Documents/C. RETENTION AND INSPECTION OF ELECTION DOCUMENTS/507. Retention and inspection of documents relating to European parliamentary elections.

507. Retention and inspection of documents relating to European parliamentary elections.

The local returning officer at a European parliamentary election¹ must retain for a year all documents relating to such an election which he is directed to retain under the European parliamentary elections rules²; and then, unless otherwise directed by order of the High Court, he must cause them to be destroyed³. All such documents (except ballot papers, counterfoils and certificates as to employment on the day of the poll⁴) are to be open to public inspection at such time and subject to such conditions as may be prescribed by the local returning officer⁵. On request, the local returning officer must supply copies of or extracts from the documents open to public inspection on payment of such fees and subject to such conditions as may be sanctioned by the local authority by which he is employed⁶.

As from a day to be appointed⁷, the relevant registration officer⁸ must make available for inspection by members of the public such documents relating to an election to the European Parliament as he is required by or under any enactment to retain for any period (except ballot papers, the completed corresponding number lists⁹ and certificates as to employment on the day of the poll)¹⁰. On request, the relevant registration officer must supply copies of or extracts from such description of the documents as is prescribed by regulations¹¹; and a copy of the marked copies of the register¹², the postal voters list¹³, the list of proxies¹⁴ and the proxy postal voters list¹⁵ must be supplied to a registered party¹⁶ or to a person who was a candidate at the election (in relation to the electoral area for which he was a candidate) or, in the case of an election at which a registered party submits a list of candidates, to a person who was appointed as an agent for the candidates on the party's list¹⁷. The Secretary of State may by regulations impose conditions in relation to: (1) the inspection of any relevant election document which must be made available for public inspection¹⁸; (2) the supply of any relevant election document or part of any such document which must be supplied on request¹⁹; and (3) the supply of any relevant election document or part of a document which must be supplied on request to a registered party or a person who was a candidate or an agent for party list candidates²⁰. Conditions which may be imposed for the purposes of head (1) or head (2) above include conditions as to whether a person may take any copy of a document he is permitted to inspect, the manner in which any such copy is to be taken and the purposes for which information contained in any document or part of a document which is inspected or supplied for the purposes of public inspection may be used²¹. Conditions which may be imposed for the purposes of head (2) or head (3) above include conditions as to the extent to which a person to whom a document or part of a document has been supplied may supply that document or part to any other person, disclose to any other person any information contained in the document or part and use any such information for a purpose other than that for which the document or part was supplied to him²². Regulations may also make provision as to the form in which any such document or part is supplied and for the payment of a fee in respect of the supply of a document or part²³.

1 As to European parliamentary elections see PARA 224 et seq ante; and as to local returning officers appointed for the purposes of European parliamentary elections see PARA 365 et seq ante.

2 For the meaning of 'European parliamentary elections rules' see PARA 388 ante. The text refers to all documents relating to an election to which the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 59 applies (see PARA 501 ante).

3 Ibid Sch 1 para 61(1). As to the production and inspection of documents by order of the court see PARAS 834, 849 post. As to the penalty for breach of duty by persons responsible for used ballot papers and other documents see PARA 740 post; and as to offences which relate to persons who interfere with access to or the control of election documents see PARA 748 post.

4 As to certificates of employment on duty on the day of the poll see PARA 402 ante.

5 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 61(2).

6 Ibid Sch 1 para 61(3).

7 The Electoral Administration Act 2006 ss 42, 44 have effect as from a day to be appointed under s 77(2). At the date at which this volume states the law, no such day had been appointed.

8 For these purposes, the relevant registration officer is the registration officer of the local authority in whose area the election is held or, if the election is held in respect of an electoral area which comprises any part of the area of more than one local authority, such registration officer as the Secretary of State by order appoints: *ibid* s 44(1), (3). An electoral area is, in relation to an election to the European Parliament, an electoral region within the meaning of the European Parliamentary Elections Act 2002 s 1 (as substituted and amended) (electoral regions and number of MEPs: see PARA 76 ante); Electoral Administration Act 2006 s 44(1), (7)(e). See note 7 *supra*. As to the Secretary of State see PARA 2 ante.

9 A completed corresponding number list is a list prepared under provision corresponding to the Representation of the People Act 1983 s 23(1), Sch 1 r 19A (as added), which is completed in accordance with provision corresponding to Sch 1 r 37(1)(b) (as substituted) and Sch 1 r 37(1)(d) (prospectively substituted) (see PARA 410 note 10 ante); Electoral Administration Act 2006 s 44(1), (11). See note 7 *supra*.

10 Ibid ss 42(1)(a), 44(1), (2)(a), (5). See note 7 *supra*.

11 Ibid s 42(1)(b). The power to make regulations under s 42 is exercisable by the Secretary of State by statutory instrument and includes power to make different provision for different purposes: s 42(8). However, the Secretary of State must not make such regulations unless he first consults the Electoral Commission (s 42(9)); and no such regulations may be made unless a draft of the statutory instrument containing the regulations has been laid before, and approved by resolution of, each House of Parliament (s 42(10)). See note 7 *supra*. As to the Electoral Commission see PARA 31 *et seq* ante.

12 The marked register is the copy of the register of electors marked in accordance with provision corresponding to the Representation of the People Act 1983 Sch 1 r 37(1)(c) (as substituted) (see PARA 404 ante); Electoral Administration Act 2006 s 44(1), (8). See note 7 *supra*.

13 A marked copy of the postal voters list is the copy of that list marked in accordance with provision corresponding to the Representation of the People Act 1983 Sch 1 r 31A(1) (as added) (see PARA 425 ante); Electoral Administration Act 2006 s 44(1), (10). See note 7 *supra*.

14 A marked copy of the list of proxies is the copy of that list marked in accordance with provision corresponding to the Representation of the People Act 1983 Sch 1 r 37(1)(e) (as substituted) (see PARA 404 ante); Electoral Administration Act 2006 s 44(1), (9). See note 7 *supra*.

15 A marked copy of the proxy postal voters list is the copy of that list marked in accordance with provision corresponding to the Representation of the People Act 1983 Sch 1 r 31A(1) (as added) (see PARA 425 ante); Electoral Administration Act 2006 s 44(1), (10). See note 7 *supra*.

16 *Ie* within the meaning of the Political Parties, Elections and Referendums Act 2000 Pt II (ss 22-40) (as amended) (see PARA 260 ante): see the Electoral Administration Act 2006 s 44(1), (6). See note 7 *supra*.

17 Ibid s 42(2). See note 7 *supra*. A European parliamentary election is an election at which a registered party submits a list of candidates: see PARA 345 ante.

18 Ibid s 42(3)(a). The text refers to inspection in pursuance of s 42(1)(a) (see the text and notes 8-10 *supra*). See note 7 *supra*.

19 Ibid s 42(3)(b). The text refers to supply in pursuance of s 42(1)(b) (see the text and note 11 *supra*). See note 7 *supra*.

20 Ibid s 42(3)(c). The text refers to supply in pursuance of s 42(2) (see the text and notes 12-17 supra). See note 7 supra.

21 Ibid s 42(5). See note 7 supra.

22 Ibid s 42(6). Regulations may also impose conditions corresponding to those mentioned in 42(6) in respect of persons who have obtained a document or part of a document mentioned in s 42(2) (see the text and notes 12-17 supra): (1) which was supplied to another person in pursuance of s 42(2); or (2) otherwise than in accordance with regulations under s 42: s 42(7). See note 7 supra.

23 Ibid s 42(4). See note 7 supra.

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

507 Retention and inspection of documents relating to European parliamentary elections

TEXT AND NOTES 1-6--SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/(ix) Disposal of Documents/C. RETENTION AND INSPECTION OF ELECTION DOCUMENTS/508. Orders for production or inspection of documents.

508. Orders for production or inspection of documents.

Documents relating to elections which have been retained may be produced or inspected by order of the House of Commons or by order of the election court¹.

¹ See PARAS 834, 849 post.

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/ (x) Countermand or Abandonment of Poll on Death of Candidate/509. Countermand or abandonment of poll at a parliamentary election on the death of independent or party candidate or Speaker of House of Commons seeking re-election.

(x) Countermand or Abandonment of Poll on Death of Candidate

509. Countermand or abandonment of poll at a parliamentary election on the death of independent or party candidate or Speaker of House of Commons seeking re-election.

If, at a contested parliamentary election¹, proof is given to the satisfaction of the returning officer² before the result of the election is declared that one of the persons named or to be named in the ballot papers as an independent candidate has died³, then the parliamentary election rules⁴ apply to the election as if the candidate had not died⁵, but subject to the following provisions⁶. If only two persons are shown as standing nominated in the statement of persons nominated⁷, the returning officer must: (1) if polling has not begun, countermand the notice of poll⁸; (2) if polling has begun, direct that the poll is abandoned⁹; or (3) treat the election as an uncontested election¹⁰. However, if the majority of votes given at an election where an independent candidate has died is given to the deceased independent candidate¹¹, the usual provisions as to declaration of the result do not apply¹² and the returning officer must: (a) declare that the majority of votes has been given to the deceased candidate¹³; (b) declare that no member is returned¹⁴; and (c) give public notice¹⁵ of the total number of votes given for each candidate together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers¹⁶. If after the counting of the votes (including any recount) is completed at an election where an independent candidate has died, an equality of votes is found to exist between any candidates¹⁷, and any of those candidates is a deceased candidate, the deceased candidate must be ignored¹⁸. If, at a contested parliamentary election, proof is given to the satisfaction of the returning officer before the result of the election is declared that one of the persons named or to be named as a candidate in the ballot paper has died¹⁹, and that person is standing in the name of a registered political party²⁰, the returning officer must countermand notice of the poll²¹ or, if polling has begun, direct that the poll be abandoned²². If, at a contested parliamentary election, one of the candidates is the Speaker of the House of Commons seeking re-election²³ and proof is given to the returning officer's satisfaction before the result of the election is declared that that candidate has died²⁴, the returning officer must countermand notice of the poll²⁵ or, if polling has begun, direct that the poll be abandoned²⁶.

Where a poll is abandoned by reason of an independent candidate's death²⁷ or by reason of the death of a party candidate²⁸ or following the death of the speaker of House of Commons seeking re-election²⁹, the presiding officer³⁰ at a polling station must take the like steps (so far as not already taken) for the delivery to the returning officer of ballot boxes and other documents as he is required to take on the close of the poll³¹. The returning officer must dispose of ballot papers and other documents in his possession as he is required to do on the completion in due course of the counting of the votes³². However, it is not necessary for any ballot paper account to be prepared or verified³³ and the returning officer, without taking any step or further step for the counting of the ballot papers or of the votes³⁴, must seal up all the ballot papers, whether the votes on them have been counted or not, and counted and rejected ballot papers need not be sealed up in separate packets³⁵. The provisions of the parliamentary election rules as to the inspection, production, retention and destruction of ballot papers and other documents relating to a poll at an election apply to any such documents relating to a poll

abandoned by reason of the death of a candidate³⁶. Ballot papers on which the votes were neither counted nor rejected must, however, be treated as counted ballot papers³⁷; and no order is to be made for the production or inspection of any ballot papers³⁸ or for the opening of a sealed packet of the completed corresponding number lists³⁹ or of certificates as to employment on duty on the day of the poll⁴⁰ unless the order is made by a court with reference to a prosecution⁴¹.

Where the poll at an election is taken together with the poll at another election, special provision is made and neither the countermand of the poll at one election nor the direction that polling be abandoned at that election is to affect the poll at the other election⁴².

1 For the meaning of 'parliamentary election' see PARA 9 ante. As to contested elections see PARA 389 et seq ante.

2 As to returning officers for parliamentary elections see PARA 355 et seq ante.

3 Representation of the People Act 1983 Sch 1 r 60(1) (Sch 1 r 60 substituted, and Sch 1 rr 61-65 added, by the Electoral Administration Act 2006 s 24). For these purposes, a person is named or to be named on the ballot papers as an independent candidate if the description (if any) on his nomination paper is not authorised as mentioned in the Representation of the People Act 1983 Sch 1 r 6A(1) (as added and amended) (see PARA 263 ante) or Sch 1 r 6A(1B) (as added) (see PARA 263 ante): Sch 1 r 60(1), (5) (as so substituted). As to the time at which the returning officer can be satisfied that a candidate satisfies the test set out in the text see PARA 270 ante.

Any amendment effected by the Electoral Administration Act 2006 s 24 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

4 For the meaning of the 'parliamentary election rules' see PARA 388 ante.

5 However, the following provisions of the parliamentary election rules do not apply in relation to the deceased candidate, namely the Representation of the People Act 1983 Sch 1 r 32(1)(c), (d) (as substituted) (admission to polling station: see PARA 402 ante), Sch 1 r 44(2)(b)-(d) (as amended) (attendance at count: see PARA 431 ante) and Sch 1 r 53(4) (as amended) (forfeiture of deposit: see PARA 480 ante): Sch 1 r 60(1), (3) (as substituted: see note 3 supra). As to the effect of these provisions see note 3 supra.

6 Ibid Sch 1 r 60(1), (2) (as substituted: see note 3 supra). The parliamentary election rules apply as mentioned in the text subject to Sch 1 r 60 (as substituted) and Sch 1 rr 61-62 (as added) (see the text and notes 7-18 infra). As to the effect of these provisions see note 3 supra.

7 As to the statement of persons nominated see PARA 272 ante.

8 Representation of the People Act 1983 Sch 1 r 60(1), (4)(a) (as substituted: see note 3 supra). As to the effect of these provisions see note 3 supra. As to a fresh election following the countermand or abandonment of the poll on the death of an independent candidate see PARA 512 post.

9 Ibid Sch 1 r 60(1), (4)(b) (as substituted: see note 3 supra). See note 8 supra. As to the effect of these provisions see note 3 supra.

10 Ibid Sch 1 r 60(1), (4)(c) (as substituted: see note 3 supra). Head (3) in the text is subject to Sch 1 r 65 (as added) (see the text and notes 27-41 infra). As to the effect of these provisions see note 3 supra.

11 Ibid Sch 1 r 61(1) (as added: see note 3 supra). As to the commencement of this provision see note 3 supra.

12 Ie ibid Sch 1 r 50 (see PARA 478 ante) does not apply.

13 Ibid Sch 1 r 61(1), (2)(a) (as added: see note 3 supra). As to the commencement of these provisions see note 3 supra.

14 Ibid Sch 1 r 61(1), (2)(b) (as added: see note 3 supra). The rule regarding forfeiture of deposit (ie Sch 1 r 53(4) (as amended): see PARA 480 ante) does not apply in relation to the remaining candidates: Sch 1 r 61(1), (3) (as so added). As to the commencement of these provisions see note 3 supra.

15 As to the giving of public notice by returning officers for parliamentary elections see PARA 355 ante.

16 Representation of the People Act 1983 Sch 1 r 61(1), (2)(c) (as added: see note 3 supra). As to the commencement of these provisions see note 3 supra. As to the statement of rejected ballot papers at a parliamentary election see PARA 438 ante.

17 *Ie* if *ibid* Sch 1 r 49 applies (see PARA 441 ante).

18 *Ibid* Sch 1 r 62 (as added: see note 3 supra). As to the commencement of these provisions see note 3 supra.

19 *Ibid* Sch 1 r 63(1)(a) (as added: see note 3 supra). As to the commencement of these provisions see note 3 supra.

20 *Ibid* Sch 1 r 63(1)(b) (as added: see note 3 supra). For these purposes, a person stands in the name of a registered political party if his nomination paper contains a description which is authorised as mentioned in Sch 1 r 6A(1) (as added and amended) or Sch 1 r 6A(1B) (as added) (see PARA 263 ante) (Sch 1 r 63(10)(a) (as so added)); and a registered political party is a party which is registered under the Political Parties, Elections and Referendums Act 2000 Pt II (ss 22-40) (as amended) (see PARA 260 ante) (Representation of the People Act 1983 Sch 1 r 63(10)(b) (as so added)). As to the commencement of these provisions see note 3 supra.

21 *Ibid* Sch 1 r 63(2)(a) (as added: see note 3 supra). As to the commencement of this provision see note 3 supra. As to a fresh election following the countermand or abandonment of the poll on the death of a party candidate see PARA 512 post.

22 *Ibid* Sch 1 r 63(2)(b) (as added: see note 3 supra). See note 21 supra. As to the commencement of this provision see note 3 supra.

23 *Ibid* Sch 1 r 64(1)(a) (as added: see note 3 supra). As to the commencement of this provision see note 3 supra.

24 *Ibid* Sch 1 r 64(1)(b) (as added: see note 3 supra). As to the commencement of this provision see note 3 supra.

25 *Ibid* Sch 1 r 64(2)(a) (as added: see note 3 supra). As to the commencement of this provision see note 3 supra. As to a fresh election following the countermand or abandonment of the poll on the death of the Speaker of the House of Commons seeking re-election see PARA 512 post.

26 *Ibid* Sch 1 r 64(2)(b) (as added: see note 3 supra). See note 25 supra. As to the commencement of this provision see note 3 supra.

27 *Ie* in pursuance of *ibid* Sch 1 r 60(4)(b) (as substituted) (see the text and note 9 supra): Sch 1 r 65(1)(a) (as added: see note 3 supra). As to the commencement of these provisions see note 3 supra.

28 *Ie* in pursuance of *ibid* Sch 1 r 63(2)(b) (as added) (see the text and note 22 supra): Sch 1 r 65(1)(b) (as added: see note 3 supra). As to the commencement of these provisions see note 3 supra.

29 *Ie* in pursuance of *ibid* Sch 1 r 64(2)(b) (as added) (see the text and note 26 supra): Sch 1 r 65(1)(b) (as added: see note 3 supra). As to the commencement of these provisions see note 3 supra.

30 As to the appointment of presiding officers and their clerks see PARA 398 ante.

31 Representation of the People Act 1983 Sch 1 r 65(2) (as added: see note 3 supra). As to the commencement of this provision see note 3 supra. As to the usual procedure on the close of poll see PARA 410 ante.

32 *Ibid* Sch 1 r 65(3) (as added: see note 3 supra). As to the commencement of this provision see note 3 supra.

33 *Ibid* Sch 1 r 65(4) (as added: see note 3 supra). As to the commencement of this provision see note 3 supra. As to the preparation and verification of the ballot paper accounts see PARA 410 et seq ante.

34 *Ibid* Sch 1 r 65(5) (as added: see note 3 supra). As to the commencement of this provision see note 3 supra.

35 *Ibid* Sch 1 r 65(6) (as added: see note 3 supra). As to the commencement of this provision see note 3 supra.

36 Ibid Sch 1 r 65(7) (as added: see note 3 supra). As to the commencement of this provision see note 3 supra.

37 Ibid Sch 1 r 65(8) (as added: see note 3 supra). As to the commencement of this provision see note 3 supra.

38 Ibid Sch 1 r 65(9)(a) (as added: see note 3 supra). As to the commencement of this provision see note 3 supra.

39 As to completed corresponding number lists see PARA 410 note 10 ante.

40 As to certificates of employment on duty on the day of the poll see PARA 402 ante.

41 Representation of the People Act 1983 Sch 1 r 65(9) (as added: see note 3 supra). As to the commencement of this provision see note 3 supra.

42 See PARA 16 et seq ante.

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/ (x) Countermand or Abandonment of Poll on Death of Candidate/510. Countermand or abandonment of poll on death of candidate at an election which is not a parliamentary election.

510. Countermand or abandonment of poll on death of candidate at an election which is not a parliamentary election.

If, at a contested election which is not a parliamentary election¹, proof is given to the satisfaction of the returning officer² before the result of the election is declared³ that one of the persons named or to be named as a candidate in the ballot papers⁴ has died⁵, then, except in the case of a Welsh Assembly regional election where the election continues to remain contested⁶, the returning officer must countermand notice of the poll or, if polling has begun, he must direct that the poll be abandoned⁷. Where such a poll is abandoned by reason of a candidate's death, the proceedings at or consequent on that poll must be interrupted, no further ballot papers are to be issued, and the presiding officer⁸ at any polling station must take the like steps (so far as not already taken) for the delivery to the returning officer⁹ of ballot boxes and other documents as he is required to take on the close of the poll in due course¹⁰.

The returning officer at such an election must dispose of ballot papers and other documents in his possession as he is required to do on the completion in due course of the counting of the votes¹¹. However, it is not necessary for any ballot paper account to be prepared or verified¹² and the returning officer, without taking any step or further step for the counting of the ballot papers or of the votes¹³, must seal up all the ballot papers, whether the votes on them have been counted or not, and counted and rejected ballot papers need not be sealed up in separate packets¹⁴. The provisions as to the inspection, production, retention and destruction of ballot papers and other documents relating to a poll at such an election (or to a poll consequent on a parish meeting on a question involving appointment to office, as the case may be)¹⁵ apply to any such documents relating to a poll abandoned by reason of the death of a candidate¹⁶. Ballot papers on which the votes were neither counted nor rejected must, however, be treated as counted ballot papers¹⁷; and no order may be made for the production or inspection of any ballot papers or for the opening of a sealed packet of the completed corresponding number lists (or counterfoils, as the case may be) or certificates as to employment on duty on the day of the poll¹⁸ unless the order is made by a court with reference to a prosecution¹⁹.

Where the poll at such an election is taken together with the poll at another election, special provision is made and neither the countermand of the poll at one election nor the direction that polling be abandoned at that election is to affect the poll at the other election²⁰.

1 As to contested elections generally see PARA 389 et seq ante. As to the provision made for the countermand or abandonment of the poll at a parliamentary election see PARA 509 ante. For the meaning of 'parliamentary election' see PARA 9 ante. There is no provision made for the countermand or abandonment of the poll on the death of a candidate either at an election for the return of London members of the London Assembly or at a European parliamentary election; cf, in relation to regional elections for the National Assembly for Wales, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 65 (see the text and notes 2-19 infra). In the case of elections for the return of members of the National Assembly for Wales, the election referred to is either a contested Assembly constituency election or a contested Assembly regional election. For the meanings of 'Assembly election', 'constituency election' and 'regional election' in this context see PARA 3 note 1 ante. As to vacancies arising in the seats of London members of the London Assembly see PARA 211 et seq ante; and as to vacancies arising in the office of member of the European Parliament ('MEP') see PARA 225 ante.

2 As to returning officers for local government elections (including local authority mayoral elections) see PARA 359 et seq ante; and as to the returning officer at a poll consequent on a parish meeting on a question involving

appointment to office see PARA 361 ante. In the case of the election of a constituency member of the London Assembly, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which see PARA 218 note 8 ante). For the purposes of an election for the return of the Mayor of London, it is the Greater London returning officer (for the meaning of which see PARA 218 note 7 ante); but see note 9 infra. For the meanings of 'constituency member' and 'election of a constituency member of the London Assembly' see PARA 10 ante. As to ordinary elections of constituency members of the London Assembly or an election for the return of the Mayor of London see PARA 206 et seq ante. For the purposes of Welsh Assembly elections, the appropriate returning officer is, in relation to an Assembly constituency election, the constituency returning officer and, in relation to an Assembly regional election, it is the regional returning officer. For the meanings of 'constituency returning officer' and 'regional returning officer' see PARA 18 note 2 ante.

3 At a poll consequent on a parish meeting on a question involving appointment to office, such proof must be given before the result of the poll is declared: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 37(1).

4 At a poll consequent on a parish meeting on a question involving appointment to office, the reference is to a candidate who has not withdrawn: *ibid* Schedule r 37(1). At a Welsh Assembly regional election, the candidate referred to in the text may be either an individual candidate or a party list candidate: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 65(5). For the meanings of 'individual candidate' and 'party list candidate' in this context see PARA 237 note 23 ante.

5 As to the time at which the returning officer can be satisfied that a candidate satisfies this test see PARA 270 ante.

6 If, at a contested Welsh Assembly regional election, proof is given to the regional returning officer's satisfaction before the results of the election are declared that one of the persons named or to be named as a candidate on the ballot paper (whether as an individual or party list candidate) has died, but as a result of that death the election continues to remain contested, the notice of poll is not to be countermanded nor the poll abandoned and such a death has no effect upon the validity of the election and return of any candidate at the regional election: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 65(6). However, in these circumstances, the regional returning officer must take such steps as he considers reasonable to publicise, in the Assembly electoral region for which the election is held, the name of that candidate and the fact of his death, whether that candidate was an individual or party list candidate and, if he was a party list candidate, the name of the registered political party for which that person was such a candidate: Sch 5 para 65(7). The regional returning officer must, in particular, consider whether he should take the required steps to publicise by causing notices to be placed outside polling stations: Sch 5 para 65(7). For the meanings of 'Assembly constituency' and 'Assembly electoral region' for these purposes see PARA 3 note 1 ante.

7 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 37(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), (3), Sch 1 r 51(1)(a), Sch 3 r 56(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 54(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 65(1)(a), (b), (5)(a), (b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 55(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 55(1). In relation to a London Authority ordinary election, the countermand of a poll or the direction that a poll be abandoned has effect only in relation to the election for the return of a constituency member of the London Assembly or, as the case may be, the election for the return of the London Mayor, to which the countermand or direction relates: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3, Sch 4 r 14. In the case of any election of a constituency member of the London Assembly, the constituency returning officer must inform the Greater London returning officer of the countermand or abandonment of the poll and of the name of the candidate who has died: Sch 1 r 51(1)(b). In the case of an ordinary Welsh Assembly election, where a constituency election has been postponed, the constituency returning officer must forthwith notify the regional returning officer for the Assembly electoral region in which the Assembly constituency is situated of the action that he has taken: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 65(1)(c). Where polling has begun and there is a contested Assembly regional election taking place in the Assembly electoral region in which the Assembly constituency is situated, the requirement to direct that the poll be abandoned is satisfied when the regional returning officer has received the notification of the result at a constituency election required by Sch 5 para 57(3) (see PARA 487 ante) in respect of each of the other Assembly constituencies in the Assembly electoral region (Sch 5 para 65(3)); and in such circumstances the subsequent election of a candidate for the Assembly constituency has no effect upon the validity of the election and return of any candidate at the regional election (Sch 5 para 65(4)). Where a Welsh Assembly regional election has been postponed, the regional returning officer must forthwith notify each constituency returning officer in the Assembly electoral region of the action that he has taken: Sch 5 para 65(5)(c).

As to the ordering of a fresh election following the countermand or abandonment of a poll on the death of a candidate see PARA 512 post.

8 As to the appointment of presiding officers and their clerks see PARA 398 ante.

9 In the case of an election for the return of the Mayor of London and in the case of a Welsh Assembly regional election, the items referred to in the text are to be delivered to the appropriate constituency returning officer (see PARA 410 ante; cf note 2 supra).

10 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 37(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 51(3), Sch 3 r 56(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 54(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 65(8); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 55(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 55(2). However, where at a Welsh Assembly ordinary election a voter is entitled to give two votes at a polling station but the poll in respect of which the voter is entitled to give one of those votes is abandoned as a result of a candidate's death, the steps required to be taken by the presiding officer at such a polling station by the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 65(8) must take place on the close of the poll: Sch 5 para 65(9)(a).

11 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 37(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 51(3), Sch 3 r 56(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 54(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 65(8); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 55(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 55(3).

12 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 37(2)(a); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 51(3)(a), Sch 3 r 56(2)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 54(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 65(8)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 55(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 55(4). As to the preparation and verification of the ballot paper accounts see PARA 410 et seq ante.

13 This is subject to the proviso that where a voter at a Welsh Assembly ordinary election is entitled to give two votes at a polling station, but the poll in respect of which the voter is entitled to give one of those votes is abandoned as a result of a candidate's death, the constituency returning officer must first separate the ballot papers relating to the other Assembly election before sealing up the ballot papers: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 65(9)(b).

14 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 37(2)(b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 51(3)(b), Sch 3 r 56(2)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 54(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 65(8)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 55(5); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 55(5).

15 See PARAS 503 et seq ante, 834, 849 post.

16 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 37(3); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 51(4), Sch 3 r 56(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 54(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 65(10); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 55(6); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 55(6).

17 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 37(3)(a); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 51(4)(a), Sch 3 r 56(3)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 54(3)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 65(10)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 55(7); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 55(7).

18 As to certificates of employment on duty on the day of the poll see PARA 402 ante. There are no certificates as to employment on duty on the day of the poll at a poll consequent on a parish meeting on a question involving appointment to office and accordingly no reference is made to them in the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 37(3).

19 Ibid Schedule r 37(3)(b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 51(4)(b), Sch 3 r 56(3)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185,

Sch 1 r 54(3)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 65(10)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 55(8); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 55(8).

20 See PARA 16 et seq ante.

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

510 Countermand or abandonment of poll on death of candidate at an election which is not a parliamentary election

NOTES--SI 2002/185 reg 3(1), Sch 1 r 54 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 60.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/ (x) Countermand or Abandonment of Poll on Death of Candidate/511. Poll abandoned or countermanded after postal ballot papers have been issued.

511. Poll abandoned or countermanded after postal ballot papers have been issued.

Where, after postal ballot papers have been issued¹, a poll is abandoned or countermanded by reason of the death of a candidate², the returning officer at the election³ must not take any step or further step to open covering envelopes⁴ or deal with their contents in accordance with the provisions governing the receipt of postal ballot papers⁵. He must⁶ treat all unopened covering envelopes and the contents of those which have been opened as if they were counted ballot papers⁷.

These provisions do not apply where postal ballot papers for more than one election have been issued together⁸.

1 As to the issue of postal ballot papers see PARA 411 et seq ante.

2 See PARAS 509-510 ante. There is no provision for the poll at a European parliamentary election to be abandoned or countermanded as mentioned in the text (although provision is made for the return of a deceased candidate's deposit in such a case: see PARA 492 ante), and the provisions set out in the text do not apply in that case.

3 As to the returning officers and elections referred to in the text see PARA 411 notes 1, 14-15 ante; and, in relation to the returning officer's functions connected with the issue and receipt of postal ballot papers at a Welsh Assembly regional election, see also PARA 412 note 1 ante.

4 For the meaning of 'covering envelope' see PARA 416 ante.

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 90(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 26(1)(a).

6 Notwithstanding the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 84-86 (as amended) or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 paras 20-22 (see PARAS 428-429 ante).

7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 90(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 26(1)(b).

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 90(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 26(2). As to the issue and receipt of postal ballot papers when polls are combined see PARA 20 ante.

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/ (4) THE BALLOT/ (x) Countermand or Abandonment of Poll on Death of Candidate/512. Fresh election following countermand or abandonment of poll on death of candidate.

512. Fresh election following countermand or abandonment of poll on death of candidate.

Where the poll at a parliamentary election¹ is countermanded or abandoned by reason of the death of an independent candidate who has polled a majority of the votes², the returning officer³ must not return the writ⁴, and the proceedings with reference to the election must be commenced afresh⁵ with the writ for the election taken to have been received on the first working day⁶ after the end of the period of seven days starting on the day of the original election⁷. No fresh nomination is necessary in the case of a person shown in the statement of persons nominated as standing nominated⁸, and no other nomination may be made⁹. The rule regarding the making of deposits does not apply¹⁰. Where the poll at a parliamentary election is countermanded or abandoned by reason of the death of a party candidate¹¹, the proceedings with reference to the election must be commenced afresh¹², with the writ for the election taken to have been received on the first working day¹³ after the end of the period of seven days starting on the day the proof of death is given to the returning officer¹⁴. No fresh nomination is necessary in the case of a person shown in the statement of persons nominated as standing nominated¹⁵; and no other nomination may be made except for a person standing in the name of the same registered political party in whose name the deceased candidate was standing¹⁶. Where the poll at a parliamentary election is countermanded or abandoned by reason of the death of the Speaker of the House of Commons seeking re-election¹⁷, the proceedings with reference to the election must be commenced afresh¹⁸, with the writ for the election taken to have been received on the first working day¹⁹ after the end of the period of seven days starting on the day the proof of death is given to the returning officer²⁰. In all cases where a fresh election is commenced following the death of an independent or party candidate or following the death of the speaker of House of Commons seeking re-election, the poll must be held on a day in the period which starts 15 working days after the day on which the writ is taken to have been received and ends 19 working days after that day²¹.

In the case of a local government election²², other than an election for the return of the London members of the London Assembly²³, but including an election for the return of a local authority mayor²⁴, if the poll is countermanded or abandoned for any reason or no person is or remains, or an insufficient number of persons are or remain, validly nominated to fill the vacancy or vacancies in respect of which the election is held, the returning officer²⁵ must order an election to fill any vacancy which remains unfilled to be held on a day appointed by him²⁶. That day must be within the period of 35 days²⁷ beginning with the day fixed as the day of election for the first-mentioned election²⁸. Where an election is so ordered to be held, the appropriate electoral rules²⁹ relating to the notice to be given of an election and the manner in which an election is to be conducted apply in relation to the election so ordered to be held as they applied or would have applied in relation to the election which has not been duly held or has failed or become void³⁰ and no fresh nomination is necessary in the case of a candidate who remains validly nominated for that election³¹. Where a poll consequent on a parish meeting on a question involving appointment to office is countermanded or abandoned by reason of the death of a candidate, the district council in which the parish is situated may by order make any appointment or make provision for the holding of a parish meeting or do such other thing as appears to it to be expedient in the circumstances³².

Where the poll at a Welsh Assembly election³³ is countermanded or abandoned by reason of the death of a candidate, all proceedings with reference to the election must be commenced afresh in all respects as if publication of the notice of election had been given 28 days after the day on which proof was given to the returning officer of the death³⁴, except that no fresh nomination is necessary in the case of a person shown in the statement of persons nominated as standing nominated³⁵.

There is no special provision for the poll at a European parliamentary election to be abandoned or countermanded³⁶.

Where the poll at an election is taken together with the poll at another election, special provision is made and neither the countermand of the poll at one election nor the direction that polling be abandoned at that election is to affect the poll at the other election³⁷.

1 For the meaning of 'parliamentary election' see PARA 9 ante.

2 See PARA 509 ante.

3 As to returning officers for parliamentary elections see PARA 355 et seq ante.

4 As to the issue and return of the writ at a parliamentary election see PARA 199 et seq ante.

5 Representation of the People Act 1983 Sch 1 r 61(1), (4) (Sch 1 rr 61, 63-64 added by the Electoral Administration Act 2006 s 24).

Any amendment effected by the Electoral Administration Act 2006 s 24 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

6 For these purposes, a working day is a day which is not a day specified in the Representation of the People Act 1983 Sch 1 r 2(1)(a)-(c) (as amended) (see PARA 203 note 1 ante): Sch 1 r 61(1), (10) (as added: see note 5 supra). As to the commencement of these provisions see note 5 supra.

7 Ibid Sch 1 r 61(1), (5) (as added: see note 5 supra). As to the commencement of these provisions see note 5 supra. The text refers to the day of the election mentioned in Sch 1 r 60(1) (as substituted) (see PARA 509 ante).

8 As to the statement of persons nominated see PARA 272 ante.

9 Representation of the People Act 1983 Sch 1 r 61(1), (6) (as added: see note 5 supra). The last day on which a notice of withdrawal of candidature by a person who stands nominated by virtue of Sch 1 r 61(6) (as added) may be delivered is the seventh working day after the day on which the writ is taken to be received: Sch 1 r 61(1), (7) (as so added). As to the commencement of these provisions see note 5 supra.

10 Ibid Sch 1 r 61(1), (8) (as added: see note 5 supra). As to the commencement of these provisions see note 5 supra. The text refers to the rule in Sch 1 r 53 (as amended) (see PARA 480 ante).

11 See PARA 509 ante.

12 Representation of the People Act 1983 Sch 1 r 63(1), (3) (as added: see note 5 supra). As to the commencement of these provisions see note 5 supra.

13 For these purposes, a working day is a day which is not a day specified in ibid Sch 1 r 2(1)(a)-(c) (as amended) (see PARA 203 note 1 ante): Sch 1 r 63(1), (10)(c) (as added: see note 5 supra). As to the commencement of these provisions see note 5 supra.

14 Ibid Sch 1 r 63(1), (4) (as added: see note 5 supra). As to the commencement of these provisions see note 5 supra.

15 Ibid Sch 1 r 63(1), (5) (as added: see note 5 supra). The last day on which a notice of withdrawal of candidature by a person who stands nominated by virtue of Sch 1 r 63(5) (as added) may be delivered is the seventh working day after the day on which the writ is taken to be received: Sch 1 r 63(1), (8) (as so added). As to the commencement of these provisions see note 5 supra.

16 Ibid Sch 1 r 63(1), (6) (as added: see note 5 supra). The last day on which a nomination mentioned in Sch 1 r 63(6) (as added) may be delivered, or on which a notice of withdrawal of candidature by a person who stands nominated in pursuance of Sch 1 r 63(6) (as added) may be delivered, is the seventh working day after the day on which the writ is taken to be received: Sch 1 r 63(7), (8) (as so added). As to the commencement of these provisions see note 5 supra.

17 See PARA 509 ante.

18 Representation of the People Act 1983 Sch 1 r 64(1), (3) (as added: see note 5 supra). As to the commencement of these provisions see note 5 supra.

19 For these purposes, a working day is a day which is not a day specified in ibid Sch 1 r 2(1)(a)-(c) (as amended) (see PARA 203 note 1 ante): Sch 1 r 64(1), (7) (as added: see note 5 supra). As to the commencement of these provisions see note 5 supra.

20 Ibid Sch 1 r 64(1), (4) (as added: see note 5 supra). The last day on which either nominations or notice of withdrawal of candidature may be delivered is the seventh working day after the day on which the writ is taken to be received: Sch 1 r 64(1), (5) (as so added). As to the commencement of these provisions see note 5 supra.

21 Ibid Sch 1 rr 61(1), (9), 63(1), (9), 64(1), (6) (as added: see note 5 supra). As to the commencement of these provisions see note 5 supra.

22 For the meaning of 'local government election' see PARA 10 ante.

23 As to the filling of vacancies arising in the seats of London members of the London Assembly see PARA 211 et seq ante.

24 As to elections for the return of a local authority mayor see PARA 205 et seq ante.

25 As to returning officers for local government elections (including local authority mayoral elections) see PARA 359 et seq ante.

26 Representation of the People Act 1983 s 39(1) (amended by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 6(1), (2)). The Representation of the People Act 1983 s 39(1) (as amended) and s 39(5) are applied for these purposes by the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), (3), Sch 1 r 51(2), Sch 3 r 56(1); the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 54(1); the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 55(1); and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 55(1)). It is for the returning officer and not for the court to countermand a poll when appropriate: *R (on the application of Begum) v Tower Hamlets London Borough Council* [2006] EWCA Civ 733 at [12], [2006] LGR 674 at [12] per Sir Anthony Clarke MR (obiter) (the returning officer will countermand a poll in the case of the death of a candidate (as to which see PARA 510 ante) and it is something of a puzzle why the Representation of the People Act 1983 s 39(1) (as amended) uses the words 'for any reason').

27 Ie computed according to the Representation of the People Act 1983 s 40 (as amended) (see PARA 216 note 7 ante).

28 Ibid s 39(1) (amended by the Representation of the People Act 1985 s 19); as applied (see note 26 supra).

29 Ie the rules under the Representation of the People Act 1983 s 36 (as amended) (see PARA 388 ante).

30 Ibid s 39(5)(a); as applied (see note 26 supra).

31 Ibid s 39(5)(b); as applied (see note 26 supra).

32 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 37(4).

33 For the purposes of Welsh Assembly elections, the appropriate returning officer is, in relation to an Assembly constituency election, the constituency returning officer and, in relation to an Assembly regional election, the regional returning officer. For the meanings of 'Assembly election', 'constituency election' and 'regional election' in this context see PARA 3 note 1 ante; and for the meanings of 'constituency returning officer' and 'regional returning officer' see PARA 18 note 2 ante.

34 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 65(1).

35 Ibid Sch 5 para 65(2).

36 Provision is made, however, for the return of a deceased candidate's deposit in such a case (see PARA 492 ante). Provision is also made for the filling of a vacancy in the office of member of the European Parliament ('MEP'): see PARA 225 ante.

37 See PARA 16 et seq ante.

UPDATE

442-512 Arrangements for counting the votes at elections of London Assembly members ... Fresh election following countermand or abandonment of poll on death of candidate

SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

512 Fresh election following countermand or abandonment of poll on death of candidate

NOTE 26--SI 2002/185 reg 3(1), Sch 1 r 54 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 60.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(5) PILOT SCHEMES MODIFYING THE CONDUCT OF ELECTIONS/(i) Pilot Schemes regarding Voting and Campaigning at Local Government Elections/513. Pilot orders relating to schemes for voting and campaigning at local government elections.

(5) PILOT SCHEMES MODIFYING THE CONDUCT OF ELECTIONS

(i) Pilot Schemes regarding Voting and Campaigning at Local Government Elections

513. Pilot orders relating to schemes for voting and campaigning at local government elections.

Where a relevant local authority¹ submits to the Secretary of State² proposals for a pilot scheme to apply to particular local government elections³ held in the authority's area⁴ and those proposals are approved by the Secretary of State, either without modification⁵ or with such modifications as, after consulting the authority, he considers appropriate⁶, the Secretary of State must by order⁷ make such provision for and in connection with the implementation of the scheme in relation to those elections as he considers appropriate (which may include provision modifying or disappling any enactment)⁸. Such a scheme may make, in relation to local government elections in the area of a relevant local authority⁹, provision differing in any respect from that made under or by virtue of the Representation of the People Acts¹⁰ as regards one or more of the following, namely: (1) when, where and how voting at the elections is to take place¹¹; (2) how the votes cast at the elections are to be counted¹²; (3) the sending by candidates of election communications free of charge for postage¹³. Without prejudice to the generality of these provisions, such a scheme may make provision: (a) for voting to take place on more than one day (whether each of those days is designated as a day of the poll or otherwise) and at places other than polling stations¹⁴; or (b) for postal charges incurred in respect of the sending of candidates' election communications as mentioned in head (3) above to be paid by the authority concerned¹⁵.

1 For these purposes, 'relevant local authority' means, as respects England, a county council, a district council, a London borough council or the Greater London Authority and, as respects Wales, a county council or a county borough council: Representation of the People Act 2000 s 10(11). As to counties and districts in England, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 24 et seq; as to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq; as to London boroughs, and their councils, see LONDON GOVERNMENT vol 29(2) (Reissue) PARAS 30, 35-39, 59 et seq; and as to the Greater London Authority see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 79 et seq. A county council, a district council or a London borough council in England and a county council or a county borough council in Wales is referred to as a 'principal council': see LOCAL GOVERNMENT vol 69 (2009) PARA 23.

2 As to the Secretary of State see PARA 2 ante.

3 ie including any such proposals which are submitted by a relevant local authority jointly with the Electoral Commission, in which case references to the authority must be read as references to the authority and the Commission: Representation of the People Act 2000 s 10(1A) (added by the Political Parties, Elections and Referendums Act 2000 s 158(1), Sch 21 para 16(1), (2)). For the meaning of 'local government election' see PARA 10 ante; definition applied by virtue of the Representation of the People Act 2000 s 17(2). As to the Electoral Commission see PARA 31 et seq ante; and as to the involvement of the Commission in changes in electoral procedures see PARA 50 ante. See also the European Parliamentary and Local Elections (Pilots) Act 2004, which disapplied the Representation of the People Act 2000 s 10 (as amended) for the purposes of making provision for the piloting of all-postal voting (or any other innovative voting method) in relation to European parliamentary elections for the 2004 elections only.

4 Representation of the People Act 2000 s 10(1)(a). For the meaning of 'local government area' see PARA 18 note 2 ante; definition applied by virtue of s 17(2).

5 For these purposes, 'modifications' includes additions, omissions and amendments (and 'modify' has a corresponding meaning): *ibid* s 17(2).

6 *Ibid* s 10(1)(b).

7 Where the Secretary of State makes any such order he must send a copy of the order to the authority concerned and to the Electoral Commission and that authority must publish the order in its area in such manner as it thinks fit: *ibid* s 10(5) (amended by the Political Parties, Elections and Referendums Act 2000 Sch 21 para 16(1), (3)). In a case where any proposals are not jointly submitted under the Representation of the People Act 2000 s 10(1A) (as added) (see note 3 *supra*), the Secretary of State must consult the Electoral Commission before making any such order: s 10(1A) (as added: see note 3 *supra*). At the date at which this volume states the law, no such order had been made.

8 *Ibid* s 10(1). For these purposes, 'enactment' includes any provision of an Act (including the Representation of the People Act 2000) and any provision of subordinate legislation (within the meaning of the Interpretation Act 1978: see STATUTES vol 44(1) (Reissue) PARA 1232): Representation of the People Act 2000 s 17(2).

9 For this purpose, the reference to local government elections in the area of a relevant local authority is a reference to such elections either throughout that area or in any particular part or parts of it as the scheme may provide: *ibid* s 10(4).

10 For the meaning of 'the Representation of the People Acts' see PARA 3 note 1 ante.

11 Representation of the People Act 2000 s 10(2)(a).

12 *Ibid* s 10(2)(b).

13 *Ibid* s 10(2)(c).

14 *Ibid* s 10(3)(a).

15 *Ibid* s 10(3)(b). Where a scheme makes provision for postal charges incurred in respect of the sending of candidates' election communications to be paid as mentioned in head (b) in the text, the Secretary of State's order under s 10(1) (see the text and notes 1-8 *supra*) may make provision for disapplying the Representation of the People Act 1983 s 75(1) (as amended) (restriction on third party election expenditure: see PARA 277 ante) in relation to the payment of such charges by the authority: Representation of the People Act 2000 s 10(3).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(5) PILOT SCHEMES MODIFYING THE CONDUCT OF ELECTIONS/(i) Pilot Schemes regarding Voting and Campaigning at Local Government Elections/514. Evaluation by the Electoral Commission of pilot schemes relating to voting and campaigning at local government elections.

514. Evaluation by the Electoral Commission of pilot schemes relating to voting and campaigning at local government elections.

Once any local government elections¹ have taken place in relation to which a pilot scheme order applied², the Electoral Commission³ must prepare a report on the scheme⁴. Such a report must be prepared in consultation with the local authority concerned⁵; and that authority must provide the Commission with such assistance as it may reasonably require in connection with the preparation of the report (and such assistance may, in particular, include the making by the authority of arrangements for ascertaining the views of voters about the operation of the scheme)⁶. The report must, in particular, contain⁷: (1) a description of the scheme and of the respects in which the provision made by it differed from that made by or under the Representation of the People Acts⁸; (2) a copy of the order of the Secretary of State⁹; and (3) an assessment of the scheme's success or otherwise in facilitating voting at the elections in question¹⁰ and, if it made provision as respects the counting of votes cast at those elections, the counting of votes, or in encouraging voting at the elections in question or enabling voters to make informed decisions at those elections¹¹. If the Secretary of State so requests in writing, the report must also contain an assessment of such other matters relating to the scheme as are specified in his request¹². Once the Electoral Commission has prepared the report, it must send a copy of it to the Secretary of State and to the authority concerned, and that authority must publish the report in its area, in such manner as it thinks fit, by the end of the period of three months beginning with the date of the declaration of the result of the elections in question¹³.

¹ For the meaning of 'local government election' see PARA 10 ante; definition applied by virtue of the Representation of the People Act 2000 s 17(2).

² In relation to which a scheme under *ibid* s 10(1) applied (as to which see PARA 513 ante).

³ As to the Electoral Commission see PARA 31 et seq ante; and as to the involvement of the Commission in changes in electoral procedures see PARA 50 ante.

⁴ Representation of the People Act 2000 s 10(6) (amended by the Political Parties, Elections and Referendums Act 2000 s 158(1), Sch 21 para 16(1), (4)).

⁵ As to the local authorities which may propose such a scheme see PARA 513 note 1 ante.

⁶ Representation of the People Act 2000 s 10(6A) (added by the Political Parties, Elections and Referendums Act 2000 Sch 21 para 16(1), (5)).

⁷ Representation of the People Act 2000 s 10(7) (amended by the Political Parties, Elections and Referendums Act 2000 Sch 21 para 16(1), (6)).

⁸ Representation of the People Act 2000 s 10(7)(a). For the meaning of 'the Representation of the People Acts' see PARA 3 note 1 ante.

⁹ *Ibid* s 10(7)(b). The text refers to the pilot scheme order made under s 10(1) (as to which see PARA 513 ante). As to the Secretary of State see PARA 2 ante.

¹⁰ An assessment of the scheme's success or otherwise in facilitating voting at the elections in question must include a statement by the authority concerned as to whether, in its opinion: (1) the turnout of voters was

higher than it would have been if the scheme had not applied (ibid s 10(8)(a)); (2) voters found the procedures provided for their assistance by the scheme easy to use (s 10(8)(b)); (3) the procedures provided for by the scheme led to any increase in personation or other electoral offences or in any other malpractice in connection with elections (s 10(8)(c)); (4) those procedures led to any increase in expenditure, or to any savings, by the authority (s 10(8)(d)).

11 Ibid s 10(7)(c).

12 Ibid s 10(9).

13 Ibid s 10(10) (substituted by the Political Parties, Elections and Referendums Act 2000 Sch 21 para 16(1), (7)). As to the declaration of the result at a local government election see PARA 481 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(5) PILOT SCHEMES MODIFYING THE CONDUCT OF ELECTIONS/(i) Pilot Schemes regarding Voting and Campaigning at Local Government Elections/515. Revision of procedures following report on pilot schemes relating to voting and campaigning at local government elections.

515. Revision of procedures following report on pilot schemes relating to voting and campaigning at local government elections.

If it appears to the Secretary of State¹, in the light of any report on a pilot scheme regarding voting and campaigning at local government elections², that it would be desirable for provision similar to that made by the scheme to apply generally, and on a permanent basis, in relation to local government elections in England and Wales or to any particular description of such elections, he may by order³ make such provision for and in connection with achieving that result as he considers appropriate⁴. However, the power of the Secretary of State to make such an order is exercisable only on a recommendation of the Electoral Commission⁵. Such an order may except from the operation of any of its provisions any local government area⁶ specified in the order⁷; but, subject to that, such an order must make the same provision in relation to local government elections or, if it applies only to a particular description of such elections, in relation to elections of that description⁸, throughout England and Wales⁹.

1 As to the Secretary of State see PARA 2 ante.

2 I.e. a report made under the Representation of the People Act 2000 s 10 (as amended) (see PARA 514 ante). For the meaning of 'local government election' see PARA 10 ante; definition applied by virtue of s 17(2).

3 Such an order must be made by statutory instrument; and no such order may be made unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament: *ibid* s 11(3). When laying such a draft before either House of Parliament the Secretary of State must also lay before that House a copy of every report under s 10 (as amended) (see PARA 514 ante) which relates to a scheme making provision similar to that made by the order: s 11(4) (amended by the Political Parties, Elections and Referendums Act 2000 s 158(1), Sch 21 para 17(1), (3)). At the date at which this volume states the law, no such order had been made.

Rules made under the Representation of the People Act 1983 s 36 (as amended) (local elections in England and Wales: see PARA 388 ante) may make such provision as the Secretary of State considers appropriate in connection with any provision made by such an order: Representation of the People Act 2000 s 11(6). However, nothing in s 11 (as amended) is to be taken as prejudicing the generality of any power contained in any other Act to make subordinate legislation (within the meaning of the Interpretation Act 1978: see STATUTES vol 44(1) (Reissue) PARA 1232) with respect to elections of any description: Representation of the People Act 2000 s 11(7).

4 *Ibid* s 11(1). Such provision as is mentioned in the text may include provision modifying or disapplying any provision of an Act, including the Representation of the People Act 2000: s 11(1). As to the meaning of 'modify' for these purposes see PARA 513 note 5 ante.

5 *Ibid* s 11(1) (amended by the Political Parties, Elections and Referendums Act 2000 Sch 21 para 17(1), (2)). As to the Electoral Commission see PARA 31 et seq ante; and as to the involvement of the Commission in changes in electoral procedures see PARA 50 ante.

6 For the meaning of 'local government area' see PARA 18 note 2 ante; definition applied by virtue of the Representation of the People Act 2000 s 17(2).

7 *Ibid* s 11(2)(a). An order which excepts any local government area as mentioned in the text must, if it would otherwise be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, proceed in that House as if it were not such an instrument: s 11(5).

8 *Ibid* s 11(2)(b).

9 Ibid s 11(2). For the meanings of 'England' and 'Wales' see PARA 13 note 1 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(5) PILOT SCHEMES MODIFYING THE CONDUCT OF ELECTIONS/(ii) Pilot Schemes relating to Ballot Papers at Local Government Elections/516. Pilot orders relating to schemes for modifying ballot papers used at local government elections.

(ii) Pilot Schemes relating to Ballot Papers at Local Government Elections

516. Pilot orders relating to schemes for modifying ballot papers used at local government elections.

A local authority¹ may make a proposal that a pilot order be made applying to particular local government elections² held in its area³; and the Secretary of State⁴ may by order (a 'pilot order') make provision for the purposes of enabling ballot papers⁵ issued at such local government elections as are specified in the order to contain photographs of the candidates⁶. A pilot order may include such provision modifying or disapplying any enactment as the Secretary of State thinks is necessary or expedient for the purposes of the order⁷; but the Secretary of State must not make a pilot order unless he first consults the Electoral Commission⁸. A pilot order may make provision implementing the local authority's proposal either without modification or with such modifications as the Secretary of State and the local authority agree between them⁹. If the Secretary of State makes a pilot order he must send a copy of it to the local authority and to the Electoral Commission and the local authority must publish the order in its area in such manner as it thinks fit¹⁰.

1 Ie as respects England, a county council, a district council, a London borough council or the Greater London Authority and, as respects Wales, a county council or a county borough council: Electoral Administration Act 2006 s 32(9). As to counties and districts in England, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 24 et seq; as to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq; as to London boroughs, and their councils, see LONDON GOVERNMENT vol 29(2) (Reissue) PARAS 30, 35-39, 59 et seq; and as to the Greater London Authority see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 79 et seq. A county council, a district council or a London borough council in England and a county council or a county borough council in Wales is referred to as a 'principal council': see LOCAL GOVERNMENT vol 69 (2009) PARA 23.

2 For these purposes, 'local government election' must be construed in accordance with the definition in the Representation of the People Act 1983 s 203(1) (as amended) (see PARA 10 ante); and any reference to the area of a local authority must be construed in accordance with that definition: Electoral Administration Act 2006 s 32(10).

3 Ibid s 32(1).

4 As to the Secretary of State see PARA 2 ante.

5 As to the form and printing of ballot papers see PARA 391 et seq ante.

6 Electoral Administration Act 2006 s 32(2). At the date at which this volume states the law, no such order had been made. A pilot order may be amended or revoked by a further order: s 32(7). The Secretary of State may reimburse a returning officer for any expenditure necessarily incurred by him in consequence of the making of a pilot order: s 32(8).

7 Ibid s 32(3).

8 Ibid s 32(4). As to the Electoral Commission see PARA 31 et seq ante.

9 Ibid s 32(5).

10 Ibid s 32(6).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(5) PILOT SCHEMES MODIFYING THE CONDUCT OF ELECTIONS/(ii) Pilot Schemes relating to Ballot Papers at Local Government Elections/517. Evaluation by the Electoral Commission of pilot schemes for modifying ballot papers used at local government elections.

517. Evaluation by the Electoral Commission of pilot schemes for modifying ballot papers used at local government elections.

After any elections have taken place which were specified in a pilot order¹ enabling ballot papers to contain photographs of the candidates, the Electoral Commission² must prepare a report on the operation of the order³. The report must contain, in particular: (1) a description of the way in which the provision made by the order differed from the provisions which would otherwise have applied to the election or elections⁴; (2) a copy of the order⁵; (3) an assessment of the success or otherwise of the order in assisting voters to make informed decisions at the election or elections in question⁶; (4) an assessment of the success or otherwise of the order in encouraging voting at the election or elections in question⁷; (5) an assessment of whether the procedures provided for in the order operated satisfactorily⁸. The local authority concerned⁹ must give the Commission such assistance as the Commission may reasonably require in connection with the preparation of the report¹⁰. The assistance may include making arrangements for ascertaining the views of electors about the operation of the provisions of the order or reporting to the Commission allegations of electoral offences or other malpractice¹¹. The Commission must, before the end of the period of three months beginning with the date of the declaration of the result of the election or elections in question¹², send a copy of the report to the Secretary of State¹³ and to the local authority¹⁴; and the local authority must publish the report in its area in such manner as it thinks fit¹⁵.

1 Ie a pilot order made under the Electoral Administration Act 2006 s 32 (see PARA 516 ante): s 33(11).

2 As to the Electoral Commission see PARA 31 et seq ante.

3 Electoral Administration Act 2006 s 33(1).

4 Ibid s 33(2)(a).

5 Ibid s 33(2)(b).

6 Ibid s 33(2)(c). An assessment under head (3) in the text must include a statement of whether, in the opinion of the Commission, the inclusion of photographs on the ballot paper assisted voters in marking their papers with a vote for a candidate (or with votes for candidates) for whom they had decided to vote on grounds other than the candidates' appearance or resulted in voters being influenced (or more influenced) by the appearance of candidates in deciding for whom to vote: s 33(3). In making such an assessment, the Commission must also apply such other criteria as are specified in the order in relation to that assessment: s 33(6).

7 Ibid s 33(2)(d). An assessment under head (4) in the text must include a statement of whether, in the opinion of the Commission, the turnout of voters was higher than it would have been if the order had not applied: s 33(4). In making such an assessment, the Commission must also apply such other criteria as are specified in the order in relation to that assessment: s 33(6).

8 Ibid s 33(2)(e). An assessment under head (5) in the text must include a statement of: (1) whether the candidates and their agents found the procedures provided for in the order easy to use (s 33(5)(a)); (2) whether the returning officer found those procedures easy to administer (s 33(5)(b)); (3) whether those procedures had any effect on the incidence of malpractice (whether or not amounting to an offence) in connection with elections (s 33(5)(c)); (4) the amount of any increase attributable to those procedures in the resources applied by the authority concerned to the election or elections (s 33(5)(d)). In making such an assessment, the

Commission must also apply such other criteria as are specified in the order in relation to that assessment: s 33(6).

9 le the local authority which made a proposal for the pilot order (see PARA 516 ante); ibid s 33(11).

10 Ibid s 33(7).

11 Ibid s 33(8).

12 As to the declaration of the result at a local government election see PARA 481 ante.

13 As to the Secretary of State see PARA 2 ante.

14 Electoral Administration Act 2006 s 33(9).

15 Ibid s 33(10).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/5. PROCEDURE FOR CONDUCTING ELECTIONS/(5) PILOT SCHEMES MODIFYING THE CONDUCT OF ELECTIONS/(ii) Pilot Schemes relating to Ballot Papers at Local Government Elections/518. Revision of procedures following report on pilot schemes for modifying ballot papers used at local government elections.

518. Revision of procedures following report on pilot schemes for modifying ballot papers used at local government elections.

If the Secretary of State¹ thinks, in the light of a report made² on the operation of a pilot order³ which enabled ballot papers at a local government election⁴ to contain photographs of the candidates, that it would be desirable for provision similar to that made by the order to apply generally, and on a permanent basis, in relation to: (1) parliamentary elections⁵; (2) local government elections in England and Wales⁶; or (3) any description of election falling within head (1) or head (2) above⁷, he may by order⁸ make provision for the purposes of enabling ballot papers issued at such elections as are specified in the order to contain photographs of the candidates⁹. However, the Secretary of State must not make such an order unless he first consults the Electoral Commission¹⁰.

1 As to the Secretary of State see PARA 2 ante.

2 I.e. a report made under the Electoral Administration Act 2006 s 33 (see PARA 517 ante): s 33(11).

3 I.e. a pilot order made under ibid s 32 (see PARA 516 ante): s 33(11).

4 For the meaning of 'local government election' see PARA 516 note 2 ante; definition applied by virtue of ibid s 34(7).

5 Ibid s 34(1)(a). For the meaning of 'parliamentary election' see PARA 9 ante.

6 Ibid s 34(1)(b).

7 Ibid s 34(1)(c).

8 The power to make such an order is exercisable by statutory instrument, but no such order may be made unless a draft of the instrument containing the order has been laid before and approved by a resolution of each House of Parliament: ibid s 34(6). At the date at which this volume states the law, no such order had been made.

9 Ibid s 34(2). Such an order may include such provision modifying or disapplying any enactment as the Secretary of State thinks is necessary or expedient for the purposes of the order and may create or extend the application of an offence: s 34(4). However, such an order must not create an offence punishable, on conviction on indictment, with imprisonment for a term exceeding one year or, on summary conviction, with imprisonment for a term exceeding 51 weeks or with a fine exceeding the statutory maximum: s 34(5). If such an order is made before the date of commencement of the Criminal Justice Act 2003 s 281(5) (not yet in force) (alteration of penalties for summary offences), then in relation to any offence committed before that date the reference in the Electoral Administration Act 2006 s 34(5) to 51 weeks must be taken to be a reference to six months: s 34(8).

¹⁰ Ibid s 34(3). As to the Electoral Commission see PARA 31 et seq ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(i) General Framework for the Conduct of National and Regional Referendums/A. IN GENERAL/519. Referendums for which provision is made under the Political Parties, Elections and Referendums Act 2000.

6. PROCEDURE FOR CONDUCTING REFERENDUMS

(1) NATIONAL AND REGIONAL REFERENDUMS

(i) General Framework for the Conduct of National and Regional Referendums

A. IN GENERAL

519. Referendums for which provision is made under the Political Parties, Elections and Referendums Act 2000.

Part VII of the Political Parties, Elections and Referendums Act 2000¹ applies to any referendum held throughout: (1) the United Kingdom²; (2) one or more of England³, Scotland, Wales⁴ and Northern Ireland⁵; or (3) any region in England for which a development agency has been established⁶. For these purposes, 'referendum' means a referendum or other poll held, in pursuance of any provision made by or under an Act of Parliament⁷, on one or more questions⁸ specified in or in accordance with any such provision⁹. The referendum period in such a case is such period as is provided for by or under that Act¹⁰; and where the date of the poll in the case of any such referendum falls to be fixed under any provision made by or under that Act, the date so fixed must not be earlier than 28 days after the end of the period of 14 days within which the Electoral Commission must determine an application for designation¹¹ made by a permitted participant¹².

1 Ie the Political Parties, Elections and Referendums Act 2000 Pt VII (ss 101-129) (as amended).

2 Ibid s 101(1)(a). For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

3 For the meaning of 'England' see PARA 13 note 1 ante.

4 For the meaning of 'Wales' see PARA 13 note 1 ante. However, a poll held under the Government of Wales Act 2006 s 64 (poll held to ascertain views about whether or how any of the functions of the Welsh Ministers should be exercised: see PARA 554 post) is not to be taken to be a referendum to which the Political Parties, Elections and Referendums Act 2000 Pt VII (as amended) applies: s 101(3); Interpretation Act 1978 s 17(2)(b).

5 Political Parties, Elections and Referendums Act 2000 s 101(1)(b).

6 Ibid s 101(1)(c). The text refers to any region in England specified in the Regional Development Agencies Act 1998 s 1, Sch 1 (see TRADE AND INDUSTRY vol 97 (2010) PARAS 988-996).

7 See eg the Regional Assemblies (Preparations) Act 2003; and PARA 547 et seq post. If the Secretary of State by order so provides, the Political Parties, Elections and Referendums Act 2000 s 101(2) applies to any specified Bill which has been introduced into Parliament before the making of the order as if it were an Act (s 101(4)(a)); and any specified provisions of Pt VII (as amended) apply, subject to any specified modifications, in relation to any specified referendum for which provision is made by the Bill (s 101(4)(b)). In s 101(4), 'specified' means specified in the order under s 101(4): s 101(5). At the date at which this volume states the law, no such order had been made. As to the meaning of 'modification' see PARA 39 note 9 ante. As to the Secretary of State

see PARA 2 ante. As to local authority referendums, which fall outside the scope of the definition of 'referendum' given in s 101(2), see PARA 557 et seq post.

8 In ibid Pt VII (as amended), 'question' includes proposition (and 'answer' accordingly includes response): s 101(2)(b). As to the setting and approval of referendum questions see PARA 520 post.

9 Ibid s 101(2)(a). The Electoral Commission must, after each such referendum, prepare and publish, in such manner as the Commission may determine, a report on the administration of the referendum: see PARA 46 ante. As to the Electoral Commission see PARA 31 et seq ante.

10 Ibid s 102(1), (3). However, in the case of a referendum to which an order under s 101(4) applies (see note 7 supra), the referendum period is such period, not exceeding six months, as may be specified in the order (s 102(4)) unless the referendum period in such a case would end after the date of the poll, in which case it ends instead on that date (s 102(5)).

11 Ie, subject to ibid s 103(2), the period of 14 days mentioned in s 109(3) (see PARA 522 post). As to designation of permitted participants as organisations to whom assistance is available see PARA 522 et seq post. For the meaning of 'permitted participant' see PARA 521 post.

If an order applies to the referendum under s 109(6) (Secretary of State may specify different periods of time in relation to applications for designation: see PARA 522 post), this period of 14 days must be read as referring to the period which is to apply instead: s 103(2).

12 Ibid s 103(1).

UPDATE

519 Referendums for which provision is made under the Political Parties, Elections and Referendums Act 2000

NOTE 4--2000 Act s 101(3) amended: SI 2007/1388.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(i) General Framework for the Conduct of National and Regional Referendums/B. REFERENDUM QUESTIONS/520. Wording of referendum questions.

B. REFERENDUM QUESTIONS

520. Wording of referendum questions.

Where a Bill is introduced into Parliament which provides for the holding of a poll that would be a referendum¹ to which the general framework provisions apply² and the Bill specifies the wording of the referendum question³, the Electoral Commission⁴ must consider the wording of the question⁵, and must publish a statement of any views of the Commission as to the intelligibility of that question as soon as reasonably practicable after the Bill is introduced⁶ and in such manner as it may determine⁷.

Where the wording of such a question falls to be specified in subordinate legislation⁸ then, if a draft of the instrument in question is to be laid before Parliament for approval by each House, the Secretary of State⁹ must consult the Commission on the wording of the referendum question¹⁰ before any such draft is so laid¹¹ and he must, at the time when any such draft is so laid, lay before each House a report stating any views as to the intelligibility of that question which the Commission has expressed in response to that consultation¹². If the instrument in question is to be subject to annulment in pursuance of a resolution of either House of Parliament, the Secretary of State¹³ must consult the Commission on the wording of the referendum question¹⁴ before making the instrument¹⁵ and he must, at the time when the instrument is laid before Parliament, lay before each House a report stating any views as to the intelligibility of that question which the Commission has expressed in response to that consultation¹⁶.

1 For the meaning of 'referendum' see PARA 519 ante.

2 Political Parties, Elections and Referendums Act 2000 s 104(1)(a). The reference in the text is to a referendum to which the general framework provisions for the holding of referendums contained in Pt VII (ss 101-129) (as amended) apply: see PARA 519 ante.

3 Ibid s 104(1)(b). For these purposes, the 'referendum question' means the question or questions to be included in the ballot paper at the referendum: s 104(7). As to the meaning of 'question' see PARA 519 note 8 ante.

4 As to the Electoral Commission see PARA 31 et seq ante.

5 Where any such Bill specifies not only the referendum question but also any statement which is to precede that question on the ballot paper at the referendum, any reference to the referendum question must be read as a reference to that question and that statement taken together: Political Parties, Elections and Referendums Act 2000 s 104(6).

6 Ibid s 104(2)(a).

7 Ibid ss 104(2)(b), 160(1).

8 Ibid s 104(3). The text refers to subordinate legislation within the meaning of the Interpretation Act 1978 (see STATUTES vol 44(1) (Reissue) PARA 1232).

9 Ibid s 104(4). As to the Secretary of State see PARA 2 ante.

10 Where any such draft instrument specifies not only the referendum question but also any statement which is to precede that question on the ballot paper at the referendum, any reference to the referendum question must be read as a reference to that question and that statement taken together: *ibid* s 104(6).

11 *Ibid* s 104(4)(a).

12 *Ibid* s 104(4)(b).

13 *Ibid* s 104(5).

14 Where any instrument to which *ibid* s 104(5) applies specifies not only the referendum question but also any statement which is to precede that question on the ballot paper at the referendum, any reference to the referendum question must be read as a reference to that question and that statement taken together: s 104(6).

15 *Ibid* s 104(5)(a).

16 *Ibid* s 104(5)(b).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(i) General Framework for the Conduct of National and Regional Referendums/C. PERMITTED PARTICIPANTS/521. Meaning of 'permitted participant'.

C. PERMITTED PARTICIPANTS

521. Meaning of 'permitted participant'.

In relation to a particular referendum¹ to which the general framework provisions apply², a 'permitted participant' means³: (1) a registered party⁴ by whom a declaration has been made to the Electoral Commission⁵ in relation to the referendum⁶; or (2) any of the following by whom a notification has been given to the Commission⁷ in relation to the referendum, namely⁸: (a) any individual resident in the United Kingdom⁹ or registered in an electoral register¹⁰; or (b) a company registered under the Companies Act 1985 and incorporated within the United Kingdom or another member state which carries on business in the United Kingdom¹¹; (c) a trade union entered in the list kept under the Trade Union and Labour Relations (Consolidation) Act 1992¹²; (d) a building society¹³; (e) a limited liability partnership registered under the Limited Liability Partnerships Act 2000 which carries on business in the United Kingdom¹⁴; (f) a friendly society registered under the Friendly Societies Act 1974¹⁵ or a society registered (or deemed to be registered) under the Industrial and Provident Societies Act 1965¹⁶; and (g) any unincorporated association of two or more persons which does not fall within any of heads (b) to (f) above but which carries on business or other activities wholly or mainly in the United Kingdom and whose main office is there¹⁷.

For these purposes, a registered party makes a declaration to the Commission if the party makes a declaration to the Commission which identifies the referendum to which it relates¹⁸ and the outcome or outcomes¹⁹ for which the party proposes to campaign²⁰. Such a declaration must be signed by the responsible officers of the party²¹ and, if made by a minor party²², must be accompanied by a notification which states the name of the person who will be responsible for compliance on the part of the party with the financial controls which operate during a referendum²³. For these purposes, an individual or body²⁴ gives a notification to the Commission if he or it gives the Commission a notification which identifies the referendum to which it relates²⁵ and the outcome or outcomes for which the giver of the notification proposes to campaign²⁶. Such a notification: (i) if given by an individual, must state his full name²⁷ and his home address in the United Kingdom (or, if he has no such address in the United Kingdom, his home address elsewhere)²⁸ and must be signed by him²⁹; or (ii) if given by a body falling within any of heads (2)(b) to (2)(g) above, must state all such details in respect of the body as are required³⁰ to be given in respect of such a body as the donor of a recordable donation³¹ and the name of the person or officer who will be responsible for compliance on the part of the body with the financial controls which operate during a referendum³², and must be signed by the body's secretary or a person who acts in a similar capacity in relation to the body³³. If at any time before the end of the compliance period³⁴ any of the statements which are contained in a notification³⁵ (as it has effect for the time being) ceases to be accurate, the permitted participant by whom the notification was given must give the Commission a notification (a 'notification of alteration') indicating that that statement is replaced by some other statement contained in the notification of alteration³⁶ and conforming with the provision under which the original notification was given³⁷.

The Commission must maintain a register of all declarations made to it by a registered party³⁸ and of all notifications given to it by an individual or body³⁹. The register must be maintained by the Commission in such form as it may determine and must contain, in the case of each such

declaration or notification, all of the information supplied to the Commission in connection with it⁴⁰. Where any such declaration or notification is made or given to the Commission⁴¹, it must cause all the information contained therein to be entered in the register (or, in the case of a notification of alteration, any change required as a consequence of the notification to be made in the register) as soon as is reasonably practicable⁴²; but the information which is to be so entered in the register in respect of a permitted participant who is an individual must not include his home address⁴³. The Commission must make a copy of the register so kept by it⁴⁴ available for public inspection during ordinary office hours, either at the Commission's offices or at some convenient place appointed by it⁴⁵, although the Commission may make other arrangements for members of the public to have access to the register's contents⁴⁶. If requested to do so by any person, the Commission must supply him with a copy of the register or any part of it⁴⁷ and the Commission may charge such reasonable fee as it may determine in respect of any inspection or access so allowed or any copy so supplied⁴⁸. Where any such register is held by the Commission in electronic form, any copy so made available for public inspection or so supplied must be made available, or (as the case may be) supplied, in a legible form⁴⁹.

1 For the meaning of 'referendum' see PARA 519 ante.

2 Ie the Political Parties, Elections and Referendums Act 2000 Pt VII (ss 101-129) (as amended).

3 Ibid s 105(1).

4 For the meaning of 'registered party' see PARA 32 note 3 ante.

5 Ie a declaration made under the Political Parties, Elections and Referendums Act 2000 s 106 (see the text and notes 18-23 infra). As to the Electoral Commission see PARA 31 et seq ante.

6 Ibid s 105(1)(a).

7 Ie a notification made under ibid s 106 (see the text and notes 24-33 infra).

8 Ibid s 105(1)(b).

9 For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

10 Political Parties, Elections and Referendums Act 2000 s 105(1)(b)(i). The text refers to an electoral register as defined by s 54(8) (as amended) (see PARA 293 note 9 ante).

11 Ibid ss 54(2)(b), 105(1)(b)(ii). As to the registration and incorporation of companies see COMPANIES vol 14 (2009) PARA 24 et seq; and as to the control of contributions and other donations made by companies generally to registered parties and other European Union political organisations, and European Union political expenditure incurred by companies, see the Companies Act 1985 Pt XA (ss 347A-347K) (as added); and COMPANIES vol 14 (2009) PARA 688 et seq.

12 Political Parties, Elections and Referendums Act 2000 ss 54(2)(d), 105(1)(b)(ii). As to the list referred to in the text see EMPLOYMENT vol 40 (2009) PARA 855. Unless certain conditions are met, the funds of a trade union may not be applied in the furtherance of certain political objects: see the Trade Union and Labour Relations (Consolidation) Act 1992 Pt I Ch VI (ss 71-96) (as amended); and EMPLOYMENT vol 40 (2009) PARA 924 et seq.

13 Political Parties, Elections and Referendums Act 2000 ss 54(2)(e), 105(1)(b)(ii). The text refers to a building society within the meaning of the Building Societies Act 1986 (see FINANCIAL SERVICES AND INSTITUTIONS vol 50 (2008) PARA 1856).

14 Political Parties, Elections and Referendums Act 2000 ss 54(2)(f), 105(1)(b)(ii). As to a limited liability partnership registered under the Limited Liability Partnerships Act 2000 see PARTNERSHIP vol 79 (2008) PARA 234 et seq.

15 As to friendly societies registered under the Friendly Societies Act 1974 see FINANCIAL SERVICES AND INSTITUTIONS vol 50 (2008) PARA 2084 et seq.

16 Political Parties, Elections and Referendums Act 2000 ss 54(2)(g), 105(1)(b)(ii). As to societies registered under the Industrial and Provident Societies Act 1965 see FINANCIAL SERVICES AND INSTITUTIONS vol 50 (2008) PARAS 2394, 2410 et seq.

17 Political Parties, Elections and Referendums Act 2000 ss 54(2)(h), 105(1)(b)(ii).

18 Ibid ss 106(1)(a), 160(1).

19 For the purposes of ibid ss 107-109, 'outcome', in the case of a referendum, means a particular outcome in relation to any question asked in the referendum: s 106(7). As to the meaning of 'question' see PARA 519 note 8 ante.

20 Ibid s 106(1)(b).

21 Ibid s 106(2)(a). The text refers to the 'responsible officers' of the party within the meaning of s 64 (see PARA 316 note 26 ante).

22 For the meaning of 'minor party' see PARA 260 note 8 ante.

23 Political Parties, Elections and Referendums Act 2000 s 106(2)(b). The text refers to the provisions of Pt VII Ch II (ss 111-124) (as amended) (see PARA 527 et seq post). For the purposes of Pt VII (as amended), 'responsible person' means, if the permitted participant is a registered party, the treasurer of the party or, in the case of a minor party, the person for the time being notified to the Commission by the party in accordance with s 106(2)(b): s 105(2)(a). As to the treasurer of a registered party see PARA 260 ante.

24 For the meaning of 'body' see PARA 53 note 2 ante.

25 Political Parties, Elections and Referendums Act 2000 ss 106(3)(a), 160(1). Any notification required to be given under the Political Parties, Elections and Referendums Act 2000 must be in writing: s 157(1).

26 Ibid s 106(3)(b).

27 Ibid s 106(4)(a)(i).

28 Ibid s 106(4)(a)(ii).

29 Ibid s 106(4)(a).

30 Ie by virtue of any of the provisions of ibid s 62(13), Sch 6 para 2(4), (6)-(10) (as amended) (quarterly donation reports: see CONSTITUTIONAL LAW AND HUMAN RIGHTS).

31 Ibid s 106(4)(b)(i). For the meaning of 'recordable donation' see PARA 316 note 14 ante.

32 Ibid s 106(4)(b)(ii). The text refers to the provisions of Pt VII Ch II (as amended) (see PARA 527 et seq post). For the purposes of Pt VII (as amended), 'responsible person' means, if the permitted participant is an individual, that individual (s 105(2)(b)) and, otherwise, the person or officer for the time being notified to the Commission by the permitted participant in accordance with s 106(4)(b)(ii) (s 105(2)(c)).

33 Ibid s 106(4)(b).

34 For these purposes, the 'compliance period' is the period during which any provisions of ibid Pt VII Ch II (as amended) (see PARA 527 et seq post) remain to be complied with on the part of the permitted participant: s 106(6)(a).

35 Ie in accordance with any provision of ibid s 106(2) (see the text and notes 21-23 supra) or s 106(4) (see the text and notes 27-33 supra).

36 Ibid s 106(5)(a).

37 Ibid s 106(5)(b), (6)(b). The text refers to the notification conforming with either s 106(2) (see the text and notes 21-23 supra) or s 106(4) (see the text and notes 27-33 supra), whichever is appropriate.

38 Ibid ss 107(1)(a), 160(1). The text refers to declarations made under s 106 (see the text and notes 18-23 supra).

39 Ibid s 107(1)(b). The text refers to notifications made under s 106 (see the text and notes 24-33 supra).

40 Ibid s 107(2). The text refers to the information supplied to the Commission in connection with each such declaration or notification in pursuance of s 106 (see the text and notes 18-37 supra).

41 Ie under ibid s 106 (see the text and notes 18-37 supra).

42 Ibid s 107(3).

43 Ibid s 107(4).

44 Ie under ibid s 107 (see the text and notes 38-43 supra).

45 Ibid s 149(1)(d), (2).

46 Ibid s 149(1)(d), (3).

47 Ibid s 149(1)(d), (4).

48 Ibid s 149(1)(d), (5).

49 Ibid s 149(1)(d), (7).

UPDATE

521 Meaning of 'permitted participant'

NOTE 11--Political Parties, Elections and Referendums Act 2000 s 54(2)(b) amended: SI 2009/1941.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(i) General Framework for the Conduct of National and Regional Referendums/C. PERMITTED PARTICIPANTS/522. Power of Electoral Commission to designate permitted participants for assistance.

522. Power of Electoral Commission to designate permitted participants for assistance.

In respect of any referendum¹ to which the general framework provisions apply², the Electoral Commission³ may designate permitted participants⁴ as organisations⁵ to whom assistance is available⁶. Where there are only two possible outcomes⁷ in the case of such a referendum, the Commission may, in relation to each of those outcomes, designate one permitted participant as representing those campaigning for the outcome in question⁸; but the Commission otherwise must not make any designation in respect of the referendum⁹. Where there are more than two possible outcomes in the case of such a referendum, the Secretary of State¹⁰ may, after consulting the Commission, by order specify the possible outcomes in relation to which permitted participants may be designated¹¹. In such a case the Commission may, in relation to each of two or more outcomes specified in any such order, designate one permitted participant as representing those campaigning for the outcome in question¹²; but the Commission otherwise must not make any designation in respect of the referendum¹³.

A permitted participant seeking to be designated in this way must make an application for the purpose to the Electoral Commission¹⁴. An application for designation¹⁵ must be accompanied by information or statements designed to show that the applicant adequately represents those campaigning for the outcome at the referendum in relation to which the applicant seeks to be designated¹⁶ and it must be made within the period of 28 days¹⁷ beginning with the first day of the referendum period¹⁸. Where an application for designation has been so made to the Commission, the application must be determined by the Commission within the period of 14 days which begins with the day after the end of the period of 28 days¹⁹ beginning with the first day of the referendum period²⁰. If there is only one application in relation to a particular outcome at the referendum, the Commission must designate the applicant unless²¹: (1) it is not satisfied that the applicant adequately represents those campaigning for that outcome²²; or (2) it is prevented from making any designation²³ in respect of the referendum²⁴. If there is more than one application in relation to a particular outcome at the referendum, the Commission must designate whichever of the applicants appears to it to represent to the greatest extent those campaigning for that outcome unless²⁵: (a) it is not satisfied that any of the applicants adequately represents those campaigning for that outcome²⁶; or (b) it is prevented from making any designation²⁷ in respect of the referendum²⁸.

1 For the meaning of 'referendum' see PARA 519 ante.

2 Ie the Political Parties, Elections and Referendums Act 2000 Pt VII (ss 101-129) (as amended).

3 As to the Electoral Commission see PARA 31 et seq ante.

4 For the meaning of 'permitted participant' see PARA 521 ante.

5 As to the meaning of 'organisation' see PARA 48 note 20 ante.

6 Political Parties, Elections and Referendums Act 2000 ss 108(1), 160(1). The text refers to the assistance that is available in accordance with s 110 (see PARA 523 post).

7 For the meaning of 'outcome' see PARA 521 note 19 ante.

8 Political Parties, Elections and Referendums Act 2000 s 108(2)(a).

9 Ibid s 108(2)(b).

10 As to the Secretary of State see PARA 2 ante.

11 Political Parties, Elections and Referendums Act 2000 s 108(3). At the date at which this volume states the law, no such order had been made.

12 Ibid s 108(4)(a).

13 Ibid s 108(4)(b).

14 Ibid ss 109(1), 160(1). Any application required to be made under the Political Parties, Elections and Referendums Act 2000 must be in writing: s 157(1).

15 For these purposes, in relation to a referendum, any reference to designation is to designation in respect of the referendum under ibid s 108 (see the text and notes 1-13 supra): s 109(7).

16 Ibid s 109(2)(a).

17 The Secretary of State may, in the case of any referendum to which ibid Part VII (as amended) applies, by order provide for s 109 to have effect as if the period of 28 days referred to in s 109(2) was instead such shorter or longer period as is specified in the order: s 109(6). See the Regional Assembly and Local Government Referendums (Date of Referendums, Referendum Question and Explanatory Material) (North East Region) Order 2004, SI 2004/1963, art 6(1) (which modified the period of 28 days referred to in the Political Parties, Elections and Referendums Act 2000 s 109(2) to have effect, in relation to a referendum held in the North East region about the establishment of an elected assembly for that region, as if it were a period of 42 days).

18 Political Parties, Elections and Referendums Act 2000 s 109(2)(b). As to the referendum period see PARA 519 ante.

19 The Secretary of State may, in the case of any referendum to which ibid Part VII (as amended) applies, by order provide for s 109 to have effect as if each, or either, of the periods of 28 and 14 days referred to in s 109(3) was instead such shorter or longer period as is specified in the order: s 109(6). See the Regional Assembly and Local Government Referendums (Date of Referendums, Referendum Question and Explanatory Material) (North East Region) Order 2004, SI 2004/1963, art 6(1) (which modified the period of 28 days referred to in the Political Parties, Elections and Referendums Act 2000 s 109(3) to have effect, in relation to a referendum held in the North East region about the establishment of an elected assembly for that region, as if it were a period of 42 days).

20 Political Parties, Elections and Referendums Act 2000 s 109(2)(b), (3).

21 Ibid s 109(4).

22 Ibid s 109(4)(a).

23 Ie by virtue of ibid s 108(2)(b) (see the text and note 9 supra) or s 108(4)(b) (see the text and note 13 supra).

24 Ibid s 109(4)(b).

25 Ibid s 109(5).

26 Ibid s 109(5)(a).

27 See note 23 supra.

28 Political Parties, Elections and Referendums Act 2000 s 109(5)(b).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(i) General Framework for the Conduct of National and Regional Referendums/C. PERMITTED PARTICIPANTS/523. Assistance available to designated organisations.

523. Assistance available to designated organisations.

Where the Electoral Commission¹ has made any designations² in respect of a referendum³, assistance is available to the organisations⁴ so designated⁵. The Commission must make to each designated organisation a grant of the same amount, which must be an amount not exceeding £600,000 determined by the Commission⁶. Such a grant may be made subject to such conditions⁷ as the Commission considers appropriate⁸. Each designated organisation (or, as the case may be, person authorised by the organisation) has rights conferred⁹ as to: (1) the sending of referendum addresses free of charge¹⁰; (2) the use of rooms free of charge for holding public meetings¹¹; and (3) referendum campaign broadcasts¹².

1 As to the Electoral Commission see PARA 31 et seq ante.

2 For the meaning of references to designations see PARA 522 note 15 ante.

3 For the meaning of 'referendum' see PARA 519 ante.

4 As to the meaning of 'organisation' see PARA 48 note 20 ante.

5 Political Parties, Elections and Referendums Act 2000 ss 110(1), 160(1). For the purposes of s 110 and Sch 12 (as amended), 'designated organisation', in relation to a referendum, means a person or body designated by the Commission under s 108 (see PARA 522 ante) in respect of that referendum: s 110(5). For the meaning of 'body' see PARA 53 note 2 ante.

6 Ibid s 110(2). The Secretary of State may by order vary the sum for the time being specified in s 110(2): see s 155; and PARA 304 note 36 ante. At the date at which this volume states the law, no such order had been made.

7 As to the meaning of references to 'conditions' see PARA 55 note 14 ante.

8 Political Parties, Elections and Referendums Act 2000 s 110(3).

9 Ie by or by virtue of ibid Sch 12 (as amended) (see PARAS 524-526 post).

10 Ibid s 110(4)(a). See PARA 524 post.

11 Ibid s 110(4)(b). See PARA 525 post.

12 Ibid s 110(4)(c). See PARA 526 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(i) General Framework for the Conduct of National and Regional Referendums/C. PERMITTED PARTICIPANTS/524. Right of designated organisations to send referendum address post free.

524. Right of designated organisations to send referendum address post free.

Subject to such reasonable terms and conditions as the universal service provider¹ concerned may specify², a designated organisation³ is entitled to send free of any charge for postage which would otherwise be made by a universal service provider⁴ either: (1) one unaddressed postal communication, containing matter relating to the referendum⁵ only and not exceeding 60 grammes in weight, to each place in the referendum area⁶ which, in accordance with those terms and conditions, constitutes a delivery point for these purposes⁷; or (2) one such postal communication addressed to each person entitled to vote at the referendum⁸. A designated organisation is also, subject as mentioned above, entitled to send free of any such charge for postage to each person entered in the list of proxies for the referendum one such postal communication for each appointment in respect of which that person is so entered⁹.

1 For these purposes, 'universal service provider' has the same meaning as in the Postal Services Act 2000 (see POST OFFICE): Political Parties, Elections and Referendums Act 2000 s 110(4), Sch 12 para 1(4).

2 As to schemes as to terms and conditions for the provision of a universal postal service see the Postal Services Act 2000 s 89; and POST OFFICE.

3 For the meaning of 'designated organisation' see PARA 523 note 5 ante.

4 Political Parties, Elections and Referendums Act 2000 Sch 12 para 1(1). Where any postal services are provided without charge by a universal service provider in pursuance of Sch 12 para 1, the universal service provider is entitled to be remunerated for having provided the services at the rate fixed in relation to them by virtue of a scheme under the Postal Services Act 2000 s 89 (schemes as to terms and conditions for provision of a universal postal service: see POST OFFICE): Representation of the People Act 1983 s 200A(1), (2) (s 200A added by the Postal Services Act 2000 Sch 8 para 18); applied by the Political Parties, Elections and Referendums Act 2000 Sch 12 para 1(3). A sum which a universal service provider is entitled to receive in this way is charged on and issued out of the Consolidated Fund: Representation of the People Act 1983 s 200A(3) (as so added); applied by the Political Parties, Elections and Referendums Act 2000 Sch 12 para 1(3). For these purposes, 'postal services' and 'universal service provider' have the same meanings as in the Postal Services Act 2000 (see POST OFFICE): Representation of the People Act 1983 s 200A(4) (as so added); applied by the Political Parties, Elections and Referendums Act 2000 Sch 12 para 1(3). As to the Consolidated Fund see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 711 et seq; PARLIAMENT vol 78 (2010) PARAS 1028-1031.

5 For the meaning of 'referendum' see PARA 519 ante.

6 For these purposes, the 'referendum area' means the area throughout which the referendum is being held: Political Parties, Elections and Referendums Act 2000 Sch 12 para 1(4).

7 Ibid Sch 12 para 1(1)(a).

8 Ibid Sch 12 para 1(1)(b). As to persons entitled to vote in a referendum under the Political Parties, Elections and Referendums Act 2000 see PARA 118 ante.

9 Ibid Sch 12 para 1(2).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(i) General Framework for the Conduct of National and Regional Referendums/C. PERMITTED PARTICIPANTS/525. Schools and rooms available to designated organisations for meetings at referendums.

525. Schools and rooms available to designated organisations for meetings at referendums.

Persons authorised by a designated organisation¹ are entitled, for the purpose of holding public meetings in furtherance of the organisation's referendum campaign² to the use free of charge of certain rooms at reasonable times during the period of 28 days ending with the day before the date of the poll³.

Such a person is entitled to the use of a suitable room⁴ in the premises of a community, foundation or voluntary school⁵ whose premises are situated in the referendum area⁶. However, a person is not entitled to exercise the right so conferred except on reasonable notice; and the right does not authorise any interference with the hours during which a room in school premises is used for educational purposes⁷.

Such a person is also entitled to the use free of charge of any meeting room⁸ situated in the referendum area the expense of maintaining which is payable wholly or mainly out of public funds⁹ or by any local authority, or by a body whose expenses are so payable¹⁰. However, a person is not entitled to exercise the right so conferred except on reasonable notice; and the right does not authorise any interference with the use of a meeting room either for the purposes of the person maintaining it or under a prior agreement for its letting for any purpose¹¹.

Where a room is used for a meeting in pursuance of the rights so conferred, the person by whom or on whose behalf the meeting is convened must: (1) defray any expenses incurred in preparing, warming, lighting and cleaning the room and providing attendance for the meeting and restoring the room to its usual condition after the meeting¹²; and (2) defray the cost of repairing any damage done to the room or the premises in which it is situated, or to the furniture, fittings or apparatus in the room or premises¹³.

1 For the meaning of 'designated organisation' see PARA 523 note 5 ante. As to the meaning of 'organisation' see PARA 48 note 20 ante.

2 For the meaning of 'referendum campaign' see PARA 527 note 4 post.

3 Political Parties, Elections and Referendums Act 2000 s 110(4), Sch 12 para 2(1).

4 For these purposes, 'room' includes a hall, gallery or gymnasium: *ibid* Sch 12 para 2(6).

5 For these purposes, except those of *ibid* Sch 12 para 2(4)(b) (see the text and note 13 *infra*), the premises of a school is not to be taken to include any private dwelling, where 'dwelling' includes any part of a building where that part is occupied separately as a dwelling: Sch 12 para 2(6). As to community, foundation and voluntary schools see EDUCATION vol 15(1) (2006 Reissue) PARA 102 et seq.

6 *Ibid* Sch 12 para 2(1)(a), (2)(a). For this purpose, the 'referendum area' means the area throughout which the referendum is being held: Sch 12 para 2(7).

Any arrangements for the use of a room in school premises must be made with the local education authority maintaining the school or, in the case of a room in the premises of a foundation or voluntary aided school, with the governing body of the school: Sch 12 para 3(1), (2). Any question as to the rooms in school premises which a person authorised by a designated organisation is entitled to use, or as to the times at which he is entitled to

use them, or as to the notice which is reasonable, must be determined by the Secretary of State: Sch 12 para 3(1), (3). Any person authorised by a designated organisation is entitled at all reasonable hours to inspect any lists prepared in pursuance of the Representation of the People Act 1983 s 95(6), Sch 5 para 4 (use of rooms for parliamentary election meetings: see PARA 341 ante) or a copy of any such lists, in connection with exercising the rights conferred by the Political Parties, Elections and Referendums Act 2000 Sch 12 para 2: Sch 12 para 3(1), (4). As to the Secretary of State see PARA 2 ante. As to local education authorities see EDUCATION vol 15(1) (2006 Reissue) PARA 20 et seq.

7 Ibid Sch 12 para 2(5).

8 'Meeting room' means any room which it is the practice to let for public meetings: ibid Sch 12 para 2(6).

9 As to references to payments out of public funds see PARA 304 note 21 ante.

10 Political Parties, Elections and Referendums Act 2000 Sch 12 para 2(1)(b), (3). For the meaning of 'body' see PARA 53 note 2 ante.

11 Ibid Sch 12 para 2(5).

12 Ibid Sch 12 para 2(4)(a).

13 Ibid Sch 12 para 2(4)(b).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(i) General Framework for the Conduct of National and Regional Referendums/C. PERMITTED PARTICIPANTS/526. Broadcasting during referendum period.

526. Broadcasting during referendum period.

The British Broadcasting Corporation ('the BBC')¹ must have regard, in determining its policy with respect to referendum campaign broadcasts² by designated organisations³, to any views expressed by the Electoral Commission⁴ for these purposes⁵.

1 As to the BBC see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 306 et seq.

2 For these purposes, 'referendum campaign broadcast' has the same meaning as in the Political Parties, Elections and Referendums Act 2000 s 127 (see PARA 544 post): s 110(4), Sch 12 para 6(7).

3 For the meaning of 'designated organisation' see PARA 523 note 5 ante.

4 As to the Electoral Commission see PARA 31 et seq ante.

5 Political Parties, Elections and Referendums Act 2000 Sch 12 para 4(6) (amended by the Communications Act 2003 s 406(1), Sch 17 para 167(1), (3)).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(i) General Framework for the Conduct of National and Regional Referendums/D. THE CAMPAIGN/(A) Controls on Referendum Expenses/(a) In general/527. Meaning of 'referendum expenses'.

D. THE CAMPAIGN

(A) CONTROLS ON REFERENDUM EXPENSES

(a) In general

527. Meaning of 'referendum expenses'.

In relation to a referendum¹ to which the general framework provisions apply², 'referendum expenses' means expenses incurred by or on behalf of any individual or body³ which are expenses incurred for referendum purposes⁴ in respect of any of the matters set out in the following list⁵:

- 495 (1) referendum campaign broadcasts, including agency fees, design costs and other costs in connection with preparing or producing such broadcasts⁶;
- 496 (2) advertising of any nature (whatever the medium used), including agency fees, design costs and other costs in connection with preparing, producing, distributing or otherwise disseminating such advertising or anything incorporating such advertising and intended to be distributed for the purpose of disseminating it⁷;
- 497 (3) unsolicited material addressed to electors (whether addressed to them by name or intended for delivery to households within any particular area or areas), including design costs and other costs in connection with preparing, producing or distributing such material (including the cost of postage)⁸;
- 498 (4) any promotional material or other document providing information about the referendum or the issues or arguments⁹ involved, including design costs and other costs in connection with preparing or producing or distributing or otherwise disseminating any such document¹⁰;
- 499 (5) market research or canvassing conducted for the purpose of ascertaining polling intentions¹¹;
- 500 (6) the provision of any services or facilities in connection with press conferences or other dealings with the media¹²;
- 501 (7) the transport (by any means) of persons to any place or places with a view to obtaining publicity in connection with a referendum campaign, including the costs of hiring a particular means of transport for the whole or part of the period during which the referendum campaign is being conducted¹³;
- 502 (8) rallies and other events, including public meetings (but not annual or other party conferences) organised so as to obtain publicity in connection with a referendum campaign or for other purposes connected with a referendum campaign, including costs incurred in connection with the attendance of persons at such events, the hire of premises for the purposes of such events or the provision of goods, services or facilities at them¹⁴.

Nothing in heads (1) to (8) above is to be taken as extending to any expenses:

- 503 (a) in respect of any property¹⁵, services or facilities so far as those expenses fall to be met out of public funds¹⁶;
- 504 (b) incurred in respect of the remuneration or allowances payable to any member of the staff (whether permanent or otherwise) of the campaign organiser¹⁷; or
- 505 (c) incurred in respect of an individual by way of travelling expenses (by any means of transport) or in providing for his accommodation or other personal needs to the extent that the expenses are paid by the individual from his own resources and are not reimbursed to him¹⁸.

Where, in the case of any individual or body, either: (i) property is transferred to the individual or body¹⁹; or (ii) property, services or facilities is or are provided for the use or benefit of the individual or body²⁰, either free of charge or at a discount of more than 10 per cent²¹, and the property, services or facilities is or are made use of by or on behalf of the individual or body in circumstances such that, if any expenses were to be (or are) actually incurred by or on behalf of the individual or body in respect of that use, they would be (or are) referendum expenses actually incurred by or on behalf of the individual or body²², an amount of referendum expenses (the 'appropriate amount') is treated, for the purposes of the statutory provisions which govern the control of referendum expenses, as incurred by the individual or body during the period for which the property, services or facilities is or are so made use of²³. Where the whole or part of any such period falls within any period which is, in relation to the referendum to which the expenses relate, the referendum period²⁴, then such proportion of the appropriate amount²⁵ as reasonably represents the use made of the property, services or facilities during the referendum period is treated as incurred by or on behalf of the individual or body during the referendum period²⁶ and, if a return falls to be prepared²⁷ in respect of referendum expenses incurred by or on behalf of the individual or body during that period, the responsible person²⁸ must make a declaration of that amount²⁹, unless that amount is not more than £200³⁰. Where head (i) above applies, the appropriate amount is determined as being such proportion of either the market value of the property (where the property is transferred free of charge)³¹ or the difference between the market value of the property and the amount of expenses actually incurred by or on behalf of the individual or body in respect of the property (where the property is transferred at a discount)³², as is reasonably attributable to the use made of the property³³. Where head (ii) above applies, the appropriate amount is determined as being such proportion of either the commercial rate for the use of the property or the provision of the services or facilities (where the property, services or facilities is or are provided free of charge)³⁴ or the difference between that commercial rate and the amount of expenses actually incurred by or on behalf of the individual or body in respect of the use of the property or the provision of the services or facilities (where the property, services or facilities is or are provided at a discount)³⁵ as is reasonably attributable to the use made of the property, services or facilities³⁶. However, no amount of referendum expenses is to be regarded as so incurred in respect of: (A) the transmission by a broadcaster³⁷ of a referendum campaign broadcast³⁸; (B) the provision of any rights to assistance conferred³⁹ on a designated organisation (or persons authorised by such an organisation)⁴⁰; or (C) the provision by any individual of his own services which he provides voluntarily in his own time and free of charge⁴¹.

The Electoral Commission⁴² may prepare, and from time to time revise, a code of practice giving guidance as to the kinds of expenses which do, or do not, fall within the matters specified either in heads (1) to (8) above or heads (a) to (c) above⁴³. Once the Commission has prepared a draft of such a code, it must submit it to the Secretary of State for his approval⁴⁴; and he may approve a draft code either without modification or with such modifications as he may determine⁴⁵. The Secretary of State may also by order make such amendments to the matters specified either in heads (1) to (8) above or heads (a) to (c) above as he considers appropriate⁴⁶; and he may make such an order either where the order gives effect to a

recommendation of the Electoral Commission⁴⁷ or after consultation with the Electoral Commission⁴⁸.

- 1 For the meaning of 'referendum' see PARA 519 ante.
- 2 Ie the Political Parties, Elections and Referendums Act 2000 Pt VII (ss 101-129) (as amended).
- 3 For the meaning of 'body' see PARA 53 note 2 ante. 'Campaign organiser', in relation to referendum expenses, means the individual or body by whom or on whose behalf the expenses are incurred: ibid s 111(1), (4).
- 4 Ibid s 111(1), (2). 'For referendum purposes' means: (1) in connection with the conduct or management of any campaign conducted with a view to promoting or procuring a particular outcome in relation to any question asked in the referendum (s 111(1), (3)(a)); or (2) otherwise in connection with promoting or procuring any such outcome (s 111(1), (3)(b)). 'Referendum campaign' means a campaign such as is mentioned in head (1) supra: s 111(1), (4). As to the meaning of 'question' see PARA 519 note 8 ante; and for the meaning of 'outcome' see PARA 521 note 19 ante.
- 5 Ie expenses falling within ibid s 111(1), (2), Sch 13 paras 1-2 (see heads (1)-(8) and (a)-(c) in the text): Sch 13 para 1.
- 6 Ibid Sch 13 para 1(1). As to referendum campaign broadcasts generally see PARA 544 post.
- 7 Ibid Sch 13 para 1(2).
- 8 Ibid Sch 13 para 1(3). As to a designated organisation's right to send referendum addresses to electors generally see PARA 524 ante.
- 9 Ie material to which ibid s 125 applies (see PARA 543 post).
- 10 Ibid Sch 13 para 1(4).
- 11 Ibid Sch 13 para 1(5).
- 12 Ibid Sch 13 para 1(6).
- 13 Ibid Sch 13 para 1(7).
- 14 Ibid Sch 13 para 1(8).
- 15 As to the meaning of 'property' see PARA 31 note 8 ante.
- 16 Political Parties, Elections and Referendums Act 2000 Sch 13 para 2(a). As to references to payments out of public funds see PARA 304 note 21 ante.
- 17 Ibid Sch 13 para 2(b).
- 18 Ibid Sch 13 para 2(c).
- 19 Ibid s 112(1)(a)(i). Any property given or transferred to any officer, member, trustee or agent of an individual or body in his capacity as such (and not for his own use or benefit) is to be regarded as given or transferred to the individual or body (and references to donations received by an individual or body accordingly include donations so given or transferred) (Sch 15 para 2(5); applied by s 112(10)); and any reference to property being given or transferred to an individual or body is a reference to its being so given or transferred either directly or indirectly through any third person (Sch 15 para 2(6)(a); applied by s 112(10)).
- 20 Ibid s 112(1)(a)(ii).
- 21 Ibid s 112(1)(a)(i), (ii). The discount referred to in the text is a discount of more than 10% of: (1) the market value of the property, in the case of head (i) in the text; or (2) the commercial rate for the use of the property or for the provision of the services or facilities, in the case of head (ii) in the text. For the meaning of 'market value' see PARA 304 note 26 ante. Where the services of an employee are made available by his employer for the use or benefit of an individual or body, then for the purposes of determining referendum expenses, the amount which is to be taken as constituting the commercial rate for the provision of those services is the amount of the remuneration or allowances payable to the employee by his employer in respect of the period for which his services are so made available (but do not include any amount in respect of any contributions or other payments for which the employer is liable in respect of the employee): s 112(5).

22 Ibid s 112(1)(b).

23 Ibid s 112(2). This provision has effect subject to s 112(9) (see heads (A)-(C) in the text). The text refers to the use made of the property or goods as mentioned in s 112(1)(b) (see the text and note 22 supra).

24 As to the referendum period see PARA 519 ante.

25 Ie such proportion of the appropriate amount determined in accordance with the Political Parties, Elections and Referendums Act 2000 s 112(3), (4) (see the text and notes 31-36 infra).

26 Ibid s 112(6)(a), (7).

27 Ie under ibid s 120 (see PARA 534 post).

28 For the meaning of 'responsible person' in relation to an individual or body which is not a registered party see PARA 521 note 32 ante.

29 Political Parties, Elections and Referendums Act 2000 s 112(6)(b). A person commits an offence if he knowingly or recklessly makes such a declaration which is false: see s 112(8); and PARA 754 post.

30 Ibid s 112(6). The Secretary of State may by order vary the sum for the time being specified in s 112(6): see s 155; and PARA 304 note 36 ante. At the date at which this volume states the law, no such order had been made. As to the Secretary of State see PARA 2 ante.

31 Ibid s 112(3)(a).

32 Ibid s 112(3)(b).

33 Ibid s 112(3). The text refers to the use made of the property as mentioned in s 112(1)(b) (see the text and note 22 supra).

34 Ibid s 112(4)(a).

35 Ibid s 112(4)(b).

36 Ibid s 112(4). The text refers to the use made of the property as mentioned in s 112(1)(b) (see the text and note 22 supra).

37 For the meaning of 'broadcaster' see PARA 304 note 43 ante.

38 Political Parties, Elections and Referendums Act 2000 s 112(9)(a). The text refers to referendum campaign broadcasts within the meaning of s 127 (see PARA 544 post): s 112(9)(a).

39 Ie by virtue of ibid s 110(4), Sch 12 (as amended) (see PARAS 523-526 ante).

40 Ibid s 112(9)(b).

41 Ibid s 112(9)(c).

42 As to the Electoral Commission see PARA 31 et seq ante.

43 Political Parties, Elections and Referendums Act 2000 s 160(1), Sch 13 para 3(1).

44 Ibid s 160(1), Sch 13 para 3(2).

45 Ibid Sch 13 para 3(3). For these purposes, references to a draft code include a revised draft code: Sch 13 para 3(10). Once the Secretary of State has approved a draft code he must lay a copy of the draft, whether in its original form or in a form which incorporates any modifications determined under Sch 13 para 3(3), before each House of Parliament: Sch 13 para 3(4). As to the meaning of 'modification' see PARA 39 note 9 ante. If the draft incorporates any such modifications, the Secretary of State must at the same time lay before each House a statement of his reasons for making them: Sch 13 para 3(5). If, within the 40-day period, either House resolves not to approve the draft, the Secretary of State must take no further steps in relation to the draft code (Sch 13 para 3(6)); but if no such resolution is made within the 40-day period, the Secretary of State must issue the code in the form of the draft laid before Parliament, and the code is to come into force on such date as the Secretary of State may by order appoint (Sch 13 para 3(7)). The Commission must arrange for the code to be published in such manner as it thinks appropriate: Sch 13 para 3(7). The prohibition in Sch 13 para 3(6) from taking further action in relation to a draft code does not prevent a new draft code from being laid before

Parliament: Sch 13 para 3(8). For these purposes, the '40-day period', in relation to a draft code, means, if the draft is laid before one House on a day later than the day on which it is laid before the other House, the period of 40 days beginning with the later of the two days, and, in any other case, the period of 40 days beginning with the day on which the draft is laid before each House: Sch 13 para 3(8). In calculating this period, no account is taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days: Sch 13 para 3(9).

46 Ibid Sch 13 para 4(1). At the date at which this volume states the law, no such order had been made.

47 Ibid Sch 13 para 4(2)(a).

48 Ibid Sch 13 para 4(2)(b).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(i) General Framework for the Conduct of National and Regional Referendums/D. THE CAMPAIGN/(A) Controls on Referendum Expenses/(a) In general/528. Restriction on incurring referendum expenses without authority.

528. Restriction on incurring referendum expenses without authority.

For the purposes of controlling referendum expenses¹ incurred for referendum purposes², no amount of referendum expenses may be incurred by or on behalf of a permitted participant³ unless it is incurred with the authority of either: (1) the responsible person⁴; or (2) a person authorised in writing by the responsible person⁵. Where any expenses are incurred in contravention of this restriction by a permitted participant that is a registered party⁶, the expenses do not count as referendum expenses incurred by or on behalf of the permitted participant either for the purposes of the statutory provisions which impose financial limits on such expenditure⁷ or for the purposes of the statutory provisions which require returns as to such expenditure⁸.

A person commits an offence if, without reasonable excuse, he incurs any expenses in contravention of the restriction on incurring referendum expenses⁹.

1 For the meaning of 'referendum expenses' see PARA 527 ante.

2 For the meaning of 'for referendum purposes' see PARA 527 note 4 ante.

3 For the meaning of 'permitted participant' see PARA 521 ante.

4 Political Parties, Elections and Referendums Act 2000 s 113(1)(a). For the meaning of 'responsible person' in relation to a registered party see PARA 521 note 23 ante; and for the meaning of 'responsible person' in relation to an individual or body which is not a registered party see PARA 521 note 32 ante.

5 Ibid s 113(1)(b).

6 For the meaning of 'registered party' see PARA 32 note 3 ante.

7 I.e the Political Parties, Elections and Referendums Act 2000 ss 117-119 (see PARAS 532-533 post).

8 Ibid s 113(3). The text refers to the statutory provisions in ss 120-123 (see PARAS 534-536 post).

9 See ibid s 113(2); and PARA 754 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(i) General Framework for the Conduct of National and Regional Referendums/D. THE CAMPAIGN/(A) Controls on Referendum Expenses/(a) In general/529. Restrictions on payments in respect of referendum expenses.

529. Restrictions on payments in respect of referendum expenses.

For the purposes of controlling referendum expenses¹ incurred for referendum purposes², no payment (of whatever nature) may be made in respect of any referendum expenses incurred or to be incurred by or on behalf of a permitted participant³ unless it is made by: (1) the responsible person⁴; or (2) a person authorised in writing by the responsible person⁵. Any payment made in respect of any such expenses by a person within head (1) or head (2) above must be supported by an invoice or a receipt unless it is not more than £200⁶; and where any such payment is made by a person within head (2) above, he must deliver to the responsible person both notification that he has made the payment⁷ and the supporting invoice or receipt⁸ as soon as possible after making the payment⁹.

A person commits an offence if, without reasonable excuse, he makes any payment in contravention of the restriction on payments made in respect of referendum expenses or if he is a person within head (2) above who contravenes the requirements imposed on such a person regarding the delivery of notification and evidence¹⁰.

1 For the meaning of 'referendum expenses' see PARA 527 ante.

2 For the meaning of 'for referendum purposes' see PARA 527 note 4 ante.

3 For the meaning of 'permitted participant' see PARA 521 ante.

4 Political Parties, Elections and Referendums Act 2000 s 114(1)(a). For the meaning of 'responsible person' in relation to a registered party see PARA 521 note 23 ante; and for the meaning of 'responsible person' in relation to an individual or body which is not a registered party see PARA 521 note 32 ante.

5 Ibid s 114(1)(b).

6 Ibid s 114(2). The Secretary of State may by order vary the sum for the time being specified in s 114(2): see s 155; and PARA 304 note 36 ante. At the date at which this volume states the law, no such order had been made.

7 Ibid s 114(3)(a). Any notification required to be given under the Political Parties, Elections and Referendums Act 2000 must be in writing: s 157(1).

8 Ibid s 114(3)(b).

9 Ibid s 114(3).

10 See ibid s 114(4); and PARA 754 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(i) General Framework for the Conduct of National and Regional Referendums/D. THE CAMPAIGN/(A) Controls on Referendum Expenses/(a) In general/530. Claims in respect of referendum expenses.

530. Claims in respect of referendum expenses.

For the purposes of controlling referendum expenses¹ incurred for referendum purposes², a claim for payment in respect of referendum expenses incurred by or on behalf of a permitted participant³ during a referendum period⁴ is not payable unless the claim is sent⁵ to the responsible person⁶, or any other person authorised⁷ to incur the expenses⁸, not later than 30 days⁹ after the end of the referendum period¹⁰. Any claim so sent must be paid not later than 60 days after the end of the referendum period¹¹; but this is without prejudice to any rights of a creditor of a permitted participant to obtain payment before the end of the period so allowed¹².

A person commits an offence if, without reasonable excuse, he pays any claim for payment in respect of referendum expenses which by virtue of being statute-barred¹³ is not payable or if he makes any payment in respect of a claim after the end of the period allowed for the payment of claims¹⁴.

If the responsible person or other person to whom a claim for payment in respect of referendum expenses is sent fails or refuses to pay the claim within the period allowed¹⁵, where the claim¹⁶ is sent to the responsible person¹⁷ or to any other person with whose authority it is alleged that the expenditure was incurred¹⁸ within the period allowed before such claims are barred¹⁹, the claim is deemed to be a disputed claim²⁰. The person by whom the disputed claim is made may bring an action for a disputed claim, and any sum paid in pursuance of a court's judgment or order so made in the proceedings is not deemed to be in contravention of the statutory provision forbidding payment of referendum expenses later than 42 days after the end of the referendum period²¹.

1 For the meaning of 'referendum expenses' see PARA 527 ante.

2 For the meaning of 'for referendum purposes' see PARA 527 note 4 ante.

3 For the meaning of 'permitted participant' see PARA 521 ante.

4 As to the referendum period see PARA 519 ante.

5 Political Parties, Elections and Referendums Act 2000 s 115(1).

6 Ibid s 115(1)(a). For the meaning of 'responsible person' in relation to a registered party see PARA 521 note 23 ante; and for the meaning of 'responsible person' in relation to an individual or body which is not a registered party see PARA 521 note 32 ante.

7 Ie authorised in writing by the responsible person under ibid s 113 (see PARA 528 ante).

8 Ibid s 115(1)(b).

9 Where, in the case of any referendum expenses, the period allowed under ibid s 115(1) (as amended) or s 115(2) (as amended) (see the text and note 11 infra) would otherwise end on: (1) a Saturday or Sunday, Christmas Eve, Christmas Day or Good Friday (s 77(9)(a) (amended by the Electoral Administration Act 2006 ss 20, 74(2), Sch 1 paras 49, 54, Sch 2); applied by the Political Parties, Elections and Referendums Act 2000 s 115(7)); (2) a bank holiday (s 77(9)(b); applied by s 115(7)); or (3) a day appointed for public thanksgiving or mourning (s 77(9)(c); applied by s 115(7)), the period instead ends on the first day following that day which is not one of those days (s 77(9); applied by s 115(7)). For the purposes of head (2) supra, 'bank holiday' means a

day which is a bank holiday under the Banking and Financial Dealings Act 1971 (see TIME vol 97 (2010) PARA 321) in any part of the United Kingdom: (a) in which is situated the office of the responsible person in relation to the permitted participant or (as the case may be) other authorised person to whom the claim is sent pursuant to the Political Parties, Elections and Referendums Act 2000 s 115(1) (as amended) (s 77(10)(a); applied by 115(7)); or (b) in which the person providing the property, services or facilities to which the expenses relate conducts his business (s 77(10)(b); applied by 115(7)); or (c) (if he conducts his business in more than one part of the United Kingdom) in which is situated the office from which dealings relating to the expenses were conducted (s 77(10)(c); applied by 115(7)). For these purposes, the address of the responsible person in relation to the permitted participant is to be regarded as being the registered address of the permitted participant: s 74(10)(a); applied by 115(7). 'Business' includes every trade, profession and occupation: s 160(1). For the meaning of 'United Kingdom' see PARA 13 note 1 ante. As to the meaning of 'property' see PARA 31 note 8 ante.

Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 49, 54 has no effect in relation to a poll held on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. Accordingly, until that date, Maundy Thursday appears in the list of days excluded under head (1) supra.

10 Political Parties, Elections and Referendums Act 2000 s 115(1) (amended by the Electoral Administration Act 2006 s 65(3)(a)).

11 Political Parties, Elections and Referendums Act 2000 s 115(2) (amended by the Electoral Administration Act 2006 s 65(3)(b)).

12 Political Parties, Elections and Referendums Act 2000 s 115(6).

13 Ie by virtue of *ibid* s 115(1) (as amended) (see the text and notes 1-10 supra).

14 See *ibid* s 115(3); and PARA 754 post. The text refers to payment in respect of a claim after the end of the period allowed under s 115(2) (as amended) (see the text and note 11 supra).

15 *Ibid* s 116(1)(b). The text refers to the period allowed under s 115(2) (as amended) (see the text and note 11 supra), which is without prejudice to any rights of a creditor of a registered party to obtain payment before the end of the period so allowed (s 115(6)).

16 Ie the claim for payment in respect of referendum expenses incurred by or on behalf of a permitted participant as mentioned in *ibid* s 115(1) (as amended) (see the text and notes 1-10 supra).

17 *Ibid* s 116(1)(a)(i).

18 *Ibid* s 116(1)(a)(ii).

19 *Ibid* s 116(1)(a). The text refers to the period allowed under s 115(1) (as amended) (see the text and notes 1-10 supra).

20 *Ibid* s 116(1). As to the power to apply to the court for leave to pay a disputed claim see PARA 531 post; and as to the returns of disputed claims see PARA 534 post.

21 *Ibid* s 116(2). The text refers to the restriction otherwise contained in s 115(2) (as amended) (see the text and note 11 supra).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(i) General Framework for the Conduct of National and Regional Referendums/D. THE CAMPAIGN/(A) Controls on Referendum Expenses/(a) In general/531. Application for leave to pay claims in respect of referendum expenses.

531. Application for leave to pay claims in respect of referendum expenses.

For the purposes of controlling referendum expenses¹ incurred for referendum purposes², the person making a claim for payment in respect of referendum expenses incurred by or on behalf of a permitted participant³ during a referendum period⁴, or the person with whose authority the expenses in question were incurred⁵, may apply to the High Court or to the county court for leave to pay such a claim (even if it is sent in after the statutory period allowed of 30 days⁶) or may apply to the High Court or to the county court for leave to pay a disputed claim⁷. The court, if satisfied that for any special reason it is appropriate to do so, may by order grant the leave⁸. Any sum paid in pursuance of such an order of leave is not deemed to be a contravention of the provisions forbidding the making or payment of claims relating to referendum expenses later than the statutory period allowed⁹.

1 For the meaning of 'referendum expenses' see PARA 527 ante.

2 For the meaning of 'for referendum purposes' see PARA 527 note 4 ante.

3 For the meaning of 'permitted participant' see PARA 521 ante.

4 Political Parties, Elections and Referendums Act 2000 s 115(4)(a). The text refers to a claim to which s 115(1) (as amended) applies (see PARA 530 ante). As to the referendum period see PARA 519 ante.

5 Ibid s 115(4)(b). As to persons authorised to incur expenditure as mentioned in the text see s 113; and PARA 528 ante.

6 I.e the period mentioned in ibid s 115(1) (as amended) (see PARA 530 ante).

7 Ibid ss 115(4), 116(3).

8 Ibid ss 115(4), 116(3).

9 Ibid ss 115(5), 116(3). The text refers to the period of 30 days within which a claim must be made under s 115(1) (as amended) or the period of 60 days within which a claim must be paid under s 115(2) (as amended) (see PARA 530 ante). As to the returns of sums paid in pursuance of the leave see PARA 534 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(i) General Framework for the Conduct of National and Regional Referendums/D. THE CAMPAIGN/(A) Controls on Referendum Expenses/(b) Financial Limits on Referendum Expenses/532. General restriction on referendum expenses for individual or body that is not a permitted participant.

(b) Financial Limits on Referendum Expenses

532. General restriction on referendum expenses for individual or body that is not a permitted participant.

For the purposes of controlling referendum expenses¹ incurred for referendum purposes², the total referendum expenses incurred by or on behalf of any individual or body³ during the referendum period⁴ in the case of a particular referendum to which the general framework provisions apply⁵ must not exceed £10,000⁶ unless the individual or body is a permitted participant⁷.

Where, at any time before the beginning of any referendum period, any expenses falling within the matters which qualify as referendum expenses⁸ are incurred by or on behalf of an individual or body in respect of any property⁹, services or facilities¹⁰, but the property, services or facilities is or are made use of by or on behalf of the individual or body during the referendum period in circumstances such that, had any expenses been incurred in respect of that use during that period, they would¹¹ have constituted referendum expenses incurred by or on behalf of the individual or body during that period¹², the appropriate proportion of those expenses¹³ is treated, for the purposes of imposing a general restriction on referendum expenses for an individual or body that is not a permitted participant¹⁴, as referendum expenses incurred by or on behalf of the individual or body during that period¹⁵.

Where, during the referendum period, any referendum expenses are incurred in excess of the general restriction imposed on such expenses by or on behalf of any individual or body who is not a permitted participant, any such individual or any person who authorised the expenses to be incurred by or on behalf of such a body is guilty of an offence if he knew or ought reasonably to have known that the expenditure would be incurred in excess of that limit; and the body in question is also guilty of an offence¹⁶.

1 For the meaning of 'referendum expenses' see PARA 527 ante.

2 For the meaning of 'for referendum purposes' see PARA 527 note 4 ante.

3 For the meaning of 'body' see PARA 53 note 2 ante.

4 As to the referendum period see PARA 519 ante.

5 Ie the Political Parties, Elections and Referendums Act 2000 Pt VII (ss 101-129) (as amended).

6 The Secretary of State may by order vary the sum for the time being specified in ibid s 117(1): see s 155; and PARA 304 note 36 ante. At the date at which this volume states the law, no such order had been made.

7 Ibid s 117(1). For the meaning of 'permitted participant' see PARA 521 ante.

8 Ie any expenses falling within ibid s 111(2) (see PARA 527 ante).

9 As to the meaning of 'property' see PARA 31 note 8 ante.

10 Political Parties, Elections and Referendums Act 2000 s 117(5)(a).

11 le by virtue of *ibid* s 111(2) (see *PARA 527 ante*).

12 *Ibid* s 117(5)(b).

13 le the expenses mentioned in *ibid* s 117(5)(a) (see the text and notes 8-10 *supra*). For these purposes, the appropriate proportion of the expenses mentioned in s 117(5)(a) is such proportion of those expenses as is reasonably attributable to the use made of the property, services or facilities as mentioned in s 117(5)(b) (see the text and notes 11-12 *supra*): s 117(6).

14 le for the purposes of *ibid* s 117.

15 *Ibid* s 117(5).

16 See *ibid* s 117(2)-(4); and *PARA 754 post*.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(i) General Framework for the Conduct of National and Regional Referendums/D. THE CAMPAIGN/(A) Controls on Referendum Expenses/(b) Financial Limits on Referendum Expenses/533. Special restrictions on referendum expenses for permitted participants.

533. Special restrictions on referendum expenses for permitted participants.

In relation to a referendum¹ held throughout the United Kingdom², the limit on referendum expenses³ incurred by or on behalf of a permitted participant⁴ during the referendum period⁵ in the case of such a referendum is⁶:

- 506 (1) £5 million in the case of a person or body designated for assistance⁷;
- 507 (2) in the case of a registered party⁸ by which a declaration has been made in relation to the referendum⁹ but which has not been designated for assistance¹⁰:
- 19
- 34. (a) £5 million, if the party's relevant percentage¹¹ exceeds 30 per cent¹²;
- 35. (b) £4 million, if the party's relevant percentage is more than 20 per cent but not more than 30 per cent¹³;
- 36. (c) £3 million, if the party's relevant percentage is more than 10 per cent but not more than 20 per cent¹⁴;
- 37. (d) £2 million, if the party's relevant percentage is more than 5 per cent but not more than 10 per cent¹⁵;
- 38. (e) £500,000, if the party's relevant percentage is not more than 5 per cent or if it has no relevant percentage¹⁶; and
- 20
- 508 (3) £500,000 in the case of a person or body by whom a notification has been given in relation to the referendum¹⁷ but who has not been designated for assistance¹⁸.

In relation to a referendum which is not held throughout the United Kingdom¹⁹, the limit on referendum expenses incurred by or on behalf of a permitted participant during the referendum period in the case of such a referendum is such amount as the Secretary of State²⁰ may by order prescribe²¹. Before making such an order, the Secretary of State must seek, and have regard to, the views of the Electoral Commission²²; but where he proposes to make such an order otherwise than in accordance with the views of the Commission, he must on laying a draft of a statutory instrument containing the order before each House of Parliament also lay before each House a statement of his reasons for departing from the views of the Commission²³.

Where, at any time before the beginning of any referendum period, any expenses falling within the matters which qualify as referendum expenses²⁴ are incurred by or on behalf of an individual or body in respect of any property²⁵, services or facilities²⁶, but the property, services or facilities is or are made use of by or on behalf of the individual or body during the referendum period in circumstances such that, had any expenses been incurred in respect of that use during that period, they would²⁷ have constituted referendum expenses incurred by or on behalf of the individual or body during that period²⁸, the appropriate proportion of those expenses²⁹ is treated, for the purposes of imposing special restrictions on referendum expenses incurred by or on behalf of permitted participants³⁰, as referendum expenses incurred by or on behalf of the individual or body during that period³¹.

Where, during the referendum period, any referendum expenses are incurred in excess of the special restrictions imposed on such expenses by or on behalf of any permitted participant, the permitted participant or other person who authorised the expenses is guilty of an offence if he knew or ought reasonably to have known that the expenditure would be incurred in excess of that limit; and the body or party in question is also guilty of an offence³².

1 For the meaning of 'referendum' see PARA 519 ante.

2 Ie a referendum falling within the Political Parties, Elections and Referendums Act 2000 s 101(1)(a) (see PARA 519 ante). For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

3 For the meaning of 'referendum expenses' see PARA 527 ante.

4 For the meaning of 'permitted participant' see PARA 521 ante.

5 For the purposes of the Political Parties, Elections and Referendums Act 2000 ss 118, 120-123, Sch 14, any reference to referendum expenses incurred by or on behalf of a permitted participant during the referendum period includes any referendum expenses so incurred at any time before the individual or body became a permitted participant: s 118(5). For the meaning of 'body' see PARA 53 note 2 ante. As to the referendum period see PARA 519 ante.

6 Ibid s 118(1), Sch 14 para 1(1), (2). The Secretary of State may by order vary the sum for the time being specified in Sch 14: see s 155; and PARA 304 note 36 ante. At the date at which this volume states the law, no such order had been made.

7 Ibid Sch 14 para 1(2)(a). The text refers to a person or body designated under s 108 (see PARA 522 ante).

8 For the meaning of 'registered party' see PARA 32 note 3 ante.

9 Ie which falls within the Political Parties, Elections and Referendums Act 2000 s 105(1)(a) (see PARA 521 ante).

10 Ibid Sch 14 para 1(2)(b). The text refers to a registered party which has not been designated under s 108 (see PARA 522 ante).

11 For these purposes: (1) a registered party has a relevant percentage in relation to a referendum if, at the last parliamentary general election taking place before the referendum, votes were cast for one or more candidates at the election authorised to use the party's registered name (ibid Sch 14 para 1(3)(a)); and (2) the amount of its relevant percentage is equal to the percentage of the total number of votes cast for all candidates at that election which is represented by the total number of votes cast for the candidate or candidates mentioned in head (1) supra (Sch 14 para 1(3)(b)). Where at any such general election a candidate was authorised to use the registered name of more than one registered party, then for the purposes of head (2) supra as it applies in relation to each of those parties, the number of votes cast for the candidate must be taken to be the total number cast for him divided by the number of parties: Sch 14 para 1(4). As to parliamentary general elections see PARA 196 et seq ante.

12 Ibid Sch 14 para 1(2)(b)(i).

13 Ibid Sch 14 para 1(2)(b)(ii).

14 Ibid Sch 14 para 1(2)(b)(iii).

15 Ibid Sch 14 para 1(2)(b)(iv).

16 Ibid Sch 14 para 1(2)(b)(v).

17 Ie which falls within ibid s 105(1)(b) (see PARA 521 ante).

18 Ibid Sch 14 para 1(2)(c). The text refers to a person or body who has not been designated under s 108 (see PARA 522 ante).

19 Ie a referendum to which ibid Pt VII (ss 101-129) (as amended) applies, other than one falling within s 101(1)(a) (see PARA 519 ante).

20 As to the Secretary of State see PARA 2 ante.

21 Political Parties, Elections and Referendums Act 2000 Sch 14 para 2(1), (2). Different amounts may be prescribed for different referendums or different categories of permitted participants: Sch 14 para 2(3). See the Regional Assembly and Local Government Referendums (Expenses Limits for Permitted Participants) Order 2004, SI 2004/1961.

22 Political Parties, Elections and Referendums Act 2000 s 160(1), Sch 14 para 2(4). As to the Electoral Commission see PARA 31 et seq ante.

23 Ibid Sch 14 para 2(4).

24 Ie any expenses falling within ibid s 111(2) (see PARA 527 ante).

25 As to the meaning of 'property' see PARA 31 note 8 ante.

26 Political Parties, Elections and Referendums Act 2000 s 117(5)(a); applied by s 118(4).

27 Ie by virtue of ibid s 111(2) (see PARA 527 ante).

28 Ibid s 117(5)(b); applied by s 118(4).

29 Ie the expenses mentioned in ibid s 117(5)(a) (as applied) (see the text and notes 24-26 supra). For these purposes, the appropriate proportion of the expenses mentioned in s 117(5)(a) (as applied) is such proportion of those expenses as is reasonably attributable to the use made of the property, services or facilities as mentioned in s 117(5)(b) (as applied) (see the text and notes 27-28 supra): s 117(6); applied by s 118(4).

30 Ie for the purposes of ibid s 118.

31 Ibid s 117(5); applied by s 118(4).

32 See ibid s 118(2)-(3); and PARA 754 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(i) General Framework for the Conduct of National and Regional Referendums/D. THE CAMPAIGN/(A) Controls on Referendum Expenses/(c) Returns as to Referendum Expenses/534. Returns as to referendum expenses.

(c) Returns as to Referendum Expenses

534. Returns as to referendum expenses.

For the purposes of controlling referendum expenses¹ incurred for referendum purposes², where any referendum expenses are incurred by or on behalf of a permitted participant³ during any referendum period⁴ and that period ends⁵, the responsible person⁶ must make a return in respect of referendum expenses incurred by or on behalf of the permitted participant during that period⁷.

Such a return must specify the referendum to which the expenditure relates, and must contain⁸:

- 509 (1) a statement of all payments made in respect of referendum expenses incurred by or on behalf of the permitted participant during the referendum period in question⁹;
- 510 (2) a statement of all disputed claims¹⁰;
- 511 (3) a statement of all the unpaid claims (if any) of which the responsible person is aware in respect of which an application has been made, or is about to be made, to a court for leave to pay the claim¹¹; and
- 512 (4) in a case where the permitted participant either is not a registered party¹² or is a minor party¹³, a statement of relevant donations¹⁴ received in respect of the referendum which complies with the relevant requirements for such statements¹⁵.

Such a return must be accompanied by:

- 513 (a) all invoices or receipts relating to the payments mentioned in head (1) above¹⁶; and
- 514 (b) in the case of any referendum expenses in relation to which an appropriate amount is treated as incurred by the permitted participant¹⁷, any declaration falling to be made with respect to those expenses¹⁸.

Where any referendum expenses are incurred at any time before the individual or body¹⁹ became a permitted participant, the requirement to make such a return does not apply in relation to such expenses but the return must be accompanied by a declaration made by the responsible person of the total amount of such expenses incurred at any such time²⁰.

A report must be prepared by a qualified auditor²¹ on such a return in respect of referendum expenses where, during any referendum period, the referendum expenses incurred by or on behalf of a permitted participant exceeds £250,000²².

¹ For the meaning of 'referendum expenses' see PARA 527 ante.

² For the meaning of 'for referendum purposes' see PARA 527 note 4 ante.

- 3 For the meaning of 'permitted participant' see PARA 521 ante.
- 4 Political Parties, Elections and Referendums Act 2000 s 120(1)(a). The text refers to a referendum period within the meaning of s 102 (see PARA 519 ante). As to the meaning of references, for these purposes, to referendum expenses incurred by or on behalf of a permitted participant during the referendum period see PARA 533 note 5 ante.
- 5 Ibid s 120(1)(b).
- 6 For the meaning of 'responsible person' in relation to a registered party see PARA 521 note 23 ante; and for the meaning of 'responsible person' in relation to an individual or body which is not a registered party see PARA 521 note 32 ante.
- 7 Political Parties, Elections and Referendums Act 2000 s 120(1).
- 8 Ibid s 120(2). The Electoral Commission may by regulations prescribe a form of return which may be used for these purposes: ss 120(5), 160(1). Regulations made by the Electoral Commission are not statutory instruments and are not recorded in this work: see further PARA 42 ante. As to the Electoral Commission see PARA 31 et seq ante.
- 9 Ibid s 120(2)(a).
- 10 Ibid s 120(2)(b). The text refers to all disputed claims within the meaning of s 116 (see PARA 530 ante).
- 11 Ibid s 120(2)(c). The text refers to an application for leave to pay claims in respect of referendum expenses made under s 115(4) (see PARA 531 ante).
- 12 For the meaning of 'registered party' see PARA 32 note 3 ante.
- 13 For the meaning of 'minor party' see PARA 260 note 8 ante.
- 14 For these purposes, 'relevant donation' has the same meaning as in the Political Parties, Elections and Referendums Act 2000 s 119, Sch 15 (as amended) (see PARA 538 note 12 post): s 120(6).
- 15 Ibid s 120(2)(d). The text refers to the requirement for a statement of relevant donations to comply with Sch 15 paras 10-11 (as amended) (see PARA 542 post).
- 16 Ibid s 120(3)(a).
- 17 Ie by virtue of ibid s 112 (see PARA 527 ante).
- 18 Ibid s 120(3)(b). The text refers to a declaration falling to be made under s 112(6) (see PARA 527 ante).
- 19 For the meaning of 'body' see PARA 53 note 2 ante.
- 20 Political Parties, Elections and Referendums Act 2000 s 120(4).
- 21 In relation to the appointment of an auditor to prepare a report under ibid s 121(1) (or, as the case may be, an auditor so appointed), s 43(6), (7) (regulations made by the Electoral Commission with respect to the appointment of auditors: see CONSTITUTIONAL LAW AND HUMAN RIGHTS) and s 44 (as amended) (supplementary provisions about auditors: see CONSTITUTIONAL LAW AND HUMAN RIGHTS) apply as they apply in relation to the appointment of an auditor to carry out an audit under s 43 (annual audits: see CONSTITUTIONAL LAW AND HUMAN RIGHTS) (or, as the case may be, an auditor so appointed): s 121(2). For the meaning of 'qualified auditor' see PARA 303 note 5 ante. As to the general accounting requirements for permitted participants that are registered parties see PARA 303 ante.
- 22 Ibid s 121(1). The Secretary of State may by order vary the sum for the time being specified in s 121(1): see s 155; and PARA 304 note 36 ante. At the date at which this volume states the law, no such order had been made.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(i) General Framework for the Conduct of National and Regional Referendums/D. THE CAMPAIGN/(A) Controls on Referendum Expenses/(c) Returns as to Referendum Expenses/535. Delivery of returns as to referendum expenses to the Electoral Commission.

535. Delivery of returns as to referendum expenses to the Electoral Commission.

For the purposes of controlling referendum expenses¹ incurred for referendum purposes², where any return as to referendum expenses falls to be prepared³ in respect of referendum expenses incurred by or on behalf of a permitted participant⁴, and an auditor's report on it falls to be prepared also⁵, the responsible person⁶ must deliver the return to the Electoral Commission⁷, together with a copy of the auditor's report, within six months of the end of the relevant referendum period⁸. In the case of any other such return which falls to be prepared⁹, the responsible person must deliver the return to the Commission within three months of the end of the relevant referendum period¹⁰.

Where, after the date on which a return is so delivered to the Commission, leave is given by a court for any claim to be paid¹¹, the responsible person must, within seven days after the payment, deliver to the Commission a return of any sums paid in pursuance of the leave accompanied by a copy of the order of the court giving the leave¹².

The responsible person commits an offence if, without reasonable excuse, he fails to comply with the requirements as to any return or auditor's report¹³; and, notwithstanding any criminal liability of any person, the permitted participant is liable to a civil penalty¹⁴.

1 For the meaning of 'referendum expenses' see PARA 527 ante.

2 For the meaning of 'for referendum purposes' see PARA 527 note 4 ante.

3 Ie under the Political Parties, Elections and Referendums Act 2000 s 120 (see PARA 534 ante).

4 Ibid s 122(1)(a). For the meaning of 'permitted participant' see PARA 521 ante. As to the meaning of references, for these purposes, to referendum expenses incurred by or on behalf of a permitted participant during the referendum period see PARA 533 note 5 ante.

5 Ibid s 122(1)(b). The text refers to an auditor's report on a return as to campaign expenditure which falls to be prepared under s 121(1) (see PARA 534 ante).

6 For the meaning of 'responsible person' in relation to a registered party see PARA 521 note 23 ante; and for the meaning of 'responsible person' in relation to an individual or body which is not a registered party see PARA 521 note 32 ante.

6 As to the Electoral Commission see PARA 31 et seq ante.

7 Political Parties, Elections and Referendums Act 2000 ss 122(1), 160(1). As to the referendum period see PARA 519 ante.

8 Ie under ibid s 120 (see PARA 534 ante).

10 Ibid s 122(2).

11 Ie leave to pay claims in respect of campaign expenditure given under ibid s 115(4) (see PARA 531 ante).

12 Ibid s 122(3).

13 See ibid s 122(4); and PARA 754 post.

14 See *ibid* s 147(1)(g), (2); and PARA 757 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(i) General Framework for the Conduct of National and Regional Referendums/D. THE CAMPAIGN/(A) Controls on Referendum Expenses/(c) Returns as to Referendum Expenses/536. Declaration made in relation to returns as to referendum expenses.

536. Declaration made in relation to returns as to referendum expenses.

For the purposes of controlling referendum expenses¹ incurred for referendum purposes², each return³ in respect of referendum expenses incurred by or on behalf of a permitted participant⁴ must be accompanied by a declaration which is signed by the responsible person⁵ and which must state that the responsible person has examined the return in question⁶ and that, to the best of his knowledge and belief⁷, it is a complete and correct return as required by law⁸ and all expenses shown in it as paid have been paid by him or by a person authorised by him⁹. The declaration must also state, in a case where the permitted participant either is not a registered party¹⁰ or is a minor party¹¹, that all relevant donations¹² recorded in the return as having been accepted by the permitted participant are from permissible donors¹³ and that no other relevant donations have been accepted by the permitted participant¹⁴.

A person commits an offence if he knowingly or recklessly makes such a declaration falsely or if the requirements as to such a declaration are contravened at a time when he is the responsible person in the case of the permitted participant to which the return relates¹⁵.

1 For the meaning of 'referendum expenses' see PARA 527 ante.

2 For the meaning of 'for referendum purposes' see PARA 527 note 4 ante.

3 I.e. each return as to referendum expenses prepared under the Political Parties, Elections and Referendums Act 2000 s 120 (see PARA 534 ante).

4 For the meaning of 'permitted participant' see PARA 521 ante. As to the meaning of references, for these purposes, to referendum expenses incurred by or on behalf of a permitted participant during the referendum period see PARA 533 note 5 ante.

5 Political Parties, Elections and Referendums Act 2000 ss 123(1), 160(1). For the meaning of 'responsible person' in relation to a registered party see PARA 521 note 23 ante; and for the meaning of 'responsible person' in relation to an individual or body which is not a registered party see PARA 521 note 32 ante.

6 Ibid s 123(2)(a).

7 Ibid s 123(2)(b).

8 Ibid s 123(2)(b)(i).

9 Ibid s 123(2)(b)(ii). As to persons authorised to incur referendum expenses see PARA 528 ante.

10 For the meaning of 'registered party' see PARA 32 note 3 ante.

11 For the meaning of 'minor party' see PARA 260 note 8 ante.

12 For these purposes, 'relevant donation' has the same meaning as in the Political Parties, Elections and Referendums Act 2000 s 119, Sch 15 (as amended) (see PARA 538 note 12 post): s 123(5).

13 Ibid s 123(3)(a). For the meaning of 'permissible donor' see PARA 539 post.

14 Ibid s 123(3)(b).

15 See ibid s 123(4); and PARA 754 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(i) General Framework for the Conduct of National and Regional Referendums/D. THE CAMPAIGN/(A) Controls on Referendum Expenses/(c) Returns as to Referendum Expenses/537. Public inspection of returns as to referendum expenses.

537. Public inspection of returns as to referendum expenses.

For the purposes of controlling referendum expenses¹ incurred for referendum purposes², where the Electoral Commission³ receives any return as to referendum expenses⁴, it must⁵, as soon as reasonably practicable after receiving the return, make a copy of the return, and of any documents accompanying it, available for public inspection⁶ and keep any such copy available for public inspection for the period for which the return or other document is kept by it⁷. If the return contains a statement of relevant donations⁸, the Commission must secure that the copy of the statement made available for public inspection does not include, in the case of any donation by an individual, the donor's address⁹.

Where the Commission is for the time being required to make available for public inspection a copy of any document in this way, it must make the copy available for public inspection during ordinary office hours, either at the Commission's offices or at some convenient place appointed by it¹⁰, although the Commission may make other arrangements for members of the public to have access to the document's contents¹¹. If requested to do so by any person, the Commission must supply him with a copy of the document or any part of it¹²; and the Commission may charge such reasonable fee as it may determine in respect of any inspection or access so allowed or any copy so supplied¹³. Where any such document is held by the Commission in electronic form, any copy so made available for public inspection or so supplied must be made available, or (as the case may be) supplied, in a legible form¹⁴.

At the end of the period of two years beginning with the date when any such return or other document is received by the Commission¹⁵, it may cause the return or other document to be destroyed¹⁶; but, if requested to do so by the responsible person¹⁷ in the case of the permitted participant concerned, it must arrange for the return or other document to be returned to that person¹⁸.

1 For the meaning of 'referendum expenses' see PARA 527 ante.

2 For the meaning of 'for referendum purposes' see PARA 527 note 4 ante.

3 As to the Electoral Commission see PARA 31 et seq ante.

4 Ie any return as to referendum expenses prepared under the Political Parties, Elections and Referendums Act 2000 s 120 (see PARA 534 ante). As to the delivery of returns to the Electoral Commission see PARA 535 ante.

5 Ibid ss 124(1), 160(1).

6 Ibid s 124(1)(a).

7 Ibid s 124(1)(b).

8 Ie in accordance with ibid s 120(2)(d) (see PARA 534 ante).

9 Ibid s 124(2).

10 Ibid s 149(2), (6)(d).

11 Ibid s 149(3), (6)(d).

12 Ibid s 149(4), (6)(d).

13 Ibid s 149(5), (6)(d).

14 Ibid s 149(7).

15 Ibid s 124(3).

16 Ibid s 124(3)(a).

17 For the meaning of 'responsible person' in relation to a registered party see PARA 521 note 23 ante; and for the meaning of 'responsible person' in relation to an individual or body which is not a registered party see PARA 521 note 32 ante.

18 Political Parties, Elections and Referendums Act 2000 s 124(3)(b).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(i) General Framework for the Conduct of National and Regional Referendums/D. THE CAMPAIGN/(B) Controls on Donations received by certain Permitted Participants/538. Meaning of 'donation' in relation to certain permitted participants at a referendum.

(B) CONTROLS ON DONATIONS RECEIVED BY CERTAIN PERMITTED PARTICIPANTS

538. Meaning of 'donation' in relation to certain permitted participants at a referendum.

For the purposes of controlling donations at a referendum¹ to permitted participants² that either are not registered parties³ or are minor parties⁴, 'donation' means⁵, in relation to a permitted participant⁶: (1) any gift⁷ to the permitted participant⁸ of money or other property⁹; (2) any sponsorship provided in relation to the permitted participant¹⁰; (3) any money spent (otherwise than by or on behalf of the permitted participant) in paying any referendum expenses¹¹ incurred by or on behalf of the permitted participant¹²; (4) any money lent to the permitted participant otherwise than on commercial terms¹³; (5) the provision otherwise than on commercial terms of any property, services or facilities for the use or benefit of the permitted participant (including the services of any person)¹⁴; (6) in the case of a permitted participant other than an individual, any subscription or other fee paid for affiliation to, or membership of, the permitted participant¹⁵.

Where anything would be a donation both by virtue of head (2) above and by virtue of any other provision mentioned in head (1) or heads (3) to (6) above, head (2) above applies in relation to that donation to the exclusion of the other provision¹⁶. Any donation whose value is not more than £200 is disregarded¹⁷; and none of the following is to be regarded as a donation: (a) any grant provided out of public funds¹⁸, other than a grant provided to a designated organisation¹⁹; (b) the provision of any rights to assistance conferred on a designated organisation (or person authorised by a designated organisation)²⁰; (c) the provision by an individual of his own services which he provides voluntarily in his own time and free of charge²¹; (d) any interest accruing to a permitted participant in respect of any donation which is sent back by the permitted participant²².

For these purposes, 'sponsorship' is provided in relation to a permitted participant if any money or other property is transferred to the permitted participant or to any person for the benefit of the permitted participant²³ and the purpose (or one of the purposes) of the transfer is, or must, having regard to all the circumstances, reasonably be assumed to be²⁴ either to help the permitted participant with meeting, or to meet, to any extent any defined expenses²⁵ incurred or to be incurred by or on behalf of the permitted participant²⁶ or to secure that to any extent any such expenses are not so incurred²⁷. However, for these purposes: (i) the making of any payment in respect of any charge for admission to any conference, meeting or other event²⁸ or in respect of the purchase price of, or any other charge for access to, any publication²⁹; or (ii) the making of any payment in respect of the inclusion of an advertisement in any publication where the payment is made at the commercial rate payable for the inclusion of such an advertisement in any such publication³⁰, do not constitute sponsorship³¹.

1 For the meaning of 'referendum' see PARA 519 ante.

2 For the meaning of 'permitted participant' see PARA 521 ante; but see also note 6 infra.

3 For the meaning of 'registered party' see PARA 32 note 3 ante.

4 Political Parties, Elections and Referendums Act 2000 s 119, Sch 15 para 1(1). For the meaning of 'minor party' see PARA 260 note 8 ante.

5 le subject to ibid Sch 15 para 4 (see the text and notes 17-22 infra). For these purposes, 'donation' must be construed in accordance with Sch 1 paras 2-4 (see the text and notes 6-31 infra): Sch 15 para 1(5).

6 Ibid Sch 15 para 2(1). In accordance with Sch 15 para 1(1) (see the text and notes 1-4 supra), 'permitted participant' does not for these purposes include a permitted participant which is a registered party other than a minor party: Sch 15 para 1(2), (3).

7 For these purposes, 'gift' includes bequest (and thus any form of testamentary disposition): ibid s 160(1), Sch 15 para 2(6)(b).

8 For these purposes, any reference to anything being given or transferred to a permitted participant or any other person is a reference to its being given or transferred either directly or indirectly through any third person: ibid Sch 15 para 2(6)(a). Anything given or transferred to any officer, member, trustee or agent of a permitted participant in his capacity as such (and not for his own use or benefit) is to be regarded as given or transferred to the permitted participant (and references to donations received by a permitted participant accordingly include donations so given or transferred): Sch 15 para 2(5).

9 Ibid Sch 15 para 2(1)(a). Where: (1) any money or other property is transferred to a permitted participant pursuant to any transaction or arrangement involving the provision by or on behalf of the permitted participant of any property, services or facilities or other consideration of monetary value (Sch 15 para 2(2)(a)); and (2) the total value in monetary terms of the consideration so provided by or on behalf of the permitted participant is less than the value of the money or (as the case may be) the market value of the property transferred (Sch 15 para 2(2)(b)), the transfer of the money or property constitutes a gift to the permitted participant for the purposes of Sch 15 para 2(1)(a), but subject to Sch 15 para 2(4) (see the text and note 16 infra) (Sch 15 para 2(2)). The value of any donation falling within Sch 15 para 2(1)(a), other than money, must be taken to be the market value of the property in question: Sch 15 para 5(1). However, where Sch 15 para 2(1)(a) applies by virtue of Sch 15 para 2(2), the value of the donation must be taken to be the difference between: (a) the value of the money (or the market value of the property) in question (Sch 15 para 5(2)(a)); and (b) the total value in monetary terms of the consideration provided by or on behalf of the permitted participant (Sch 15 para 5(2)(b)). For the meaning of 'market value' see PARA 304 note 26 ante. As to the meaning of 'property' see PARA 31 note 8 ante.

10 Ibid Sch 15 para 2(1)(b). For these purposes, sponsorship provided in relation to the permitted participant is defined by Sch 15 para 3 (see the text and notes 23-31 infra): Sch 15 para 2(1)(b). The value of any donation falling within Sch 15 para 2(1)(b) is taken to be the value of the money or (as the case may be) the market value of the property, transferred as mentioned in Sch 15 para 3(1) (see the text and notes 23-27 infra); and accordingly any value in monetary terms of any benefit conferred on the person providing the sponsorship in question must be disregarded: Sch 15 para 5(3).

11 For the meaning of 'referendum expenses' see PARA 527 ante.

12 Political Parties, Elections and Referendums Act 2000 Sch 15 para 2(1)(c). As to the meaning of references to referendum expenses incurred by or on behalf of a permitted participant during the referendum period see PARA 533 note 5 ante. In relation to a permitted participant at a referendum, a donation to the permitted participant for the purpose of meeting referendum expenses incurred by or on behalf of the permitted participant is referred to as a 'relevant donation': Sch 15 para 1(4).

13 Ibid Sch 15 para 2(1)(d). In determining, for these purposes, whether any money lent to a permitted participant is so lent otherwise than on commercial terms (Sch 15 para 2(3)(a)), regard must be had to the total value in monetary terms of the consideration provided by or on behalf of the permitted participant in respect of the loan or the provision of the property, services or facilities (Sch 15 para 2(3)). The value of any donation falling within Sch 15 para 2(1)(d) or Sch 15 para 2(1)(e) (see head (5) in the text) is taken to be the amount representing the difference between: (1) the total value in monetary terms of the consideration that would have had to be provided by or on behalf of the permitted participant in respect of the loan or the provision of the property, services or facilities if the loan had been made or the property, services or facilities had been provided, on commercial terms (Sch 15 para 5(4)(a)); and (2) the total value in monetary terms of the consideration, if any, actually so provided by or on behalf of the permitted participant (Sch 15 para 5(4)(b)). Where such a donation confers an enduring benefit on the donee over a particular period, the value of the donation is determined at the time when it is made, but must be so determined by reference to the total benefit accruing to the donee over that period: Sch 15 para 5(5).

14 Ibid Sch 15 para 2(1)(e). In determining, for these purposes, whether any property, services or facilities provided for the use or benefit of a permitted participant is or are so provided otherwise than on commercial

terms (Sch 15 para 2(3)(b)), regard must be had to the total value in monetary terms of the consideration provided by or on behalf of the permitted participant in respect of the loan or the provision of the property, services or facilities (Sch 15 para 2(3)). See also note 13 supra.

15 Ibid Sch 15 para 2(1)(f).

16 Ibid Sch 15 para 2(4). In the circumstances mentioned in the text, the general provisions as to sponsorship (see the text and notes 23-31 *infra*) apply as well as the provision mentioned in head (2) in the text: Sch 15 para 2(4).

17 Ibid Sch 15 para 4(2). The value is determined in accordance with Sch 15 para 5 (see notes 9, 10, 13 *supra*). The Secretary of State may by order vary the sum for the time being specified in Sch 15 (as amended): see s 155; and PARA 304 note 36 *ante*. At the date at which this volume states the law, no such order had been made.

18 As to references to payments out of public funds see PARA 304 note 21 *ante*.

19 Political Parties, Elections and Referendums Act 2000 Sch 15 para 4(1)(a). For the meaning of 'designated organisation' see PARA 523 note 5 *ante*. The text refers to a grant other than a grant provided to a designated organisation by virtue of s 110(2) (see PARA 523 *ante*).

20 Ibid Sch 15 para 4(1)(b). The text refers to any right conferred on a designated organisation by virtue of s 110(4), Sch 12 (as amended) (see PARAS 523-526 *ante*).

21 Ibid Sch 15 para 4(1)(c).

22 Ibid Sch 15 para 4(1)(d). The text refers to a donation which is dealt with by the permitted participant in accordance with s 56(2)(a), (b) (as applied) (see PARA 540 *post*).

23 Ibid Sch 15 para 3(1)(a).

24 Ibid Sch 15 para 3(1)(b).

25 For this purpose, 'defined expenses' means expenses in connection with: (1) any conference, meeting or other event organised by or on behalf of the permitted participant (ibid Sch 15 para 3(2)(a)); (2) the preparation, production or dissemination of any publication by or on behalf of the permitted participant (Sch 15 para 3(2)(b)); or (3) any study or research organised by or on behalf of the permitted participant (Sch 15 para 3(2)(c)). For this purpose, 'publication' means a publication made available in whatever form and by whatever means, whether or not to the public at large or any section of the public: Sch 15 para 3(5). The Secretary of State may by order made on the recommendation of the Electoral Commission amend Sch 15 para 3(2) or Sch 15 para 3(3) (see the text and notes 28-31 *infra*): Sch 15 para 3(4). At the date at which this volume states the law, no such order had been made. As to the Secretary of State see PARA 2 *ante*; and as to the Electoral Commission see PARA 31 *et seq ante*.

26 Ibid Sch 15 para 3(1)(b)(i).

27 Ibid Sch 15 para 3(1)(b)(ii).

28 Ibid Sch 15 para 3(3)(a)(i). See note 25 *supra*.

29 Ibid Sch 15 para 3(3)(a)(ii). See note 25 *supra*.

30 Ibid Sch 15 para 3(3)(b). See note 25 *supra*.

31 Ibid Sch 15 para 3(3). See note 25 *supra*.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(i) General Framework for the Conduct of National and Regional Referendums/D. THE CAMPAIGN/(B) Controls on Donations received by certain Permitted Participants/539. Restrictions on permitted participants at a referendum accepting certain donations.

539. Restrictions on permitted participants at a referendum accepting certain donations.

For the purposes of controlling donations¹ to permitted participants² at a referendum³, a relevant donation⁴ received by a permitted participant must not be accepted⁵ if: (1) the person by whom the donation would be made is not, at the time of its receipt by the permitted participant, a permissible donor⁶; or (2) the permitted participant is, whether because the donation is given anonymously or by reason of any deception or concealment or otherwise, unable to ascertain the identity of the person offering the donation⁷. A 'permissible donor' referred to in head (1) above is any of the following: (a) an individual registered in an electoral register⁸; (b) a company registered under the Companies Act 1985 and incorporated within the United Kingdom⁹ or another member state which carries on business in the United Kingdom¹⁰; (c) a registered party¹¹; (d) a trade union entered in the list kept under the Trade Union and Labour Relations (Consolidation) Act 1992¹²; (e) a building society¹³; (f) a limited liability partnership registered under the Limited Liability Partnerships Act 2000 which carries on business in the United Kingdom¹⁴; (g) a friendly society registered under the Friendly Societies Act 1974¹⁵ or a society registered (or deemed to be registered) under the Industrial and Provident Societies Act 1965¹⁶; and (h) any unincorporated association of two or more persons which does not fall within any of heads (a) to (g) above but which carries on business or other activities wholly or mainly in the United Kingdom and whose main office is there¹⁷.

Where any person (the 'principal donor') causes an amount (the 'principal donation') to be received by a permitted participant by way of a relevant donation either on behalf of himself and one or more other persons¹⁸ or on behalf of two or more other persons¹⁹, then for the purposes of the provisions relating to the controls on donations received by permitted participants at a referendum²⁰, each individual contribution by such person of more than £200²¹ is treated as if it were a separate donation received from that person²².

Where any person (the 'agent') causes an amount to be received by a permitted participant by way of a donation on behalf of another person (the 'donor')²³, and the amount of the donation is more than £200²⁴, the agent must ensure that, at the time when the donation is received by the permitted participant, the responsible person is given all such details in respect of the donor as are required to be included in donation reports²⁵.

A person commits an offence if, without reasonable excuse, he fails to comply with the provisions which impose controls on donations made through other persons or through agents²⁶.

1 For the meaning of 'donation' see PARA 538 ante.

2 For the meaning of 'permitted participant' see PARA 521 ante; but see also PARA 538 note 6 ante.

3 Ie for the purposes of the Political Parties, Elections and Referendums Act 2000 s 119, Sch 15 (as amended). For the meaning of 'referendum' see PARA 519 ante.

4 For the meaning of 'relevant donation' see PARA 538 note 12 ante.

5 Political Parties, Referendums and Referendums Act 2000 Sch 15 para 6(1).

6 Ibid Sch 15 para 6(1)(a). The text refers to a permissible donor falling within s 54(2) (as amended) (see heads (a)-(h) in the text). For these purposes, any payment received by a designated organisation by virtue of s 110(2) (see PARA 523 ante) must be regarded as a donation received by the organisation from a permissible donor falling within s 54(2) (Sch 15 para 6(2)); and any relevant donation received by a permitted participant which is an exempt trust donation must be regarded as a relevant donation received by the permitted participant from a permissible donor (Sch 15 para 6(3)). However, any relevant donation received by a permitted participant from a trustee of any property (in his capacity as such) is regarded as being from a person who is not such a permissible donor if that donation is not: (1) an exempt trust donation; or (2) a relevant donation transmitted by the trustee to the permitted participant on behalf of beneficiaries under the trust who are either persons who, at the time of its receipt by the permitted participant, are such permissible donors or the members of an unincorporated association which at that time is such a permissible donor: Sch 15 para 6(4). In relation to donations received by a permitted participant other than a designated organisation (within the meaning given by s 110(5): see PARA 523 ante), references to a permissible donor falling within s 54(2) (as amended) do not include a registered party: Sch 15 para 1(6). For the meaning of 'registered party' see PARA 32 note 3 ante; and for the meaning of 'exempt trust donation' see PARA 293 note 7 ante.

7 Ibid Sch 15 para 6(1)(b).

8 Ibid s 54(2)(a). For the meaning of 'electoral register' for these purposes see PARA 293 note 9 ante.

9 For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

10 Political Parties, Referendums and Referendums Act 2000 s 54(2)(b). As to the registration and incorporation of companies see COMPANIES vol 14 (2009) PARA 24 et seq; and as to the control of contributions and other donations made by companies generally to registered parties and other European Union political organisations, and European Union political expenditure incurred by companies, see the Companies Act 1985 Pt XA (ss 347A-347K) (as added); and COMPANIES vol 14 (2009) PARA 688 et seq.

11 Political Parties, Referendums and Referendums Act 2000 s 54(2)(c) (amended by the European Parliamentary Referendums (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, art 4(2), Schedule paras 1, 12(a)).

12 Political Parties, Referendums and Referendums Act 2000 s 54(2)(d). As to the list referred to in the text see EMPLOYMENT vol 40 (2009) PARA 855. Unless certain conditions are met, the funds of a trade union may not be applied in the furtherance of certain political objects: see the Trade Union and Labour Relations (Consolidation) Act 1992 Pt I Ch VI (ss 71-96) (as amended); and EMPLOYMENT vol 40 (2009) PARA 924 et seq.

13 Political Parties, Referendums and Referendums Act 2000 s 54(2)(e). The text refers to a building society within the meaning of the Building Societies Act 1986 (see FINANCIAL SERVICES AND INSTITUTIONS vol 50 (2008) PARA 1856).

14 Political Parties, Referendums and Referendums Act 2000 s 54(2)(f). As to a limited liability partnership registered under the Limited Liability Partnerships Act 2000 see PARTNERSHIP vol 79 (2008) PARA 234 et seq.

15 As to friendly societies registered under the Friendly Societies Act 1974 see FINANCIAL SERVICES AND INSTITUTIONS vol 50 (2008) PARA 2084 et seq.

16 Political Parties, Referendums and Referendums Act 2000 s 54(2)(g). As to societies registered under the Industrial and Provident Societies Act 1965 see FINANCIAL SERVICES AND INSTITUTIONS vol 50 (2008) PARAS 2394, 2410 et seq.

17 Political Parties, Referendums and Referendums Act 2000 s 54(2)(h).

18 Ibid Sch 15 para 6(5)(a).

19 Ibid Sch 15 para 6(5)(b).

20 Ie for the purposes of ibid Sch 15 (as amended).

21 The Secretary of State may by order vary the sum for the time being specified in ibid Sch 15 (as amended): see s 155; and PARA 304 note 36 ante. At the date at which this volume states the law, no such order had been made.

22 Ibid Sch 15 para 6(5). In relation to each such separate donation, the principal donor must ensure that, at the time when the principal donation is received by the permitted participant, the responsible person is given, except in the case of a donation which the principal donor is treated as making, all such details in respect of the person treated as making the donation as are required by virtue of Sch 15 para 10(1)(c) (see PARA 542 post)

and, in any case, all such details in respect of the donation as are required by virtue of Sch 15 para 10(1)(a) (see PARA 542 post); Sch 15 para 6(6). For the meaning of 'responsible person' in relation to a registered party see PARA 521 note 23 ante; and for the meaning of 'responsible person' in relation to an individual or body which is not a registered party see PARA 521 note 32 ante.

23 Ibid Sch 15 para 6(7)(a).

24 Ibid Sch 15 para 6(7)(b). See note 21 supra.

25 Ibid Sch 15 para 6(7). The text refers to the details in respect of the donor that are required to be reported by virtue of Sch 15 para 10(1)(c) (see PARA 542 post).

26 See ibid Sch 15 para 6(8); and PARA 755 post. The text refers to failure to comply with Sch 15 para 6(6), (7) (see the text and notes 22-25 supra).

UPDATE

539 Restrictions on permitted participants at a referendum accepting certain donations

NOTE 10--Political Parties, Elections and Referendums Act 2000 s 54(2)(b) amended: SI 2009/1941.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(i) General Framework for the Conduct of National and Regional Referendums/D. THE CAMPAIGN/(B) Controls on Donations received by certain Permitted Participants/540. Acceptance or return of donations received by permitted participants at a referendum.

540. Acceptance or return of donations received by permitted participants at a referendum.

The provisions which require a registered party¹ to: (1) take all reasonable steps to identify a donor in order to ascertain whether he is a permissible donor²; and (2) where a donor is unidentifiable or impermissible, to return the donation to its source or to send it to the Electoral Commission³ or subject it to forfeiture on the application of the Commission⁴, apply, subject to minor modification, for the purposes of controlling donations⁵ to permitted participants⁶ at a referendum⁷ in relation to a permitted participant and any relevant donation⁸ received by a permitted participant as they apply in relation to a registered party and a donation received by a registered party⁹.

Accordingly, where a donation is received by a permitted participant¹⁰ and it is not immediately decided that the permitted participant should (for whatever reason) refuse the donation¹¹, all reasonable steps must be taken forthwith by or on behalf of the permitted participant party to verify (or, so far as any of the following is not apparent, ascertain) the identity of the donor, whether he is a permissible donor, and (if that appears to be the case) all such details in respect of the donor as are required to be included in donation reports¹². If a permitted participant receives a donation which it is prohibited from accepting¹³, or which it is decided that the permitted participant should for any other reason refuse¹⁴, then the donation, or a payment of an equivalent amount, must be sent back to the person who made the donation or any person appearing to be acting on his behalf¹⁵ (unless the permitted participant is unable to ascertain the identity of the person by whom the donation was made¹⁶, in which case the required steps¹⁷ must be taken in relation to the donation)¹⁸, within the period of 30 days beginning with the date when the donation is received by the permitted participant¹⁹. Unless the donation is so returned (or such steps are taken in relation to the donation) within the period of 30 days so mentioned²⁰, and unless a record can be produced of the receipt of the donation and of the return of the donation or the equivalent amount (or of the required steps being taken in relation to the donation, as the case may be)²¹ then, for these purposes, a donation received by a permitted participant is taken to have been accepted by the permitted participant²².

In England and Wales²³, a magistrates' court may, on an application made by the Commission, order the forfeiture by the permitted participant of an amount equal to the value of any donation²⁴ received by a permitted participant which²⁵ the permitted participant is prohibited from accepting²⁶ but which has been accepted by the permitted participant²⁷. The standard of proof in proceedings on such an application is that applicable to civil proceedings²⁸; and such an order may be made whether or not proceedings are brought against any person for an offence connected with the donation²⁹. Where such an order (a 'forfeiture order') is made by a magistrates' court³⁰, the permitted participant may, before the end of the period of 30 days beginning with the date on which any forfeiture order is made, appeal to the Crown Court³¹. Such an appeal is by way of a rehearing; and the court hearing such an appeal may make such order as it considers appropriate³². The standard of proof in relation to a rehearing on such an appeal remains that applicable to civil proceedings³³; and an appropriate order may be made whether or not proceedings are brought against any person for an offence connected with the donation³⁴. Any amount forfeited by an order made either on application or on appeal³⁵ must be

paid into the Consolidated Fund³⁶, although this does not apply: (a) where an appeal is made³⁷, before the appeal is determined or otherwise disposed of³⁸; and (b) in any other case, before the end of the period of 30 days beginning with the date on which any forfeiture order is made³⁹.

1 For the meaning of 'registered party' see PARA 32 note 3 ante.

2 Ie the Political Parties, Elections and Referendums Act 2000 s 56 (see the text and notes 10-22 infra). Nothing in Pt IV (ss 50-71) (as amended) affects minor parties (as to which see PARA 260 ante). For the meaning of 'permissible donor' see PARA 539 ante.

3 Ie *ibid* s 57 (see note 17 infra). See also note 2 supra. As to the Electoral Commission see PARA 31 et seq ante.

4 Ie *ibid* s 58 (as amended) (see the text and notes 23-29 infra). The registered party may appeal against a forfeiture order (see s 59 (as amended); and the text and notes 30-32 infra); and rules of court under s 60 (as amended) (see note 27 infra; and the text and notes 35-39 infra) may provide for the procedure on application or appeal under ss 58, 59 (as amended). See also note 2 supra.

5 For the meaning of 'donation' see PARA 538 ante.

6 For the meaning of 'permitted participant' see PARA 521 ante; but see also PARA 538 note 6 ante.

7 Ie for the purposes of the Political Parties, Elections and Referendums Act 2000 s 119, Sch 15 (as amended). For the meaning of 'referendum' see PARA 519 ante.

8 For the meaning of 'relevant donation' see PARA 538 note 12 ante.

9 Political Parties, Referendums and Referendums Act 2000 Sch 15 para 7(1). Accordingly, in the application of ss 56-60 (as amended) for these purposes: (1) s 56(1) has effect as if the reference to the particulars relating to a donor which would be required to be included in a donation report by virtue of ss 62, 63, Sch 6 para 2 (as amended) (identity of donors (quarterly reports): see CONSTITUTIONAL LAW AND HUMAN RIGHTS), if the donation were a recordable donation within the meaning of Sch 6 (as amended) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS), were construed as a reference to the particulars which are required to be included in a return by virtue of Sch 15 para 10(1)(c) (see PARA 542 post); and (2) the provisions of s 56(3), (4) have effect as if the reference to the treasurer of a registered party were construed as a reference to the responsible person in relation to the permitted participant: Sch 15 para 7(2). For the meaning of 'responsible person' in relation to a registered party see PARA 521 note 23 ante; and for the meaning of 'responsible person' in relation to an individual or body which is not a registered party see PARA 521 note 32 ante.

10 *Ibid* s 56(1)(a) (as applied: see the text and notes 1-9 supra).

11 *Ibid* s 56(1)(b) (as applied: see the text and notes 1-9 supra). Where a donation is received by a permitted participant in the form of an amount paid into any account held by the permitted participant with a financial institution, it is taken for these purposes to have been received by the permitted participant at the time when the permitted participant is notified in the usual way of the payment into the account: s 56(6) (as so applied).

12 *Ibid* s 56(1) (as applied and modified: see the text and notes 1-9 supra). The text refers to the details in respect of the donor that are required to be reported by virtue of Sch 15 para 10(1)(c) (see PARA 542 post).

13 Ie by virtue of *ibid* s 54(1), which is in similar terms to Sch 15 para 6(1) (see PARA 539 ante).

14 *Ibid* s 56(2) (as applied: see the text and notes 1-9 supra).

15 *Ibid* s 56(2)(a) (as applied: see the text and notes 1-9 supra). Where this provision applies in relation to a donation and the donation is not dealt with accordingly, the responsible person is guilty of an offence: see s 56(3) (as applied and modified); and PARA 755 post.

16 Ie unless the donation falls within *ibid* s 54(1)(b), which is in similar terms to Sch 15 para 6(1)(b) (see PARA 539 ante).

17 For these purposes, the required steps are as follows: (1) if the donation was transmitted by a person other than the donor, and the identity of that person is apparent, to return the donation to that person (*ibid* s 57(1)(a) (as applied: see the text and notes 1-9 supra)); (2) if head (1) supra does not apply but it is apparent that the donor has, in connection with the donation, used any facility provided by an identifiable financial

institution, to return the donation to that institution (s 57(1)(b) (as so applied)); and (3) in any other case, to send the donation to the Electoral Commission (s 57(1)(c) (as so applied); s 160(1)). Any reference to returning or sending a donation to any person or body includes a reference to sending a payment of an equivalent amount to that person or body (s 57(2) (as so applied)); and any amount sent to the Electoral Commission in pursuance of head (3) supra must be paid by it into the Consolidated Fund (s 57(3) (as so applied); s 160(1)). As to the Consolidated Fund see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 711 et seq; PARLIAMENT vol 78 (2010) PARAS 1028-1031.

18 Ibid s 56(2)(b) (as applied: see the text and notes 1-9 supra). Where this provision applies in relation to a donation and the donation is not dealt with accordingly, the responsible person is guilty of an offence: see s 56(4) (as applied and modified); and PARA 755 post.

19 Ibid s 56(2) (as applied: see the text and notes 1-9 supra).

20 Ibid s 56(5)(a) (as applied: see the text and notes 1-9 supra).

21 Ibid s 56(5)(b) (as applied: see the text and notes 1-9 supra).

22 Ibid s 56(5) (as applied: see the text and notes 1-9 supra).

23 For the meanings of 'England' and 'Wales' see PARA 13 note 1 ante.

24 Political Parties, Elections and Referendums Act 2000 s 58(2), (5)(a) (as applied: see the text and notes 1-9 supra).

25 Ie by virtue of ibid s 54(1)(a), (b), which is in similar terms to Sch 15 para 6(1)(a), (b) (see PARA 539 ante).

26 Ibid s 58(1)(a) (as applied: see the text and notes 1-9 supra).

27 Ibid s 58(1)(b) (as applied: see the text and notes 1-9 supra).

In relation to courts in any part of the United Kingdom, and without prejudice to the generality of any existing power to make rules, provision may be made by rules of court with respect to applications or appeals to any court under s 58 (as applied) or s 59 (as applied) (see the text and notes 30-32 infra), for the giving of notice of such applications or appeals to persons affected, and generally with respect to the procedure under those statutory provisions before any court: s 60(1), (2) (as so applied). In the case of a permitted participant which is not a body corporate: (1) proceedings under s 58 (as applied) or s 59 (as applied) must be brought against or by the party in its own name (and not in that of any of its members) (s 60(5)(a) (as so applied)); (2) for the purposes of any such proceedings any rules of court relating to the service of documents apply as if the permitted participant were a body corporate (s 60(5)(b) (as so applied)); and (3) any amount forfeited by an order under s 58 (as applied) or s 59 (as applied) must be paid out of the funds of the permitted participant (s 60(5)(c) (as so applied)). In Acts passed after 1889, in relation to any court, 'rules of court' means rules made by the authority having power to make rules or orders regulating the practice of that court: see the Interpretation Act 1978 Sch 1, Sch 2 para 4(1)(a); and STATUTES vol 44(1) (Reissue) PARA 1386.

28 Political Parties, Elections and Referendums Act 2000 s 58(3) (as applied: see the text and notes 1-9 supra). See note 27 supra.

29 Ibid s 58(4) (as applied: see the text and notes 1-9 supra). See note 27 supra.

30 Ibid s 59(1) (as applied: see the text and notes 1-9 supra). See note 27 supra.

31 Ibid s 59(2) (as applied: see the text and notes 1-9 supra). See note 27 supra.

32 Ibid s 59(3) (as applied: see the text and notes 1-9 supra). See note 27 supra.

33 Ibid ss 58(3), 59(4) (as applied: see the text and notes 1-9 supra). See note 27 supra.

34 Ibid ss 58(4), 59(4) (as applied: see the text and notes 1-9 supra). See note 27 supra.

35 Ie an order under ibid s 58 (as applied) (see the text and notes 23-29 supra) or s 59 (as applied) (see the text and notes 30-32 supra).

36 Ibid s 60(3) (as applied: see the text and notes 1-9 supra).

37 Ie under ibid s 59(2) (as applied) (see the text and note 31 supra).

38 Ibid s 60(4)(a) (as applied: see the text and notes 1-9 supra).

39 Ibid ss 59(2), 60(4)(b) (as applied: see the text and notes 1-9 supra).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(i) General Framework for the Conduct of National and Regional Referendums/D. THE CAMPAIGN/(B) Controls on Donations received by certain Permitted Participants/541. Evasion of restrictions on donations received by permitted participants at a referendum.

541. Evasion of restrictions on donations received by permitted participants at a referendum.

The provisions which create offences concerned with the evasion of restrictions on donations to a registered party¹ apply for the purposes of controlling relevant donations² received by permitted participants³ at a referendum⁴, subject to minor modification⁵.

1 Ie the Political Parties, Elections and Referendums Act 2000 s 61 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS). For the meaning of 'registered party' see PARA 32 note 3 ante.

2 For the meaning of 'relevant donation' see PARA 538 note 12 ante.

3 For the meaning of 'permitted participant' see PARA 521 ante; but see also PARA 538 note 6 ante.

4 Ie for the purposes of the Political Parties, Elections and Referendums Act 2000 s 119, Sch 15 (as amended). For the meaning of 'referendum' see PARA 519 ante.

5 See *ibid* Sch 15 para 8; and PARA 755 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(i) General Framework for the Conduct of National and Regional Referendums/D. THE CAMPAIGN/(B) Controls on Donations received by certain Permitted Participants/542. Statement of relevant donations received by permitted participants at a referendum.

542. Statement of relevant donations received by permitted participants at a referendum.

For the purposes of controlling donations¹ to permitted participants² at a referendum³, the responsible person⁴ in relation to a permitted participant must include, in any return required to be prepared in respect of referendum expenses⁴, a statement of relevant donations⁵ which complies with the requirement to report any donations received from persons who are permissible donors as well as those received from persons who are not permissible donors⁷.

Accordingly, in relation to each relevant donation accepted by the permitted participant where the value of the donation:

- 515 (1) is more than £5,000⁸; or
- 516 (2) when added to the value of any other donation or donations made by the same donor (whether or not falling within head (1) above), is more than that amount⁹,

the statement must record¹⁰: (a) the amount of the donation (if a donation of money, in cash or otherwise) or (in any other case) the nature of the donation and its value¹¹; (b) the date when the donation was accepted by the permitted participant¹²; (c) the information about the donor which is, in connection with recordable donations to registered parties, required to be recorded in donation reports¹³; (d) the total value of any relevant donations, other than those falling within head (1) or head (2) above, which are accepted by the permitted participant¹⁴; and (e) such other information as may be required by regulations made by the Electoral Commission¹⁵.

Where a relevant donation has been received from a person who is not a permissible donor (an 'impermissible donor')¹⁶, the statement must record: (i) the name and address of the donor¹⁷; (ii) the amount of the donation (if a donation of money, in cash or otherwise) or (in any other case) the nature of the donation and its value¹⁸; (iii) the date when the donation was received, and the date when, and the manner in which, it was dealt with in accordance with the provisions which regulate the handling of relevant donations made by impermissible donors¹⁹; (iv) such other information as is required by regulations made by the Commission²⁰. Where a relevant donation has been received from a person whose identity cannot be ascertained²¹, the statement must record: (A) details of the manner in which the donation was made²²; (B) the amount of the donation (if a donation of money, in cash or otherwise) or (in any other case) the nature of the donation and its value²³; (C) the date when the donation was received, and the date when and the manner in which it was dealt with in accordance with the provisions which regulate the handling of relevant donations made by persons whose identity cannot be ascertained²⁴; and (D) such other information as is required by regulations made by the Commission²⁵.

1 For the meaning of 'donation' see PARA 538 ante.

2 For the meaning of 'permitted participant' see PARA 521 ante; but see also PARA 538 note 6 ante.

3 le for the purposes of the Political Parties, Elections and Referendums Act 2000 s 119, Sch 15 (as amended). For the meaning of 'referendum' see PARA 519 ante.

4 For the meaning of 'responsible person' in relation to a registered party see PARA 521 note 23 ante; and for the meaning of 'responsible person' in relation to an individual or body which is not a registered party see PARA 521 note 32 ante.

4 le any return required to be prepared under the Political Parties, Elections and Referendums Act 2000 s 120 (see PARA 534 ante).

4 For the meaning of 'relevant donation' see PARA 538 note 12 ante.

7 Political Parties, Elections and Referendums Act 2000 Sch 15 para 9. The text refers to the requirement for a statement of relevant donations to comply with Sch 15 paras 10-11 (as amended) (see the text and notes 8-25 infra). For the meaning of 'permissible donor' see PARA 539 ante.

8 Ibid Sch 15 para 10(1), (2)(a). The Secretary of State may by order vary the sum for the time being specified in Sch 15 (as amended): see s 155; and PARA 304 note 36 ante. At the date at which this volume states the law, no such order had been made. As to the Secretary of State see PARA 2 ante.

9 Ibid Sch 15 para 10(1), (2)(b).

10 Ibid Sch 15 para 10(1).

11 Ibid Sch 15 para 10(1)(a). The value of the donation is determined in accordance with Sch 15 para 5 (see PARA 538 ante).

12 Ibid Sch 15 para 10(1)(b). As to the acceptance of donations made to a permitted participant see PARA 540 ante.

13 Ibid Sch 15 para 10(1)(c). The text refers to information about the donor which is required to be recorded in donation reports by virtue of ss 62, 63, Sch 6 para 2 (as amended) (identity of donors (quarterly reports): see CONSTITUTIONAL LAW AND HUMAN RIGHTS). In the case of a donation made by an individual who has an anonymous entry in an electoral register (within the meaning of the Representation of the People Act 1983: see PARA 174 ante), if the statement of relevant donations states that the permitted participant has seen evidence, of such description as is prescribed by the Secretary of State in regulations, that the individual donor has such an anonymous entry, the statement must be accompanied by a copy of the evidence: Political Parties, Elections and Referendums Act 2000 Sch 15 para 10(4) (added by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 24, 30). The evidence prescribed for the purposes of the Political Parties, Elections and Referendums Act 2000 Sch 15 para 10(4) (as added) is a certificate of anonymous registration issued pursuant to the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 45E (as added) (see PARA 182 ante): see the Political Donations and Regulated Transactions (Anonymous Electors) (England and Wales) Regulations 2006, SI 2006/2974, reg 3. As to the Secretary of State see PARA 2 ante; and as to the making of regulations under the Political Parties, Elections and Referendums Act 2000 generally see PARA 31 note 2 ante.

14 Ibid Sch 15 para 10(3)(a).

15 Ibid s 160(1), Sch 15 para 10(3)(b). Regulations made by the Electoral Commission are not statutory instruments and are not recorded in this work: see further PARA 42 ante. As to the Electoral Commission see PARA 31 et seq ante.

16 Ibid Sch 15 para 11(1), (2). The text refers to the circumstance where Sch 15 para 6(1)(a) applies (see PARA 539 ante).

17 Ibid Sch 15 para 11(2)(a).

18 Ibid Sch 15 para 11(2)(b). As to the ascertainment of value for these purposes see note 11 supra.

19 Ibid Sch 15 para 11(2)(c), (3). The text refers to dealing with the donation in accordance with s 56(2)(a) (as applied): see PARA 540 ante.

20 Ibid s 160(1), Sch 15 para 11(2)(d). As to the regulations referred to in the text see note 15 supra.

21 Ibid Sch 15 para 11(3). The text refers to the circumstance where Sch 15 para 6(1)(b) applies (see PARA 539 ante).

22 Ibid Sch 15 para 11(3)(a).

23 Ibid Sch 15 para 11(3)(b). As to the ascertainment of value for these purposes see note 11 supra.

24 Ibid Sch 15 para 11(3)(c). The text refers to dealing with the donation in accordance with s 56(2)(b) (as applied): see PARA 540 ante.

25 Ibid Sch 15 para 11(3)(d). As to the regulations referred to in the text see note 15 supra.

UPDATE

542 Statement of relevant donations received by permitted participants at a referendum

NOTE 13--SI 2006/2974 replaced: Political Donations and Regulated Transactions (Anonymous Electors) Regulations 2008, SI 2008/2869.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(i) General Framework for the Conduct of National and Regional Referendums/D. THE CAMPAIGN/(C) Publicity/543. Restriction on publication etc of promotional material by central and local government etc.

(C) PUBLICITY

543. Restriction on publication etc of promotional material by central and local government etc.

No material which: (1) provides general information about a referendum¹ to which the general framework provisions² apply; (2) deals with any of the issues raised by any question³ on which such a referendum is being held⁴; (3) puts any arguments for or against any particular answer⁵ to any such question⁶; or (4) is designed to encourage voting at such a referendum⁷, is to be published⁸ during the period of 28 days ending with the date of the poll (the 'relevant period')⁹ by or on behalf of any Minister of the Crown, government department or local authority¹⁰ or any other person or body whose expenses are defrayed wholly or mainly out of public funds¹¹ or by any local authority¹². However, this restriction on publication does not apply to: (a) material made available to persons in response to specific requests for information or to persons specifically seeking access to it¹³; (b) anything done by or on behalf of the Electoral Commission¹⁴ or a designated person or body¹⁵ to whom assistance is available¹⁶; (c) the publication of information relating to the holding of the poll¹⁷; or (d) the issue of press notices¹⁸.

Material which relates to a referendum which is published during a referendum period must include certain information to help identify who is behind referendum publications (and therefore who has incurred referendum expenses)¹⁹.

1 For the meaning of 'referendum' see PARA 519 ante.

2 Political Parties, Elections and Referendums Act 2000 s 125(1)(a). The text refers to the provisions of Pt VII (ss 101-129) (as amended).

3 As to the meaning of 'question' see PARA 519 note 8 ante.

4 Political Parties, Elections and Referendums Act 2000 s 125(1)(b).

5 As to the meaning of 'answer' see PARA 519 note 8 ante.

6 Political Parties, Elections and Referendums Act 2000 s 125(1)(c).

7 Ibid s 125(1)(d).

8 For these purposes, 'publish' means make available to the public at large, or any section of the public, in whatever form and by whatever means (and 'publication' is to be construed accordingly): ibid s 125(4)(a).

9 Ibid s 125(2), (4)(b).

10 Ibid s 125(2)(a).

11 As to references to payments out of public funds see PARA 304 note 21 ante.

12 Political Parties, Elections and Referendums Act 2000 s 125(2)(b). This provision is not to be taken as applying to the British Broadcasting Corporation ('the BBC') or Sianel Pedwar Cymru: s 125(3). As to the BBC see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 306 et seq; and as to Sianel Pedwar Cymru see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 396.

- 13 Ibid s 125(3)(a).
- 14 As to the Electoral Commission see PARA 31 et seq ante.
- 15 For the meaning of 'body' see PARA 53 note 2 ante.
- 16 Political Parties, Elections and Referendums Act 2000 ss 125(3)(b), 160(1). The text refers to a person or body designated under s 108 (see PARA 522 ante).
- 17 Ibid s 125(3)(c).
- 18 Ibid s 125(3)(d).
- 19 See ibid s 126 (as amended); and PARA 753 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(i) General Framework for the Conduct of National and Regional Referendums/D. THE CAMPAIGN/(C) Publicity/544. Referendum campaign broadcasts.

544. Referendum campaign broadcasts.

A broadcaster¹ must not include in its broadcasting services any referendum campaign broadcast made on behalf of any person or body² other than one designated to receive assistance³ in respect of the referendum⁴ in question⁵. For these purposes, 'referendum campaign broadcast' means any broadcast whose purpose (or main purpose) is or may reasonably be assumed to be to further any campaign⁶ conducted with a view to promoting or procuring a particular outcome⁷ in relation to any question⁸ asked in a referendum to which the general framework provisions⁹ apply or otherwise to promote or procure any such outcome¹⁰.

1 For the meaning of 'broadcaster' see PARA 304 note 43 ante.

2 For the meaning of 'body' see PARA 53 note 2 ante.

3 I.e. a person or body designated under the Political Parties, Elections and Referendums Act 2000 s 108 (see PARA 522 ante).

4 For the meaning of 'referendum' see PARA 519 ante.

5 Political Parties, Elections and Referendums Act 2000 s 127(1). Attempts to provide referendum broadcasts in the 1979 devolution referendums (the legal basis for which is cited in PARA 4 ante) foundered following the decision in the case of *Wilson v Independent Broadcasting Authority* 1979 SC 351, 1979 SLT 279, Ct of Sess (regulator's decision to allocate a broadcast to each of the four Scottish parliamentary political parties, which divided three to one in favour of devolution, had acted in breach of its statutory duty to ensure that programmes broadcast on the subject of the referendum maintained a proper balance). As to the broadcaster's general duty of impartiality see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 508.

6 For the meaning of 'referendum campaign' see PARA 527 note 4 ante.

7 For the meaning of 'outcome' see PARA 521 note 19 ante.

8 As to the meaning of 'question' see PARA 519 note 8 ante.

9 I.e. the Political Parties, Elections and Referendums Act 2000 Pt VII (ss 101-129) (as amended).

10 Ibid s 127(2).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(i) General Framework for the Conduct of National and Regional Referendums/E. THE BALLOT/(A) Counting Officers/545. Chief counting officers and counting officers for referendums.

E. THE BALLOT

(A) COUNTING OFFICERS

545. Chief counting officers and counting officers for referendums.

In relation to any referendum¹ to which the general framework provisions apply², there must be a chief counting officer for the referendum, who is either the chairman of the Electoral Commission³ or, if the chairman of the Commission appoints some other person to act as chief counting officer for the referendum, the person so appointed⁴. The chief counting officer for the referendum must appoint a counting officer for each relevant area in Great Britain⁵; and the local authority⁶ in the case of each such area must place the services of its officers at the disposal of the counting officer for the area for the purpose of assisting him in the discharge of his functions⁷.

Each counting officer must certify the number of ballot papers counted by him⁸ and the number of votes cast in favour of each answer⁹ to a question¹⁰ asked in the referendum¹¹, as respects the votes cast in the area for which he is appointed¹². The chief counting officer must certify the total number of ballot papers counted¹³ and the total number of votes cast in favour of each answer to a question asked in the referendum¹⁴, in the whole of the referendum area¹⁵.

1 For the meaning of 'referendum' see PARA 519 ante.

2 Ie the Political Parties, Elections and Referendums Act 2000 Pt VII (ss 101-129) (as amended).

3 Ibid ss 128(1), (2)(a), 160(1). As to the Electoral Commission see PARA 31 et seq ante; and as to the chairman of the Electoral Commission see PARA 32 ante.

4 Ibid s 128(1), (2)(b).

5 Ibid s 128(1), (3). For these purposes, 'relevant area in Great Britain' means any of the following: (1) a district in England or a London borough (s 128(9)(a)(i)); (2) the City of London (including the Inner and Middle Temples), the Isle of Wight or the Isles of Scilly (s 128(9)(a)(ii)); or (3) a county or county borough in Wales (s 128(9)(a)(iv)), where it is comprised in the referendum area (s 128(9)(a)). 'Referendum area' means the parts or part of the United Kingdom, or (as the case may be) the region in England, throughout which the referendum is held as mentioned in s 101(1) (see PARA 519 ante): s 128(9)(c). For the meanings of 'Great Britain', 'United Kingdom', 'England' and 'Wales' see PARA 13 note 1 ante. As to the Isles of Scilly and their council see PARA 10 ante; and LOCAL GOVERNMENT vol 69 (2009) PARA 36. As to districts in England and their councils, and county or county boroughs in Wales and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 22 et seq; and as to the London boroughs and the City of London (including the Temples) see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 30 et seq.

6 For these purposes, 'local authority' means, in the case of a district in England or a London borough or a county or county borough in Wales, the council for that area (ibid s 128(9)(b)(i)); and, in the case of the City of London (including the Inner and Middle Temples), the Isle of Wight or the Isles of Scilly, the Common Council of the City of London, the Council of the Isle of Wight or the Council of the Isles of Scilly, as the case may be (s 128(9)(b)(ii)). As to the Court of Common Council of the City of London see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 51 et seq.

7 Ibid s 128(1), (4).

8 Ibid s 128(1), (5)(a). Where two or more forms of ballot paper are used in the referendum, a separate number must be certified under s 128(5)(a) in relation to each form of ballot paper so used: s 128(7).

9 As to the meaning of 'answer' see PARA 519 note 8 ante.

10 As to the meaning of 'question' see PARA 519 note 8 ante.

11 Political Parties, Elections and Referendums Act 2000 s 128(1), (5)(b).

12 Ibid s 128(1), (5).

13 Ibid s 128(1), (6)(a). Where two or more forms of ballot paper are used in the referendum, a separate number must be certified under s 128(6)(a) in relation to each form of ballot paper so used: s 128(7).

14 Ibid s 128(1), (6)(b).

15 Ibid s 128(1), (6).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(i) General Framework for the Conduct of National and Regional Referendums/E. THE BALLOT/(B) Power to make Rules for the Conduct of Referendums/546. Orders regulating conduct of referendums.

(B) POWER TO MAKE RULES FOR THE CONDUCT OF REFERENDUMS

546. Orders regulating conduct of referendums.

The Secretary of State¹ may by order² make such provision as he considers expedient for or in connection with regulating the conduct of referendums³ to which the general framework provisions apply⁴. However, such an order does not apply in relation to any referendum in relation to which specific provision is made by any other enactment for or in connection with regulating any matters relating to the conduct of the referendum, except to such extent (if any) as may be provided by that enactment⁵.

Before making such an order, the Secretary of State must consult the Electoral Commission⁶.

1 As to the Secretary of State see PARA 2 ante.

2 Such an order may, in particular, make provision for the creation of offences and apply (with or without modification) any provision of any enactment; and different provision may be so made in relation to different parts of the United Kingdom: Political Parties, Elections and Referendums Act 2000 s 129(2). See note 4 infra. For the meaning of 'United Kingdom' see PARA 13 note 1 ante. As to the meaning of 'modification' see PARA 39 note 9 ante; and as to the meaning of 'enactment' see PARA 48 note 2 ante.

3 For the meaning of 'referendum' see PARA 519 ante.

4 Political Parties, Elections and Referendums Act 2000 s 129(1). The text refers to the provisions of Pt VII (ss 101-129) (as amended). See the Regional Assembly and Local Government Referendums Order 2004, SI 2004/1962; and PARA 547 et seq post.

5 Political Parties, Elections and Referendums Act 2000 s 129(3).

6 Ibid ss 129(4), 160(1). As to the Electoral Commission see PARA 31 et seq ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(ii) Referendums on Regional Assemblies/547. Framework for the holding of referendums on regional assemblies.

(ii) Referendums on Regional Assemblies

547. Framework for the holding of referendums on regional assemblies.

Within the general framework provisions which apply to certain referendums held in England¹, the Regional Assemblies (Preparations) Act 2003 provides for the holding of referendums about the establishment of elected assemblies for certain regions of England (except London) ('assembly referendums')². The Act also requires the Secretary of State to hold referendums ('local government referendums') in areas with two tiers of local authorities regarding the government's proposed options for single-tier local government in those areas³. Provision is made for the polls at such referendums to be combined⁴.

The Act also makes provision for the Electoral Commission⁵ to give advice in connection with the establishment of assemblies⁶; for questioning the number of ballot papers or votes cast in a referendum⁷; for reviewing the structure of local government in regions where the holding of a referendum is under consideration⁸; and for the payment of grant in connection with the activities of regional chambers⁹.

1 Ie the Political Parties, Elections and Referendums Act 2000 Pt VII (ss 101-129) (as amended) (see PARA 519 et seq ante).

2 See the Regional Assemblies (Preparations) Act 2003 ss 1, 3-6; and PARA 548 post.

3 See *ibid* ss 2-6; and PARA 549 post.

4 See *ibid* s 7; and PARA 550 post.

5 As to the Electoral Commission see PARA 31 et seq ante.

6 See the Regional Assemblies (Preparations) Act 2003 ss 8-10, Pt 3 (ss 21-24); and PARA 552 post.

7 See *ibid* s 11; and PARA 551 post.

8 See *ibid* Pt 2 (ss 13-20); and PARA 553 post.

9 See *ibid* s 25.

UPDATE

547-553 Referendums on Regional Assemblies

Regional Assemblies (Preparations) Act 2003 repealed: Local Democracy, Economic Development and Construction Act 2009 Sch 7 Pt 4.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(i) NATIONAL AND REGIONAL REFERENDUMS/(ii) Referendums on Regional Assemblies/548. Regional assembly referendums.

548. Regional assembly referendums.

The Secretary of State¹ may by order cause a referendum² to be held in a region specified in the order³ about the establishment of an elected assembly for that region⁴. The date of the referendum must be specified in the order⁵; and, for the purposes of the general framework provisions which apply to certain referendums⁶, the Secretary of State must by order determine the referendum period for such a referendum⁷. However, the Secretary of State must not make an order to hold a referendum unless each of the following two conditions is satisfied in relation to the region⁸, namely: (1) that the Secretary of State has considered the level of interest in the region in the holding of such a referendum⁹; and (2) that the Boundary Committee for England¹⁰ has made recommendations in relation to the region¹¹. If a referendum is held in a region in pursuance of such an order¹² and a majority of the votes cast in the referendum is against there being an elected assembly for the region¹³, no further such order may be made in relation to the region until the end of the period of seven years starting with the day on which the referendum was held¹⁴.

1 As to the Secretary of State see PARA 2 ante.

2 For the meaning of 'referendum' see PARA 519 ante; definition applied by virtue of the Regional Assemblies (Preparations) Act 2003 s 12(5).

3 The Secretary of State may make the order at any time during the period of two years starting with the date on which he gives a direction under *ibid* s 13 (see PARA 553 post) in relation to the region so long as before he makes the order he has no cause to think that the level of interest has changed materially: s 1(6). A change in the level of interest is material if the changed level is one at which the Secretary of State (disregarding factors relating to any other region) thinks he would not have given a direction under s 13: s 1(7). If the Secretary of State has cause to think that the level of interest has changed materially as mentioned in s 1(6), that provision does not apply but he must not make an order under s 1(1) (see the text and note 4 *infra*) unless, for the purposes of s 1(4) (see the text and note 9 *infra*), he considers views expressed and information and evidence provided to him and such published material as he thinks appropriate: s 1(8).

4 *Ibid* s 1(1). As to the questions to be asked at such a referendum see s 3; and as to the entitlement to vote at such a referendum see s 4(1). As to the power of a Minister of the Crown to make provision, under the Political Parties, Elections and Referendums Act 2000 s 129 (see PARA 546 ante), regulating the conduct of referendums for or in connection with an assembly referendum see the Regional Assemblies (Preparations) Act 2003 s 12; and as to rules so made see the Regional Assembly and Local Government Referendums Order 2004, SI 2004/1962, art 3, Sch 1 Pt I (rr 1-19) (general provisions; ballot packs), Sch 1 Pt II (rr 20-35) (return of ballot papers), Sch 1 Pt III (rr 36-54) (receipt by the counting officer of ballot papers), Sch 1 Pt IV (rr 55-59) (the count), Sch 1 Pt V (rr 60-61) (final proceedings), Sch 1 Pt VI (rr 62-65) (disposal of documents).

5 Regional Assemblies (Preparations) Act 2003 s 1(2). The Secretary of State may by order vary or revoke an order under s 1 if he thinks it is not appropriate for a referendum to be held on the date specified in the order: s 1(9).

6 *Ie* for the purposes of the Political Parties, Elections and Referendums Act 2000 Pt VII (ss 101-129) (as amended), which (*inter alia*) imposes limits on expenditure and controls on the publication of referendum-related material during the referendum period (see PARA 519 *et seq* ante).

7 Regional Assemblies (Preparations) Act 2003 s 5. See the Regional Assembly and Local Government Referendums (Date of Referendums, Referendum Question and Explanatory Material) (North East Region) Order 2004, SI 2004/1963. As to the referendum period see PARA 519 ante; provisions applied by virtue of the Regional Assemblies (Preparations) Act 2003 s 12(5).

8 *Ibid* s 1(3).

9 Ibid s 1(4).

10 As to the Boundary Committee for England see PARA 60 et seq ante.

11 Regional Assemblies (Preparations) Act 2003 s 1(5). As to the review of the structure of local government in regions where the holding of a referendum is under consideration see PARA 553 post.

12 Ibid s 6(1)(a).

13 Ibid s 6(1)(b). Any question as to the number of votes cast in a referendum in favour of an answer to a question is determined by the certificate of the chief counting officer given under the Political Parties, Elections and Referendums Act 2000 s 128 (functions of chief counting officer: see PARA 545 ante): Regional Assemblies (Preparations) Act 2003 s 6(3).

14 Ibid s 6(2).

UPDATE

547-553 Referendums on Regional Assemblies

Regional Assemblies (Preparations) Act 2003 repealed: Local Democracy, Economic Development and Construction Act 2009 Sch 7 Pt 4.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(ii) Referendums on Regional Assemblies/549. Local government referendums.

549. Local government referendums.

If the Secretary of State¹ makes an order² to cause a referendum³ to be held in a region about the establishment of an elected assembly for that region⁴, he must by order cause a referendum to be held in each county area⁵ in the region about the government's proposals for the structure of local government in that area⁶.

The government's proposals for the structure of local government: (1) are such of the recommendations of the Boundary Committee for England made in pursuance of a direction⁷ as the Secretary of State thinks appropriate subject to such modifications (if any) as he proposes to make⁸; and (2) must include at least two options for structural change⁹ in relation to each county area in the region¹⁰.

The date of a referendum held in pursuance of such an order must be specified in the order¹¹ and must be the same date as the date specified in the order to cause a referendum to be held in a region about the establishment of an elected assembly for that region¹². For the purposes of the general framework provisions which apply to certain referendums¹³, the Secretary of State must by order also determine the referendum period for such a referendum¹⁴.

If in any proceedings any certificate given by a person appointed for the purpose as to the number of votes cast in favour of any option in a referendum held in a county area in pursuance of an order causing such a referendum to be held is declared or held to be invalid¹⁵, the Secretary of State may by order cause a further referendum to be held in that county area¹⁶.

1 As to the Secretary of State see PARA 2 ante.

2 Ie under the Regional Assemblies (Preparations) Act 2003 s 1 (see PARA 548 ante).

3 For the meaning of 'referendum' see PARA 519 ante; definition applied by virtue of ibid s 12(5).

4 Ibid s 2(1).

5 A county area is an area in the region in relation to which both a county council and one or more district councils have functions (ibid s 2(3)); but if the government's proposals for a county area include an option providing for a local authority whose area includes any part of the area of more than one county area, the county area for these purposes is the combined area of each of those county areas (s 2(4)).

6 Ibid s 2(2). As to the questions to be asked at such a referendum see s 3; and as to the entitlement to vote at such a referendum see s 4(2). As to the power of a Minister of the Crown to make provision, under the Political Parties, Elections and Referendums Act 2000 s 129 (see PARA 546 ante), regulating the conduct of referendums for or in connection with an assembly referendum see the Regional Assemblies (Preparations) Act 2003 s 12; and as to rules so made see the Regional Assembly and Local Government Referendums Order 2004, SI 2004/1962, art 3, Sch 1 Pt I (rr 1-19) (general provisions; ballot packs), Sch 1 Pt II (rr 20-35) (return of ballot papers), Sch 1 Pt III (rr 36-54) (receipt by the counting officer of ballot papers), Sch 1 Pt IV (rr 55-59) (the count), Sch 1 Pt V (rr 60-61) (final proceedings), Sch 1 Pt VI (rr 62-65) (disposal of documents).

An order under the Regional Assemblies (Preparations) Act 2003 s 2(2) must not be made before the end of the period of six weeks starting with the day on which the Secretary of State receives the recommendations of the Boundary Committee for England in pursuance of a direction under s 13(1) or s 16(4) (see PARA 553 post): s 2(7). As to the Boundary Committee for England see PARA 60 et seq ante. The Secretary of State by order may vary an order under s 2(2) and he must revoke such an order if he revokes the order under s 1 (see PARA 548 ante): s 2(8). A Minister of the Crown may by order make such provision as he thinks appropriate in connection with a referendum held in pursuance of an order under s 2(2) (s 2(9)); and such an order may make provision

for the creation of offences, apply or incorporate with or without modifications or exceptions any provision of any enactment, whenever passed or made and including the Regional Assemblies (Preparations) Act 2003, relating to elections or referendums, and modify any provision of the Political Parties, Elections and Referendums Act 2000 Pt VII Ch II (ss 111-124) (as amended) (financial controls: see PARA 527 et seq ante) as it applies to a referendum held in pursuance of an order under the Regional Assemblies (Preparations) Act 2003 s 1 (s 2(10)). As to orders so made see the Regional Assembly and Local Government Referendums (Expenses Limits for Permitted Participants) Order 2004, SI 2004/1961; the Regional Assembly and Local Government Referendums Order 2004, SI 2004/1962; and the Regional Assembly and Local Government Referendums (Date of Referendums, Referendum Question and Explanatory Material) (North East Region) Order 2004, SI 2004/1963.

7 le under the Regional Assemblies (Preparations) Act 2003 s 13(1) or s 16(4) (see PARA 553 post).

8 Ibid s 2(5)(a). The text refers to proposals for modifications made in pursuance of s 17(3) (see PARA 553 post).

9 le within the meaning of the Local Government Act 1992 Pt II (ss 12-27) (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 54 et seq).

10 Regional Assemblies (Preparations) Act 2003 s 2(5)(b).

11 Ibid s 2(6)(a).

12 Ibid s 2(6)(b). The text refers to the date specified in the order under s 1 (see PARA 548 ante).

13 le for the purposes of the Political Parties, Elections and Referendums Act 2000 Pt VII (ss 101-129) (as amended), which (inter alia) imposes limits on expenditure and controls on the publication of referendum-related material during the referendum period (see PARA 519 et seq ante).

14 Regional Assemblies (Preparations) Act 2003 s 5. See the Regional Assembly and Local Government Referendums (Date of Referendums, Referendum Question and Explanatory Material) (North East Region) Order 2004, SI 2004/1963. As to the referendum period see PARA 519 ante; provisions applied by virtue of the Regional Assemblies (Preparations) Act 2003 s 12(5).

15 Ibid s 6(4).

16 Ibid s 6(5). As to the holding of a further referendum as mentioned in the text see s 6(5)(a)-(c), (6)-(11).

UPDATE

547-553 Referendums on Regional Assemblies

Regional Assemblies (Preparations) Act 2003 repealed: Local Democracy, Economic Development and Construction Act 2009 Sch 7 Pt 4.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(ii) Referendums on Regional Assemblies/550. Combination of polls at referendums on regional assemblies.

550. Combination of polls at referendums on regional assemblies.

A Minister of the Crown may by order make provision for the combination of polls¹ at a referendum² held in pursuance of an order regarding the establishment of an elected assembly for a region³ or in pursuance of an order regarding the government's proposals for the structure of local government in each county area⁴ in the region⁵. The polls may be combined one with another⁶ or with polls at a referendum held under the Local Government Act 2000⁷ on proposals for the operation of executive arrangements involving certain forms of executive⁸ or with polls at any election⁹.

1 Such an order may make provision in connection with the combination of polls, including the creation of offences, and may apply or incorporate with or without modifications or exceptions any provision of any enactment (whenever passed or made) relating to elections or referendums: Regional Assemblies (Preparations) Act 2003 s 7(2). As to the meaning of 'modification' see PARA 39 note 9 ante; and as to the meaning of 'enactment' see PARA 48 note 2 ante.

2 For the meaning of 'referendum' see PARA 519 ante; definition applied by virtue of *ibid* s 12(5).

3 *Ie* a referendum held under *ibid* s 1 (see PARA 548 ante).

4 As to county areas for these purposes see PARA 549 note 5 ante.

5 Regional Assemblies (Preparations) Act 2003 s 7(1). The text refers to a referendum held under s 2(2) (see PARA 549 ante).

6 *Ibid* s 7(1). See the Regional Assembly and Local Government Referendums Order 2004, SI 2004/1962.

7 *Ie* under the Local Government Act 2000 s 27 or by virtue of regulations or an order under Pt II (ss 10-48) (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARAS 314, 316 et seq). As to the conduct of such a referendum see PARA 560 et seq post.

8 Regional Assemblies (Preparations) Act 2003 s 7(1)(a).

9 *Ibis* s 7(1)(b).

UPDATE

547-553 Referendums on Regional Assemblies

Regional Assemblies (Preparations) Act 2003 repealed: Local Democracy, Economic Development and Construction Act 2009 Sch 7 Pt 4.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(ii) Referendums on Regional Assemblies/551. Legal challenge to referendum held on regional assemblies.

551. Legal challenge to referendum held on regional assemblies.

No court may entertain any proceedings for questioning: (1) the number of ballot papers or votes cast in an assembly referendum held in pursuance of an order regarding the establishment of an elected assembly for a region¹, as certified by the chief counting officer for the referendum or by a counting officer²; or (2) the number of ballot papers or votes cast in a local government referendum held in each county area³ in a region in pursuance of an order⁴, as certified by a person appointed for the purpose⁵, unless the proceedings are brought by a claim for judicial review⁶. The court must not give permission for the claim unless the claim form is filed before the end of the period of six weeks starting with the certificate date⁷.

1 Ie a referendum held under the Regional Assemblies (Preparations) Act 2003 s 1 (see PARA 548 ante).

2 Ibid s 11(1)(a). As to the appointment of the chief counting officer and other counting officers for the purposes of referendums to which the Political Parties, Elections and Referendums Act 2000 Pt VII (ss 101-129) (as amended) applies see PARA 545 ante.

3 As to county areas for these purposes see PARA 549 note 5 ante.

4 Ie an order under the Regional Assemblies (Preparations) Act 2003 s 2(2) (see PARA 549 ante).

5 Ibid s 11(1)(b). The text refers to a person appointed for the purpose in pursuance of an order under s 2(9) (see PARA 549 ante).

6 Ibid s 11(1), (2).

7 Ibid s 11(3). For these purposes, the certificate date is: (1) the date on which a certificate as to the matters mentioned in head (1) or head (2) in the text is given by the chief counting officer, counting officer or other person mentioned in head (2) in the text (s 11(4)(a)); or (2) if there is more than one such certificate in a referendum, the date on which the last such certificate is given (s 11(4)(b)).

UPDATE

547-553 Referendums on Regional Assemblies

Regional Assemblies (Preparations) Act 2003 repealed: Local Democracy, Economic Development and Construction Act 2009 Sch 7 Pt 4.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(ii) Referendums on Regional Assemblies/552. Role of the Electoral Commission at referendums on regional assemblies and structure of local government.

552. Role of the Electoral Commission at referendums on regional assemblies and structure of local government.

The Electoral Commission¹ may do anything it thinks necessary or expedient for the purpose of encouraging voting at referendums² to be held in pursuance of an order made in respect of an assembly or local government referendum³.

If the Secretary of State⁴ makes an order⁵ to cause a referendum to be held in a region about the establishment of an elected assembly for the region⁶ and, before the appropriate day⁷, the Commission has not designated an organisation in relation to each possible outcome of the referendum⁸, the Commission may take such steps as it thinks appropriate to provide for persons entitled to vote in the referendum⁹ such information as the Commission thinks is likely to promote awareness among those persons about the arguments for and against each answer¹⁰ to the referendum question¹¹. If the Secretary of State makes an order¹² to cause a referendum to be held about the government's proposals for the structure of local government¹³, the Commission may take such steps as it thinks appropriate to provide for persons entitled to vote in the referendum such information as the Commission thinks is likely to promote awareness among those persons about the arguments relating to the options in those proposals¹⁴. Information provided in pursuance of these provisions must be provided by the means the Commission thinks is most likely to secure (in the most cost effective way) that the information comes to the notice of all persons entitled to vote in the referendum¹⁵.

A Minister of the Crown (with the consent of the Treasury¹⁶) may by order make provision for the payment by the Commission of: (1) the charges in respect of services properly rendered or expenses properly incurred by a counting officer¹⁷ in connection with a referendum held in pursuance of an order¹⁸; and (2) the sum equal to any increase in the superannuation contributions required to be paid by a local authority in respect of any person in consequence of a fee paid as part of a counting officer's charges under head (1) above¹⁹. Such an order may include provision as to: (a) the services and expenses or descriptions of services and expenses in respect of which payment may be made²⁰; (b) the maximum amount to be paid or reimbursed in respect of such services and expenses or descriptions of services and expenses²¹; (c) payments in advance²²; (d) accounts to be submitted²³.

Provision is made also for the Commission to give advice in pursuance of a direction issued by the Secretary of State in relation to a region in which a referendum has been held in pursuance of an order regarding the establishment of an elected assembly for the region²⁴ and where the Secretary of State proposes that an elected assembly is established for the region²⁵.

1 As to the Electoral Commission see PARA 31 et seq ante.

2 For the meaning of 'referendum' see PARA 519 ante; definition applied by virtue of the Regional Assemblies (Preparations) Act 2003 s 12(5).

3 Ibid s 8. The text refers to referendums to be held in pursuance of an order under Pt 1 (ss 1-12) (see PARA 547 et seq ante).

4 As to the Secretary of State see PARA 2 ante.

5 Ie under the Regional Assemblies (Preparations) Act 2003 s 1 (see PARA 548 ante).

6 Ibid s 9(1)(a).

7 The appropriate day is: (1) the forty-third day of the referendum period if one or more applications under the Political Parties, Elections and Referendums Act 2000 s 109 (applications for assistance under s 110: see PARA 523 ante) is made before the twenty-ninth day of the referendum period in relation to each possible outcome of the referendum (Regional Assemblies (Preparations) Act 2003 s 9(3)(a)); and (2) the twenty-ninth day of the referendum period in any other case (s 9(3)(b)). However, if a Minister of the Crown makes an order under the Political Parties, Elections and Referendums Act 2000 s 109(6) (see PARA 522 ante), the appropriate day is the day specified in the order for the purposes of the Regional Assemblies (Preparations) Act 2003 s 9: s 9(4). As to the referendum period see PARA 519 ante; and for the meaning of 'outcome' see PARA 521 note 19 ante (provisions applied by virtue of s 12(5)).

8 Ibid s 9(1)(b). The text refers to the designation, in relation to each possible outcome of the referendum, of an organisation under the Political Parties, Elections and Referendums Act 2000 s 108 (see PARA 522 ante).

9 As to the entitlement to vote at such a referendum see the Regional Assemblies (Preparations) Act 2003 s 4; and PARA 548 ante.

10 As to the meaning of 'answer' see PARA 519 note 8 ante; definition applied by virtue of ibid s 12(5).

11 Ibid s 9(2). By virtue of s 12(5), as to the meaning of 'question' see PARA 519 note 8 ante.

12 Ie under ibid s 2(2) (see PARA 549 ante).

13 Ibid s 9(5).

14 Ibid s 9(6). As to the entitlement to vote at such a referendum see s 4; and PARA 549 ante.

15 Ibid s 9(7).

16 As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 512-517.

17 As to the appointment of the chief counting officer and other counting officers for the purposes of referendums to which the Political Parties, Elections and Referendums Act 2000 Pt VII (ss 101-129) (as amended) applies see PARA 545 ante. For these purposes, 'counting officer' includes a person appointed in pursuance of an order under the Regional Assemblies (Preparations) Act 2003 s 2(9) (see PARA 549 ante) for the purpose of certifying the number of ballot papers or votes cast in a referendum held in pursuance of an order under s 2(2) (see PARA 549 ante): s 10(3).

18 Ibid s 10(1)(a). The text refers to referendums to be held in pursuance of an order under Pt 1 (ss 1-12) (see PARA 547 et seq ante). See the Regional Assembly and Local Government Referendums (Counting Officers' Charges) Order 2004, SI 2004/2105.

19 Regional Assemblies (Preparations) Act 2003 s 10(1)(b). See note 18 supra.

20 Ibid s 10(2)(a). See note 18 supra.

21 Ibid s 10(2)(b). See note 18 supra.

22 Ibid s 10(2)(c). See note 18 supra.

23 Ibid s 10(2)(d). See note 18 supra.

24 Ie an order under ibid s 1 (see PARA 548 ante).

25 See ibid ss 21-24.

UPDATE

547-553 Referendums on Regional Assemblies

Regional Assemblies (Preparations) Act 2003 repealed: Local Democracy, Economic Development and Construction Act 2009 Sch 7 Pt 4.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(ii) Referendums on Regional Assemblies/553. Local government reviews.

553. Local government reviews.

If the Secretary of State¹ is considering whether to cause a referendum² to be held in a region about the establishment of an elected assembly for the region³, he may direct the Boundary Committee for England⁴: (1) to carry out a local government review of the region⁵; (2) to make recommendations as to the matters considered by the review⁶. However, the Secretary of State must not give a direction unless he has considered the level of interest in the region in the holding of a referendum⁷. Such a direction may require the Boundary Committee to start the review not later than a specified date⁸ and/or to make its recommendations not later than a specified date⁹. However, the Secretary of State must not give a direction containing such requirements unless he has consulted the Boundary Committee as to the dates he proposes to specify¹⁰.

A review conducted in pursuance of a direction as mentioned in head (1) above is carried out by the Boundary Committee under specified provisions of the Local Government Act 1992, subject to modifications¹¹.

The recommendations made by the Boundary Committee in pursuance of a direction as mentioned in head (2) above must include at least two options for structural change in relation to each county area in the region¹². At any time after he receives the recommendations, the Secretary of State may direct the Boundary Committee to supply him with additional information or advice¹³ or reject one or more of the options¹⁴. If the Secretary of State rejects one or more of the options, he may direct the Boundary Committee either: (a) to make different recommendations¹⁵; or (b) to carry out a further local government review of the region and to make further recommendations¹⁶.

If a referendum has been held in the region¹⁷ and the Secretary of State proposes that an elected assembly is established for the region¹⁸, he may by order give effect to all or any of the recommendations of the Boundary Committee made to him in pursuance of a direction under head (1) or head (2) above or under head (a) or head (b) above¹⁹. Specified provisions of the Local Government Act 1992 apply, subject to modifications, for the purposes of implementing such recommendations²⁰.

1 As to the Secretary of State see PARA 2 ante.

2 For the meaning of 'referendum' see PARA 519 ante; definition applied by virtue of the Regional Assemblies (Preparations) Act 2003 s 12(5).

3 As to such a referendum see PARA 548 ante.

4 Regional Assemblies (Preparations) Act 2003 s 13(1). As to the Boundary Committee for England see PARA 60 et seq ante. A direction under s 13 may be varied or revoked by a subsequent direction: s 13(10).

5 Ibid s 13(1)(a). A local government review is a review to consider appropriate structural change for the region and whether any boundary changes should be made in the region in connection with or to facilitate the carrying out of the structural change: s 14(1), (3). The Boundary Committee must not consider any boundary change in relation to: (1) any area in the region which is not the area of a relevant local authority unless it has the effect that any part of the area of a relevant local authority becomes part of the area of a local authority which is not a relevant local authority (s 14(1), (5)(a)); or (2) any area outside the region (s 14(1), (5)(b)). Relevant local authorities are the county council and district council for any area in the region in relation to which both councils have functions: s 14(1), (4). The Council of the Isles of Scilly is not a relevant local authority

for these purposes but the Secretary of State may by regulations make such provision as he thinks appropriate in relation to the Isles of Scilly in consequence of anything done under or by virtue of Pt 2 (ss 13-20): s 20. As to districts and counties in England and their councils see LOCAL GOVERNMENT vol 69 (2009) PARA 24 et seq. As to the Council of the Isles of Scilly see PARA 10 ante; and LOCAL GOVERNMENT vol 69 (2009) PARA 36.

In carrying out its functions under Pt 2, the Boundary Committee must: (a) assume that there is an elected assembly for the region (s 14(1), (8)(a)); (b) recommend structural change for so much of the area of the region as is comprised of the areas of all of the relevant local authorities in the region (s 14(1), 4(8)(b)); (c) have regard to the need to reflect the identities and interests of local communities (s 14(1), (8)(c)); (d) have regard to the need to secure effective and convenient local government (s 14(1), (8)(d)); (e) have regard to guidance issued by the Secretary of State (s 14(1), (8)(e)). The Boundary Committee may require a public body to give it such information as it reasonably requires in connection with its functions under Pt 2 (s 14(1), (6)); and a public body must comply with such a requirement (s 14(1), (7)). The Secretary of State may pay to the Electoral Commission such amount as he decides is the amount required by it to enable the Boundary Committee to carry out its functions under Pt 2 (s 19(1)); and such payment must be treated as income received by the Commission for the purposes of the Political Parties, Elections and Referendums Act 2000 s 1(6), Sch 1 para 14 (see PARA 39 ante) (Regional Assemblies (Preparations) Act 2003 s 19(2)). As to the Electoral Commission see PARA 31 et seq ante.

6 Ibid s 13(1)(b).

7 Ibid s 13(2). If at any time the Secretary of State is considering whether to cause a referendum to be held in two or more regions he may consider (for the purpose of deciding in respect of which (if any) regions to give a direction) any differences in the levels of interest in the different regions in the holding of a referendum: s 13(3). For these purposes, the Secretary of State must consider views expressed and information and evidence provided to him and such published material as he thinks appropriate: s 13(4). For the purposes of deciding in respect of which (if any) regions to give a direction the Secretary of State may also consider: (1) the effects he thinks the carrying out of a local government review will have on the relevant local authorities (taken as a whole) in the region (s 13(5)(a)); (2) differences in the effects he thinks the carrying out of local government reviews will have on the relevant local authorities (taken as a whole) in different regions (s 13(5)(b)); (3) the implications for the Boundary Committee of the making of directions in respect of two or more regions at the same time or in close proximity of time (s 13(5)(c)); (4) the resources needed for the Boundary Committee to carry out local government reviews (s 13(5)(d)); (5) whether the Boundary Committee has made any recommendations in respect of a region in pursuance of an earlier direction under s 13 (s 13(5)(e)). For the purposes of heads (1) and (2) supra, the Secretary of State must have regard (in particular) to the number of relevant local authorities in a region and the number of people living in the areas of those authorities and he must ignore any effect of the implementation of recommendations of the Boundary Committee following a review: s 13(6). The number of people living in an area is taken to be the most recent estimate of that number published by the Office for National Statistics: s 14(1), (2).

8 Ibid s 13(8)(a).

9 Ibid s 13(8)(b).

10 Ibid s 13(9).

11 See s 15. The provisions of the Local Government Act 1992 specified in the Regional Assemblies (Preparations) Act 2003 s 15 apply to a review carried out by the Boundary Committee in pursuance of a direction under s 13 as they apply to a review carried out by it under the Local Government Act 1992 Pt II (ss 12-27) (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 54 et seq), subject to the modifications specified in the Regional Assemblies (Preparations) Act 2003 s 15.

12 Ibid s 16(1), (2). 'County area' must be construed in accordance with s 2(3) (see PARA 549 note 5 ante): s 16(7).

13 Ibid s 16(3)(a).

14 Ibid s 16(3)(b).

15 Ibid s 16(4)(a).

16 Ibid s 16(4)(b). If the Secretary of State acts under s 16(4)(b), then s 13(8)-(10) (see the text and notes 8-10 supra), s 14(3)-(8) (see note 5 supra), s 15 (see the text and note 11 supra) and s 16 apply for the purposes of the further review and recommendations: s 16(5). For these purposes, it is immaterial whether the Secretary of State has considered any of the matters in s 13(5) (see note 7 supra): s 16(6).

17 Ie in pursuance of an order under ibid s 1 (see PARA 548 ante).

18 Ibid s 17(1).

19 Ibid s 17(2). Such an order may give effect to a recommendation with or without modifications: s 17(3). If the Secretary of State believes that there has been a mistake in the preparation of such an order and that the mistake cannot be rectified by a subsequent such order, he may by order make such provision as he thinks is necessary or expedient to rectify the mistake: s 17(5).

20 Ibid s 17(4). The text refers to such provisions of the Local Government Act 1992 s 17 (as amended) (see PARA 92 ante) as are applied and modified under the Regional Assemblies (Preparations) Act 2003 s 17(4). The provisions of the Local Government Act 1992 specified in the Regional Assemblies (Preparations) Act 2003 s 18 apply, with modifications, to the implementation under s 17 of recommendations made by the Boundary Committee as they apply to the implementation of recommendations carried out under the Local Government Act 1992 Pt II (ss 12-27) (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 54 et seq): see the Regional Assemblies (Preparations) Act 2003 s 18.

UPDATE

547-553 Referendums on Regional Assemblies

Regional Assemblies (Preparations) Act 2003 repealed: Local Democracy, Economic Development and Construction Act 2009 Sch 7 Pt 4.

553 Local government reviews

NOTE 7--Reference to Office for National Statistics now to Statistics Board (see REGISTRATION CONCERNING THE INDIVIDUAL vol 39(2) (Reissue) PARA 605): 2003 Act s 14(2) (amended by Statistics and Registration Service Act 2007 Sch 3 para 14).

NOTE 20--Local Government Act 1992 s 17 repealed: Local Democracy, Economic Development and Construction Act 2009 Sch 7 Pt 3.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(iii) Poll regarding the Functions of the Welsh Ministers/554. Poll held to ascertain views about whether or how any of the functions of the Welsh Ministers should be exercised.

(iii) Poll regarding the Functions of the Welsh Ministers

554. Poll held to ascertain views about whether or how any of the functions of the Welsh Ministers should be exercised.

The Welsh Ministers¹ may hold a poll in an area consisting of Wales² or any part (or parts) of Wales for the purpose of ascertaining the views of those polled about whether or how any of the functions of the Welsh Ministers³ should be exercised⁴.

1 As to the Welsh Ministers see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

2 For the meaning of 'Wales' see PARA 13 note 1 ante.

3 Ie other than the function under the Government of Wales Act 2006 s 62 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS).

4 Ibid s 64(1). The provisions of the Government of Wales Act 2006 are to come into force immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes until that date (with references to the National Assembly for Wales instead of the Welsh Ministers) see the Government of Wales Act 1998 s 36(1).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(iii) Poll regarding the Functions of the Welsh Ministers/555. Persons entitled to vote in a poll regarding the functions of the Welsh Ministers.

555. Persons entitled to vote in a poll regarding the functions of the Welsh Ministers.

The persons entitled to vote in a poll held in Wales to ascertain views about whether or how any of the functions of the Welsh Ministers should be exercised¹ are those who: (1) would be entitled to vote as electors at a local government election² in an electoral area³ wholly or partly included in the area in which the poll is held⁴; and (2) are registered in the register of local government electors⁵ at an address within the area in which the poll is held⁶.

1 Ie a poll held under the Government of Wales Act 2006 s 64 (see PARA 554 ante).

2 As to entitlement to vote as a local government elector see PARA 112 et seq ante. For the meaning of 'local government election' see PARA 10 ante; and for the meaning of 'elector' for these purposes see PARA 110 note 2 ante.

3 For the meaning of 'electoral area' see PARA 10 ante.

4 Government of Wales Act 2006 s 64(2)(a). The provisions of the Government of Wales Act 2006 are to come into force immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes until that date (with references to the National Assembly for Wales instead of the Welsh Ministers) see the Government of Wales Act 1998 s 36(2)(a).

5 As to registration as a local government elector see PARA 128 et seq ante.

6 Government of Wales Act 2006 s 64(2)(b). As to the date at which this provision takes effect see note 4 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 36(2)(b).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(1) NATIONAL AND REGIONAL REFERENDUMS/(iii) Poll regarding the Functions of the Welsh Ministers/556. Provision as to the conduct of polls regarding the functions of the Welsh Ministers.

556. Provision as to the conduct of polls regarding the functions of the Welsh Ministers.

The Welsh Ministers¹ may by order make provision as to the conduct of polls (or any poll) held in Wales to ascertain views about whether or how any of their functions should be exercised² or for the combination of such polls (or any such poll) with polls at any elections³. Such an order may apply or incorporate, with or without modifications or exceptions, any provision of or made under any enactment relating to elections or referendums; and the provision which may be made as to the conduct of polls (or any poll) includes, in particular, provision for disregarding alterations in a register of electors⁴.

1 As to the Welsh Ministers see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

2 I.e. a poll held under the Government of Wales Act 2006 s 64 (see PARA 554 ante).

3 Ibid s 64(3). A statutory instrument containing such an order is subject to annulment in pursuance of a resolution of the National Assembly for Wales: s 64(5). The provisions of the Government of Wales Act 2006 are to come into force immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes until that date (with references to the National Assembly for Wales instead of the Welsh Ministers) see the Government of Wales Act 1998 s 36(4), (5).

⁴ Government of Wales Act 2006 s 64(4). As to the date at which this provision takes effect see note 3 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 36(6).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(i) Rules of Conduct for Local Referendums/557. Conduct of a local authority referendum.

(2) LOCAL REFERENDUMS

(i) Rules of Conduct for Local Referendums

557. Conduct of a local authority referendum.

For the purposes of conducting a referendum held by a local authority under the Local Government Act 2000 on proposals for the operation of executive arrangements involving certain forms of executive¹, certain of the following statutory provisions which apply for the purposes of elections are applied with modifications, namely: (1) the Representation of the People Act 1983²; (2) the Representation of the People Act 2000³; (3) the Local Elections (Principal Areas) Rules 1986⁴; and (4) the Representation of the People (England and Wales) Regulations 2001⁵.

Additional modifications to those provisions apply where the voting at such a referendum is to take place by post only⁶.

¹ I.e. a referendum held under the Local Government Act 2000 s 27 or by virtue of regulations or an order under Pt II (ss 10-48) (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 314).

² See the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2; and PARA 583 et seq post.

At the date at which this volume states the law, the provisions of the Representation of the People Act 1983 (including various of the provisions that are so applied and modified for the purposes of conducting a local authority referendum and for establishing relevant offences) have been amended by the Electoral Administration Act 2006. However, as the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 3 Table 2 and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 3 Table 2 provide no guidance as to how those amendments should be incorporated into the scheme for conducting a local authority referendum, nor as to how any new provisions that have been added may be relevant, the provisions of the Representation of the People Act 1983 that are applied and modified are set out in this title in their unamended state: see PARA 583 et seq post.

³ I.e. in relation to pilot schemes for voting and campaigning and in relation to absent voting provisions: see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 3 Table 1; the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 3 Table 1; and PARA 595 et seq post.

At the date at which this volume states the law, the provisions of the Representation of the People Act 2000 that are so applied and modified for the purposes of providing for absent voting in relation to a local authority referendum have been amended extensively by the Electoral Administration Act 2006 in order to: (1) require that absent voting applications contain an applicant's signature and date of birth (see s 14; and PARA 372 et seq ante); (2) allow certain detained mental patients to vote in person at polling stations who were previously prevented from doing so (see s 35; and PARA 368 ante); (3) replace the absent voters list with the postal voters list and the proxy postal voters list (see s 74(1), Sch 1 Pt 7; and PARA 372 et seq ante); and (4) make general provision for anonymous entries in the register of electors (see s 10(2), Sch 1 Pt 1; and PARA 378 et seq ante). However, as the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 3 Table 1 and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 3 Table 1 provide no guidance as to how those amendments should be incorporated into the scheme for conducting a local authority referendum, nor as to how any new provisions that have been added may be relevant, the provisions of the Representation of the People Act 2000 that are applied and modified are set out in this title in their unamended state: see PARA 595 et seq post.

4 le the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 (as amended): see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 3 Table 3; the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 3 Table 3; and PARA 578 et seq post. The 'LGA Referendum Rules' means so much of the Local Elections (Principal Areas) Rules 1986, SI 1986/2214 (as amended) as are applied (with or without modification), in relation to a referendum taking place in England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8 and, in relation to a referendum taking place in Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 2(1).

At the date at which this volume states the law, the Local Elections (Principal Areas) Rules 1986, SI 1986/2214 (as amended) apply only for the purposes of an election where the last date for the publication of the notice of election for that election was prior to 27 March 2007; for all other purposes those rules have been replaced, as from 2 January 2007, by the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304: see r 1; and PARA 388 et seq ante. The rules contained in r 3, Sch 2 differ from those that were previously applied and modified for the purposes of conducting a local authority referendum; they include, with relevant alterations and exceptions, the amendments made to the parliamentary elections rules by provisions of the Electoral Administration Act 2006 (as to which see notes 2, 3 supra) and make particular provision for: (1) security measures (ie security markings on ballot papers, the replacement of counterfoils on ballot papers with corresponding number lists, and the requirement for absent voting applications to contain an applicant's signature and date of birth) (see the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 rr 16-18, 22 et seq; and PARA 391 et seq ante); (2) alterations as to the circumstances in which a person may give a tendered vote (see Sch 2 rr 38, 39; and PARA 408 ante); (3) increased amounts of information and accessibility of information to be provided by officers to electors (see Sch 2 rr 22, 25 et seq; and PARAS 394, 411 et seq ante); (4) changes as to the persons who may be admitted to a polling station and the count (see Sch 2 rr 30, 44; and PARAS 402, 431 ante); (5) transmission of information to a presiding officer of alterations to the electoral register taking effect on the day of the poll (see PARA 396 et seq ante); (6) anonymous entries in the register of electors (see PARA 394 et seq ante); (7) changes regarding the retention and inspection of election documents after the poll (see PARA 493 et seq ante); and (8) consequential amendments made to all the existing forms (see PARA 391 et seq ante). However, as the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 3 Table 3 and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 3 Table 3 provide no guidance as to how the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 should be applied and modified in order to provide a scheme for conducting a local authority referendum, the provisions of the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 (as amended; revoked for most purposes) are set out in this title as applied and modified by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 3 Table 3 and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 3 Table 3: see PARA 578 et seq post.

5 le the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt IV (regs 50-63) (as amended) (absent voters: see PARA 372 et seq ante) and Pt V (regs 64-91) (issue and receipt of postal ballot papers: see PARA 411 et seq ante): see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 3 Table 4; the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 3 Table 4; and PARA 597 et seq post.

At the date at which this volume states the law, the provisions of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pts IV, V (as amended) that are so applied and modified have been amended extensively by the Representation of the People (England and Wales) (Amendment) (No 2) Regulations 2006, SI 2006/2910, in order to: (1) provide for anonymous registration in the register of electors (see regs 19-22; and PARA 376 et seq ante); (2) replace references to counterfoils attached to ballot papers with references to the corresponding number list (see reg 30; and PARAS 414, 418 ante); (3) reflect the requirement that persons wishing to vote by post, by proxy or by postal proxy must provide their signature and date of birth when applying (see regs 31-34; and PARA 368 et seq ante); (4) specify the contents of the record of personal identifiers that the registration officer must keep and provide to a returning officer at an election (see reg 35; and PARA 371 ante); (5) specify the procedure upon receipt of postal ballot papers for verifying the personal identifiers provided in postal voting statements (see reg 39; and PARA 428 ante); (6) revise and update the lists of health care professionals and others who may attest applications for proxy votes (see reg 42; and PARAS 373, 377 ante, 600 post); (7) make provision to remove the restriction on certain detained mental patients voting in person at polling stations (see regs 43-44; and PARA 372 et seq ante); (8) set out the procedure by which a cancelled postal ballot paper should be retrieved from a ballot box (see reg 45; and PARAS 427, 429 ante); (9) make provision for the marked list of postal voters and the list of proxy postal voters to be marked to record receipt of a postal voting statement (see regs 48-53; and PARA 414 et seq ante); (10) make provision for the supply and inspection of unmarked lists of absent voters in advance of an election (see regs 55-56; and PARAS 378, 386 ante); (11) make provision requiring relevant registration officers to supply or disclose information in documents that have been used or marked at an election (see reg 59; and PARA 504 ante); (12) remove references to Maundy Thursday as a day to be ignored in certain timetables (see reg 60; and PARA 372 et seq ante); (13) provide for persons who make a request to set out the circumstances which require the sending of their ballot papers to an address that is different from the address that must be stated in the application (see

reg 61; and PARAS 372, 376, 383 ante); (14) provide for the registration officer to notify a person when he is removed from the record of proxies who are entitled to vote by post (see reg 62; and PARAS 375, 381, 384 ante); (15) amend the list of persons who may be present at proceedings on the issue and receipt of postal ballot papers (see reg 63; and PARAS 414, 425 ante); (16) provide that a ballot paper envelope does not need to be marked with the number of the ballot paper where the ballot paper envelope contains a window through which the number of the ballot paper can be displayed (see reg 64; and PARA 416 ante); and (17) make amendments following the replacement of the declaration of identity with a postal voting statement (see reg 65; and PARA 411 et seq ante). However, as the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 3 Table 4 and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 3 Table 4 provide no guidance as to how those amendments should be incorporated into the scheme for conducting a local authority referendum, nor as to how any new provisions that have been added may be relevant, the provisions of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pts IV, V (as amended) that are applied and modified are set out in this title in their unamended state: see PARA 597 et seq post.

6 See the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4; and PARA 595 et seq post.

UPDATE

557 Conduct of a local authority referendum

TEXT AND NOTES--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(i) Rules of Conduct for Local Referendums/558. Conduct of poll consequent on a parish or community meeting.

558. Conduct of poll consequent on a parish or community meeting.

A poll consequent on a parish or community meeting¹, taken on any question arising at the meeting², is conducted in accordance with rules made by the Secretary of State³. Subject to any adaptations, alterations or exceptions made by those rules, the provisions of the rules with respect to the elections of parish or community councillors⁴, and certain provisions of the Representation of the People Act 1983⁵, apply in the case of a poll so taken⁶.

¹ As to the constitution of, and procedure at, parish and community meetings see LOCAL GOVERNMENT vol 69 (2009) PARA 635 et seq.

² As to when such a poll may be demanded see PARA 586 post. Where the question involves an appointment to office, the poll is akin to an election; the conduct of such polls is considered in this title alongside the conduct of other types of election: see PARA 207 et seq ante.

³ See the Local Government Act 1972 s 99, Sch 12 paras 18(5), 34(5) (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 638. As to the rules so made see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1 (as amended).

⁴ Ie the Local Elections (Parishes and Communities) Rules 2006, SI 2006/3305 (which have replaced the Local Elections (Parishes and Communities) Rules 1986, SI 1986/2215 (revoked)): see PARA 388 et seq ante.

⁵ Ie the enactments mentioned in the Representation of the People Act 1983 s 187(1) (ie s 60 (see PARA 733 post), s 66 (as amended) (see PARAS 742-746 post), Pt II (ss 67-119) (as amended) (see PARA 238 et seq ante), Pt III (ss 120-186) (as amended) (see PARA 759 et seq post), and s 189 (see PARA 703 post)). Where the poll is to be taken on any question other than that of the election of the chairman of a parish meeting or of an appointment to any other office, the only provisions which apply are s 60, s 66 (as amended), s 113 (as amended) (see PARA 712 post), s 114 (see PARA 724 post), s 115 (as amended) (see PARA 726 post), s 119 (as amended) (see PARAS 237 ante, 766 post), s 160(4), (5) (as substituted) (see PARA 904 post), s 168 (as amended) (see PARA 885 post), s 169 (as amended) (see PARAS 886, 888 post), s 173 (as substituted and amended) (see PARA 904 post), s 174(5) (see PARA 907 post), s 176 (as amended) (see PARA 881 post), s 177 (as amended) (see PARA 882 post), s 179 (see PARA 889 post), s 180 (see PARAS 758, 884 post), s 181 (as amended) (see PARAS 819, 875, 880 post), s 186 (see PARA 766 post), and s 189: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(a). References to the proper officer of the authority for which the election was held must be taken as references to the returning officer (r 6(b)); and references to an election under the local government Act are deemed to include a reference to a poll consequent on a parish or community meeting (r 6(g)). As to other modifications that apply in this case see r 6(d), (e). As to a poll taken on any appointment to office see PARA 207 et seq ante. For the meaning of 'election under the local government Act' see PARA 10 note 2 ante.

⁶ Ibid r 5. The Local Elections (Parishes and Communities) Rules 1986, SI 1986/2215, as they are applied and modified for the purposes of a poll consequent on a parish or community meeting, are set out in the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule (as amended) and any such poll must be conducted in accordance with the rules set out therein: r 5.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(i) Rules of Conduct for Local Referendums/559. Conduct of local poll under the Local Government Act 2003.

559. Conduct of local poll under the Local Government Act 2003.

A local authority¹ may conduct a poll² to ascertain the views of those polled about: (1) any matter relating to services provided in pursuance of the authority's functions or the authority's expenditure on such services³; or (2) any other matter if it is one relating to the authority's power⁴ to promote the economic, social or environmental well-being of its area⁵. It is for the local authority concerned to decide who is to be polled and how the poll is to be conducted⁶ but, in conducting such a poll, a local authority must have regard to any guidance issued by the appropriate person on facilitating participation in such a poll by such of those polled as are disabled people⁷.

1 For these purposes, 'local authority' means: (1) in relation to England, a county council, a district council, a London borough council, the Greater London Authority, the Common Council of the City of London in its capacity as a local authority, the Council of the Isles of Scilly (Local Government Act 2003 s 116(5)(a)); and (2) in relation to Wales, a county council or a county borough council (s 116(5)(b)). As to districts and counties in England and county or county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 24 et seq; as to the Council of the Isles of Scilly see LOCAL GOVERNMENT vol 69 (2009) PARA 36; as to the London boroughs and London borough councils see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 30 et seq; as to the Court of Common Council of the City of London see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 51 et seq; and as to the Greater London Authority see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 79 et seq.

2 The power to conduct a poll under *ibid* s 116 is without prejudice to any powers of a local authority exercisable otherwise than by virtue of s 116: s 116(4).

3 *Ibid* s 116(1)(a).

4 *Ie* the power under the Local Government Act 2000 s 2 (see LOCAL GOVERNMENT vol 69 (2009) PARA 463).

5 Local Government Act 2003 s 116(1)(b).

6 *Ibid* s 116(2).

7 *Ibid* s 116(3).

UPDATE

559 Conduct of local poll under the Local Government Act 2003

NOTES--Certain functions under provisions mentioned in this paragraph are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3, see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(ii) Preparing for the Referendum/A. LOCAL AUTHORITY REFERENDUM ON PROPOSALS FOR ARRANGEMENTS/(A) In general/560. Proposals for which a referendum is required.

(ii) Preparing for the Referendum

A. LOCAL AUTHORITY REFERENDUM ON PROPOSALS FOR ARRANGEMENTS

(A) IN GENERAL

560. Proposals for which a referendum is required.

Under the Local Government Act 2000¹, local authorities² are able to make arrangements for the discharge of their functions by executives ('executive arrangements')³. Where an authority's proposals for an executive⁴ involve an elected mayor⁵ or where regulations so prescribe, the authority: (1) must hold a referendum on its proposals before taking any steps to implement them⁶; and (2) must draw up and send to the Secretary of State, in relation to England, or the National Assembly for Wales, in relation to Wales, an outline of the fall-back proposals⁷ that it intends to implement if the proposals for the operation of executive arrangements are rejected in a referendum⁸.

A referendum may be held, in such circumstances as may be prescribed, on whether a local authority should operate executive arrangements involving a form of executive for which a referendum is required: (a) following receipt by the local authority of a valid petition from local government electors⁹; (b) following a direction to the local authority from the Secretary of State, in relation to England, or the National Assembly for Wales, in relation to Wales¹⁰; or (c) following an order made by the Secretary of State or the Assembly (as the case may be) which requires every local authority, or every local authority falling within any description of authority specified in the order, to hold such a referendum¹¹. In the event of any failure by an authority to take any action which may or must be taken by the authority under the provisions which relate to any of the procedures under head (a) or head (b) above¹², the Secretary of State, in relation to England, or the National Assembly for Wales, in relation to Wales, may take that action¹³.

¹ *I*e under the Local Government Act 2000 Pt II (ss 10-48) (as amended) (arrangements with respect to executives etc: see LOCAL GOVERNMENT vol 69 (2009) PARA 303 et seq).

² For the meaning of 'local authority' for these purposes see LOCAL GOVERNMENT vol 69 (2009) PARA 23.

³ See the Local Government Act 2000 s 10; and LOCAL GOVERNMENT vol 69 (2009) PARA 303. The executive must take one of the forms specified in s 11(2)-(4) or in regulations under s 11(5): see LOCAL GOVERNMENT vol 69 (2009) PARA 327 et seq.

⁴ As to the drawing up of proposals for the operation of executive arrangements see *ibid* s 25; and LOCAL GOVERNMENT vol 69 (2009) PARA 312.

⁵ *I*e a mayor and cabinet executive or a mayor and council manager executive (see LOCAL GOVERNMENT vol 69 (2009) PARA 327). For the meaning of 'elected mayor' see LOCAL GOVERNMENT vol 69 (2009) PARA 320. As to elections for the return of an elected mayor for a local authority see PARA 205 et seq ante.

⁶ See the Local Government Act 2000 s 27(1)(a); and LOCAL GOVERNMENT vol 69 (2009) PARA 314.

7 Fall-back proposals are proposals for the operation of executive arrangements which do not involve a form of executive for which a referendum is required, or for the operation of alternative arrangements of a particular type permitted by regulations under *ibid* s 32 (see LOCAL GOVERNMENT vol 69 (2009) PARA 364); see s 27(2); and LOCAL GOVERNMENT vol 69 (2009) PARA 315.

8 See *ibid* ss 27(1)(b), 106(1); and LOCAL GOVERNMENT vol 69 (2009) PARA 314.

9 See *ibid* s 34; and LOCAL GOVERNMENT vol 69 (2009) PARA 316. See further PARA 561 *et seq post*.

10 See *ibid* ss 35, 106(1); and LOCAL GOVERNMENT vol 69 (2009) PARA 317. See further PARA 572 *et seq post*.

11 See *ibid* ss 36, 106(1); and LOCAL GOVERNMENT vol 69 (2009) PARA 318. At the date at which this volume states the law, no further provision had been made for the holding of a referendum following such an order as is described in head (c) in the text.

12 *Ie*, in relation to England, the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pts II-IV (regs 3-24) (as amended) or, in relation to Wales, the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pts II-IV (regs 3-24) (as amended) (see PARA 561 *et seq post*).

13 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 25; Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 25.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(ii) Preparing for the Referendum/A. LOCAL AUTHORITY REFERENDUM ON PROPOSALS FOR ARRANGEMENTS/(B) Petition to Local Authority calling for a Referendum to be Held/561. Petitions calling for local authority referendum.

(B) PETITION TO LOCAL AUTHORITY CALLING FOR A REFERENDUM TO BE HELD

561. Petitions calling for local authority referendum.

An authority¹ must hold a referendum² where it receives a valid petition³, but it is not required to hold such a referendum where it receives a petition which is not a valid petition⁴. A petition may be presented to a local authority either by properly addressing, pre-paying and posting it, or by delivering it, to any office of the authority (in relation to England) or to the authority's principal office (in relation to Wales)⁵.

1 Ie, in relation to England, a district or a London borough council (Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 1(2)); and, in relation to Wales, a county or county borough council (Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 2(1)). See LOCAL GOVERNMENT vol 69 (2009) PARA 23.

2 Ie, in relation to England, by virtue of the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt II (regs 3-17) (as amended) or, in relation to Wales, by virtue of the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt II (regs 3-17) (as amended).

3 For these purposes, 'valid petition' has the meaning given by the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 9(1), in relation to England, and by the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 9(1) (as amended), in relation to Wales (see PARA 565 post): Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 3; Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3.

4 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 6(1); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 6(1). The requirement set out in the text is, in relation to England, subject to the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 7 (see PARA 563 post) and reg 19 (see PARA 573 post) and, in relation to Wales, subject to the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 7 (see PARA 563 post), reg 8(8) (see PARA 564 post) and reg 19 (see PARA 573 post).

5 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 6(2); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 6(2).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(ii) Preparing for the Referendum/A. LOCAL AUTHORITY REFERENDUM ON PROPOSALS FOR ARRANGEMENTS/(B) Petition to Local Authority calling for a Referendum to be Held/562. Verification number for petitions calling for local authority referendum.

562. Verification number for petitions calling for local authority referendum.

In relation to England¹, in each year², the proper officer³ of each authority⁴ must, within the period of 14 days beginning with 15 February, publish the number that is equal to 5 per cent of the number of local government electors⁵ for the authority's area shown in the revised version of the register or, as the case may be, the registers having effect for that area on that 15 February⁶. The number so published in each year is to be used for verification purposes⁷ in relation to any petition presented to the authority in the period of 12 months beginning with 1 April in that year⁸, unless the number published is less than the number published in the preceding year, in which case the number to be used for verification purposes, in relation to any petition presented to the authority in the period beginning on the date of publication of the lesser number and ending immediately before 1 April in that year, must be that lesser number⁹. As soon as reasonably practicable after the publication of the verification number, the authority must publish in at least one newspaper circulating in its area a notice containing a statement¹⁰: (1) that the authority's proper officer has published the number that is equal to 5 per cent of the number of local government electors shown in the electoral register or registers having effect on 15 February in that year¹¹; (2) of the number so published¹²; (3) that the number so published is to have effect for the purposes of determining the validity of petitions presented after 31 March in the year of publication and before 1 April in the following year, unless a different number has effect¹³ because the number published is less than the number published in the preceding year¹⁴; (4) the effect of the provision¹⁵ that applies where the number published is less than the number published in the preceding year¹⁶; and (5) of the address of the authority's principal office¹⁷.

In relation to Wales¹⁸, for the purposes of each petition period¹⁹, the proper officer²⁰ of each authority²¹ must, within the period of 14 days beginning with the verification date²², publish the number that is equal to 10 per cent of the number of local government electors for the authority's area shown in the revised version of the registers having effect for the area on the verification date²³. The number so published is to be used for verification purposes²⁴ in relation to any petition presented to the authority during the petition period that is to commence seven months after the verification date to which that number relates²⁵. As soon as reasonably practicable after the publication of a verification number, the authority must publish in at least one newspaper circulating in its area a notice containing a statement²⁶: (a) that the authority's proper officer has published the number that is equal to 10 per cent of the number of local government electors shown in the electoral register or registers having effect for the authority's area on the date that²⁷ is the verification date²⁸; (b) of the number so published²⁹; (c) that the number so published will have effect for the purposes of determining the validity of petitions presented to the authority during the petition period for that authority that will commence seven months after the verification date referred to in head (a) above³⁰; (d) of the dates on which that petition period for the authority will commence and end³¹; and (e) of the address of the authority's principal office³².

1 For the meaning of 'England' see PARA 13 note 1 ante.

2 ie each year commencing with the year beginning on 1 January 2002.

3 For the meaning of 'proper officer' see PARA 155 note 2 ante; definition applied by virtue of the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 3.

4 For the meaning of 'authority' in relation to England see PARA 561 note 1 ante.

5 As to entitlement to vote as a local government elector see PARA 112 et seq ante. For the meaning of 'local government election' see PARA 10 ante; and for the meaning of 'elector' see PARA 110 note 2 ante.

6 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 4(1) (reg 4 substituted by SI 2001/760). Where the whole of the period of 12 months beginning with 1 April in any year to which the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 4(1) (as substituted) applies falls within a moratorium period, reg 4(1) (as substituted) does not apply as respects the years in which part of that period of 12 months falls: reg 4(2) (as so substituted). For these purposes, 'moratorium period', in relation to a local authority's area and a petition in England, means the period of 48 months commencing with the day on which a referendum was last held under the Local Government Act 2000 Pt II (ss 10-48) (as amended) (arrangements with respect to executives etc: see LOCAL GOVERNMENT VOL 69 (2009) PARA 303 et seq): Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 3.

In connection with the discharge of the duty imposed by reg 4(1) (as substituted), the proper officer may require an electoral registration officer to provide him with information relevant to the number that is to be so published; and an electoral registration officer who receives such a request must comply with it within the period of seven days beginning with the day on which the request is received: reg 4(5) (as so substituted). As to electoral registration officers see PARA 154 et seq ante.

7 In relation to England, 'verification purposes' means the purposes of establishing whether a petition is a valid petition by establishing the matters mentioned in ibid reg 8(3) (see PARA 564 post) or under reg 9(1)(a) (see PARA 565 post): reg 3. For the meaning of 'valid petition' see PARA 561 note 3 ante.

8 Ibid reg 4(3) (as substituted: see note 6 supra). 'Verification number', in relation to a petition, means the number to be used for verification purposes by virtue of reg 4 (as substituted): reg 3.

9 Ibid reg 4(4) (as substituted: see note 6 supra).

10 Ibid reg 5 (amended by SI 2001/670).

11 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 5(a) (amended by SI 2001/670).

12 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 5(b).

13 Ie by virtue of ibid reg 4(4) (as substituted) (see the text and note 9 supra).

14 Ibid reg 5(c) (reg 5(c), (d) substituted by SI 2001/670).

15 Ie the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 4(4) (as substituted) (see the text and note 9 supra).

16 Ibid reg 5(d) (as substituted: see note 14 supra).

17 Ibid reg 5(e).

18 For the meaning of 'Wales' see PARA 13 note 1 ante.

19 Ie subsequent to the first such period (as to which see the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 4(1), (2) (reg 4 substituted by SI 2003/398)). For these purposes, 'petition period' has the meaning given by the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3A (as added): reg 3 (definition added by SI 2003/398). Accordingly, the local government electorate for an authority's area in Wales may present petitions to that authority during a petition period, whose duration is six months: Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3A(1), (2) (reg 3A added by SI 2003/398). Periods subsequent to the first (as to which see the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3A(3) (as so added)), commence on the date that is 12 months before the date on which each subsequent ordinary local government elections are to be held: reg 3A(4) (as so added). If part or the whole of one or more of an authority's petition periods as so determined are to fall within a moratorium period, that petition period, or those petition periods (which, for these purposes, are to be treated as a single petition period), commence on the date during that moratorium period that is 12 months before the

earliest date on which a second (or subsequent) referendum may lawfully be held in the area of that authority: reg 3A(5) (as so added). Where an authority does not receive a valid petition during a petition period so determined, the date on which the next petition period for that authority commences is the date that is 12 months before the date on which the next ordinary local government elections are to be held: reg 3A(6) (as so added). However, this provision does not apply where part or the whole of a petition period determined in accordance with reg 3A(6) (as added) will fall within a year in which part or the whole of a petition period determined in accordance with reg 3A(5) (as added) falls: reg 3A(7) (as so added). Where an authority does not receive a valid petition during a petition period determined in accordance with reg 3A(5) (as added) and, by virtue of reg 3A(7) (as added), reg 3A(6) (as added) does not apply, the next petition period for that authority commences on the date that is 12 months before the date on which the ordinary local government elections which are subsequent to the next ordinary local government elections are to be held: reg 3A(8) (as so added). For these purposes, 'moratorium period', in relation to Wales, means the period of five years commencing on the date on which an authority holds a referendum under the Local Government Act 2000 Pt II (as amended) (arrangements with respect to executives etc: see LOCAL GOVERNMENT vol 69 (2009) PARA 303 et seq): Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3 (definition substituted by SI 2003/398). As to ordinary local government elections see PARA 204 et seq ante.

20 For the meaning of 'proper officer' see PARA 155 note 2 ante; definition applied by virtue of the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3.

21 For the meaning of 'authority' in relation to Wales see PARA 561 note 1 ante.

22 In relation to Wales, 'verification date' means the date that is seven months before the commencement of a petition period: Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3 (definition added by SI 2003/398).

23 Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 4(3) (as substituted: see note 19 supra). The proper officer may, in connection with the discharge of the duty imposed by reg 4(3) (as substituted), make a request in writing to an electoral registration officer to provide the proper officer with information relevant to the number that is to be so published; and an electoral registration officer who receives such a request must comply with it within the period of seven days beginning with the day on which the request is received: reg 4(5) (as so substituted).

24 In relation to Wales, 'verification purposes' means the purposes of establishing whether a petition is a valid petition: *ibid* reg 3. For the meaning of 'valid petition' see PARA 561 note 3 ante.

25 *Ibid* reg 4(4) (as substituted: see note 19 supra). 'Verification number', in relation to a petition, means the number to be used for verification purposes by virtue of reg 4(4) (as substituted): reg 3 (definition substituted by SI 2003/398).

26 Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 5 (reg 5 substituted by SI 2003/398).

27 *Ie* for the purposes of a petition period subsequent to the first (as to which see note 19 supra).

28 Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 5(a) (as substituted: see note 26 supra).

29 *Ibid* reg 5(b) (as substituted: see note 26 supra).

30 *Ibid* reg 5(c) (as substituted: see note 26 supra).

31 *Ibid* reg 5(d) (as substituted: see note 26 supra).

32 *Ibid* reg 5(e) (as substituted: see note 26 supra).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(ii) Preparing for the Referendum/A. LOCAL AUTHORITY REFERENDUM ON PROPOSALS FOR ARRANGEMENTS/(B) Petition to Local Authority calling for a Referendum to be Held/563. Post-announcement and post-direction petitions calling for local authority referendum.

563. Post-announcement and post-direction petitions calling for local authority referendum.

In relation to a petition received after an authority¹ has given notice of its intention to hold a referendum and of the date on which that referendum will be held² on proposals which involve a directly elected mayor, the authority is not required³ to hold a referendum or to take any steps other than⁴ steps to secure that the proper officer⁵ as soon as reasonably practicable after the receipt of the petition notifies the petition organiser⁶ and (in relation to England) the Secretary of State or (in relation to Wales) the National Assembly for Wales of the receipt of the petition, that the petition is a post-announcement petition⁷ and that the authority proposes to take no further action in relation to it and notifies the petition organiser that he may, within the period of two months beginning with the date of the notice, request the Secretary of State or the National Assembly for Wales (as the case may be) to consider the exercise of any power conferred in relation to referendums which follow a direction to the local authority from the Secretary of State or the National Assembly for Wales (as the case may be)⁸.

Where a petition is received by an authority after it has received a direction to hold a referendum⁹ and before it has given notice of the date on which the referendum is to be held pursuant to the direction, and the constitutional change¹⁰ proposed in the petition is the same as that in relation to which the direction requires the referendum to be held, the authority must take no further action in relation to the petition and must as soon as reasonably practicable¹¹ notify the Secretary of State or the National Assembly for Wales (as the case may be) and the petition organiser: (1) of the receipt of the petition¹²; and (2) that it proposes to take no further action in relation to the petition because it proposes the same constitutional change as that in relation to which the referendum is to be held pursuant to the direction¹³.

Where a petition is received by an authority after it has received a direction to hold a referendum¹⁴ and before it has given notice of the date on which the referendum is to be held pursuant to the direction¹⁵ and the constitutional change proposed in the petition is not the same as that in relation to which the direction requires the referendum to be held¹⁶, the authority must secure that the proper officer determines¹⁷ whether the petition is a valid petition¹⁸. Where the proper officer determines that a petition of such a description is not a valid petition, the proper officer must publicise the invalid petition¹⁹ but, subject to that, the authority must take no further action in relation to the petition²⁰ and the date of the direction is to be²¹ the date of the proper officer's determination²².

1 For the meaning of 'authority' see PARA 561 note 1 ante.

2 I.e., in relation to England, whether pursuant to the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt II (regs 3-17) (as amended) or a direction under reg 18 (see PARA 572 post) or, in relation to Wales, whether pursuant to the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt II (regs 3-17) (as amended) or a direction under reg 18 (see PARA 572 post) or, in either case, pursuant to the Local Government Act 2000 s 27 (referendum in case of proposals involving elected mayor: see LOCAL GOVERNMENT vol 69 (2009) PARA 314).

3 I.e. by anything, in relation to England, in the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt II (as amended) or, in relation to Wales, in the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt II (as amended).

4 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 7(1); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 7(1). As well as the steps set out in the text and notes 5-8 infra, the authority is also required to take the steps specified, in relation to England, by the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 12 and, in relation to Wales, by the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 12 (public inspection of petitions: see PARA 567 post).

5 For the meaning of 'proper officer' see PARA 155 note 2 ante (definition applied, in relation to England, by virtue of the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 3; and, in relation to Wales, by virtue of the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3).

6 'Petition organiser', in relation to constituent petitions amalgamated in accordance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(1) or the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(1) (see PARA 564 post), means the person determined in accordance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 10(5) or the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 10(5) (see PARA 565 post) and, in any other case, has the meaning given by the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 10(4) or the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 10(4) (see PARA 565 post): Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 3; Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3.

7 'Post-announcement petition' means a petition received in the circumstances mentioned in the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 7(1) or the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 7(1): Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 3; Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3.

8 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 7(2); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 7(2). The text refers to any power conferred on the Secretary of State by the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt III (regs 18-22) (as amended) or on the National Assembly for Wales by the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt III (regs 18-22) (as amended) (see PARA 572 et seq post).

9 I.e., in relation to England, under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(1) and, in relation to Wales, under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(1) (see PARA 572 post).

10 'Constitutional change' means: (1) unless a local authority is operating executive arrangements which involve an elected mayor, a proposal that the authority should operate executive arrangements: (a) under which the executive takes the form specified in the Local Government Act 2000 s 11(2), (4) (see LOCAL GOVERNMENT vol 69 (2009) PARA 327) or otherwise involves an elected mayor; or (b) in a form that is not specified in the proposal (Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 3 (definition substituted by SI 2001/760); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3); or (2) where a local authority is operating executive arrangements which involve an elected mayor ('existing executive arrangements'), a proposal that the authority should operate executive arrangements under which the executive takes a form which is specified in the proposal, involves an elected mayor, and differs from the form of executive under the existing executive arrangements (Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 3 (definition as so substituted); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3). For these purposes, in relation to a direction under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(1) or under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(1) (see PARA 572 post) that requires an authority to hold a referendum on a form of executive that includes an elected mayor, a petition received subsequently by that authority in which the form of executive is not specified must be treated as proposing the same constitutional change; and other constitutional changes must be treated as the same if they propose executive arrangements under which the executive takes the same form: Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 7(7); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 7(7).

11 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 7(3); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 7(3).

12 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 7(4)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 7(4)(a).

13 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 7(4)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 7(4)(b).

14 See note 9 *supra*.

15 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 7(5)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 7(5)(a).

16 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 7(5)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 7(5)(b).

17 *Ie*, in relation to England, in accordance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt II (as amended) or, in relation to Wales, in accordance with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt II (as amended).

18 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 7(5); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 7(5).

19 *Ie*, in relation to England, in compliance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 14(1) or, in relation to Wales, in compliance with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 14(1) (see PARA 568 post).

20 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 7(6)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 7(6)(a).

21 *Ie* in relation to England, for the purposes of the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 21 or, in relation to Wales, in accordance with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 21 (see PARA 574 post).

22 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 7(6)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 7(6)(b).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(ii) Preparing for the Referendum/A. LOCAL AUTHORITY REFERENDUM ON PROPOSALS FOR ARRANGEMENTS/(B) Petition to Local Authority calling for a Referendum to be Held/564. Amalgamation of petitions calling for local authority referendum.

564. Amalgamation of petitions calling for local authority referendum.

Where more than one petition relating to the same area has been prepared, those petitions may, at any time before their presentation to the authority¹, be amalgamated; and those petitions must then be treated for all other purposes related to such petitions² as a single petition³. Where constituent petitions amalgamated in this way do not propose the same constitutional change⁴, the amalgamated petition must not be entertained by the authority unless it is accompanied by a statement, signed by the petition organiser⁵ in relation to the amalgamated petition, that the amalgamated petition is presented with the agreement of the petition organiser of each of the constituent petitions⁶.

Where an authority receives more than one petition relating to the same area, the proper officer⁷ must, if satisfied as to their validity⁸, amalgamate those petitions⁹; and those petitions must then be treated¹⁰ as a single petition¹¹. However, the proper officer must not amalgamate petitions if he is satisfied that the first petition received by the authority¹² contains a number of signatures of local government electors for the authority's area that equals or exceeds the verification number¹³ and is, in other respects, a valid petition¹⁴. The proper officer: (1) must not amalgamate petitions that do not propose the same constitutional change unless the proper officer has obtained in writing the agreement of the petition organiser of each petition that would, after amalgamation, be a constituent petition¹⁵; and (2) must inform each petition organiser whose agreement is required for the purposes of head (1) above of the consequences of amalgamation¹⁶.

Petitions must be amalgamated in the order in which they are received except that, where more than one petition is received on the same day: (a) the petition that contains the greatest number of signatures must be treated as the first to be received¹⁷; (b) the petition that proposes the same constitutional change as that proposed in the petition identified in accordance with head (a) above must be treated as the second to be received and, if there is more than one such petition, those petitions must be treated as received in sequence, beginning with the petition that contains the greater number of signatures¹⁸; and (c) any other petitions must be treated as received in the following order: (i) the petition that contains the greatest number of signatures¹⁹; (ii) the petition, if any, that proposes the same constitutional change as the petition identified in accordance with head (i) above²⁰; (iii) the petition that contains the next greatest number of signatures²¹; (iv) the petition, if any, that proposes the same constitutional change as the petition identified in accordance with head (iii) above²²; (v) the petition that contains the next greatest number of signatures²³, and so on²⁴.

In relation to Wales, where an authority receives more than one petition on the same day and those petitions each contain a number of signatures of local government electors for the authority's area that equals or exceeds the verification number and are, in other respects, valid petitions and those petitions do not propose the same constitutional change, that authority must make a determination as to the petition in relation to which it will hold a referendum²⁵. Before making such a determination the authority in Wales must take into account the outcome of any prior consultation undertaken by that authority²⁶ and, if the authority considers it necessary, undertake further consultation with the local government electors for, and other interested persons in, the authority's area²⁷.

Where an amalgamated petition results from the combination of constituent petitions which do not propose the same constitutional change, the amalgamated petition must be treated²⁸ as proposing that the authority should operate executive arrangements under which the proposed form of executive is not specified²⁹.

1 For the meaning of 'authority' see PARA 561 note 1 ante.

2 I.e., in relation to England, for the purposes of the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt II (regs 3-17) (as amended) or, in relation to Wales, for the purposes of the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt II (regs 3-17) (as amended).

3 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(1); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(1). 'Petition', unless the context otherwise requires, includes an amalgamated petition (see note 6 infra): Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 3; Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3.

4 For these purposes, constitutional changes must be treated as the same if they propose executive arrangements under which the executive takes the same form or if the proposed form of executive is not specified: Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(8); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(11).

5 For the meaning of 'petition organiser' see PARA 563 note 6 ante.

6 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(2); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(2). For these purposes, 'constituent petitions' means petitions that have been amalgamated; and 'amalgamated petition' means the single petition resulting from an amalgamation of petitions in accordance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(1), (2) or the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(1), (2): Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 3; Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3.

7 For the meaning of 'proper officer' see PARA 155 note 2 ante (definition applied, in relation to England, by virtue of the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 3; and, in relation to Wales, by virtue of the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3).

8 I.e. in every respect other than that mentioned, in relation to England, in the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 9(1)(a) or, in relation to Wales, in the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 9(1)(a) (see PARA 565 post).

9 I.e., in relation to England, in compliance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(6) or, in relation to Wales, in compliance with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(7) (see the text and notes 17-24 infra).

10 See note 2 supra.

11 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(3); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(3).

12 I.e. including constituent petitions amalgamated, in relation to England, in compliance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(1) or, in relation to Wales, in compliance with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(1) (see the text and notes 1-3 supra).

13 As to entitlement to vote as a local government elector see PARA 112 et seq ante; and as to the verification number see PARA 562 ante.

14 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(4)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(4). Once a petition amalgamated in accordance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(3) or the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(3) (see the text and notes 7-11 *supra*) contains a number of signatures of local government electors for the authority's area that in aggregate equals or exceeds the verification number and is, in other respects, a valid petition, the proper officer must not amalgamate any other petition with that amalgamated petition: Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(4)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(5).

15 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(5)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(6)(a).

16 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(5)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(6)(b). The text refers to the consequence of amalgamation specified in the text and notes 28-29 *infra*.

17 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(6)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(7)(a).

18 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(6)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(7)(b).

19 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(6)(c)(i); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(7)(c)(i).

20 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(6)(c)(ii); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(7)(c)(ii).

21 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(6)(c)(iii); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(7)(c)(iii).

22 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(6)(c)(iv); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(7)(c)(iv).

23 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(6)(c)(v); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(7)(c)(v).

24 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(6)(c); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(7)(c).

25 *Ibid* reg 8(8).

26 *Ibid* reg 8(9)(a). The text refers to prior consultation undertaken in pursuance of the Local Government Act 2000 s 25 (see LOCAL GOVERNMENT vol 69 (2009) PARA 312) or s 31 (see LOCAL GOVERNMENT vol 69 (2009) PARA 365) or in pursuance of the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17 (see PARA 570 *post*) or reg 19 (see PARA 573 *post*).

27 *Ibid* reg 8(9)(b).

28 See note 2 *supra*.

29 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(7); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(10).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(ii) Preparing for the Referendum/A. LOCAL AUTHORITY REFERENDUM ON PROPOSALS FOR ARRANGEMENTS/(B) Petition to Local Authority calling for a Referendum to be Held/565. Formalities and validity of petitions calling for local authority referendum.

565. Formalities and validity of petitions calling for local authority referendum.

A petition¹ is a valid petition if: (1) it is signed by not less than the verification number²; (2) it satisfies the requirements as to formalities³; and (3) it is presented to the authority⁴ to which it is addressed, in relation to England, on a day other than one that falls within a moratorium period⁵ or, in relation to Wales, on a day that falls within a petition period⁶ for that authority⁷. In determining whether the petition satisfies the requirements of head (1) above: (a) where a person signs a petition but the information regarding his name and address⁸ is not included, or is not included in a legible form, that person's signature must be disregarded⁹; (b) if a person signs a petition more than once, that person's second or subsequent signature must be disregarded¹⁰; and (c) any signature on a petition which bears a date earlier than twelve months (in relation to England) or six months (in relation to Wales) before the petition date¹¹ must be disregarded¹². A petition is not invalid by reason only of a failure to satisfy any requirement as is mentioned in head (2) above if the constitutional change¹³ in relation to which the referendum is sought can be ascertained¹⁴.

A petition must on each sheet state the name of the authority to whom it is addressed¹⁵ and the constitutional change in relation to which the referendum is sought¹⁶, as well as containing a statement in the prescribed terms¹⁷ or in terms to similar effect¹⁸. In relation to each person who signs a petition, the following information must be given: (i) that person's first name and surname and address¹⁹; and (ii) the date on which that person signs the petition²⁰. A petition must contain, or must be accompanied by a statement that contains, the name and full address of the person (the 'petition organiser'²¹) to whom correspondence relating to the petition is to be sent²². Where petitions are amalgamated before they are presented to the authority, the petition organiser of each of the constituent petitions must determine the identity of the person (whether or not that person is the petition organiser of any of the constituent petitions) who is to be the petition organiser for the purposes of the amalgamated petition²³; and the petition organiser of the amalgamated petition must notify the authority of his name and full address²⁴.

1 As to the meaning of 'petition' see PARA 564 note 3 ante.

2 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 9(1)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 9(1)(a). As to the verification number see PARA 562 ante.

3 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 9(1)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 9(1)(b). The text refers to the requirements of the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 10 (in relation to England) or the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 10 (in relation to Wales) (see the text and notes 15-24 infra).

4 For the meaning of 'authority' see PARA 561 note 1 ante.

5 For the meaning of 'moratorium period' see PARA 562 note 6 ante.

6 For the meaning of 'petition period' see PARA 562 note 19 ante.

7 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 9(1)(c) (added by SI 2001/760); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 9(1)(c) (substituted by SI 2003/398).

8 le the information referred to in the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 10(3)(a) (in relation to England) or the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 10(3)(a) (in relation to Wales) (see head (i) in the text).

9 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 9(3); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 9(3).

10 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 9(4); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 9(4).

11 In relation to England, 'petition date' means: (1) in relation to a petition submitted prior to the publication of the verification number in accordance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 4(1) (see PARA 562 ante), the date on which that verification number is published; (2) subject to head (4) infra, in relation to constituent petitions amalgamated in accordance with reg 8(2) (see PARA 564 ante), the latest date on which any of the petitions amalgamated was received by the authority; (3) subject to head (4) infra, in relation to any other petition, the date on which it was received by the authority; and (4) in relation to a petition received within the period of six months beginning with the date that is 12 months before the earliest date on which a second (or subsequent) referendum may lawfully be held in the area of the authority to whom the petition is addressed, the date on which that period of six months ends: reg 3. In relation to Wales, 'petition date' means, in relation to constituent petitions amalgamated in accordance with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(3) (see PARA 564 ante), the latest date on which a constituent petition was received by the authority; and, in relation to any other petition, the date on which it was received by the authority: reg 3 (amended by SI 2003/398). For the meanings of 'amalgamated petition' and 'constituent petition' see PARA 564 note 6 ante.

12 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 9(5); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 9(5) (amended by SI 2003/398).

13 For the meaning of 'constitutional change' see PARA 563 note 10 ante.

14 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 9(2); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 9(2).

15 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 10(1)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 10(1)(a).

16 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 10(1)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 10(1)(b).

17 le in the term set out, in relation to England, in the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 10(2), Sch 1 (petition statement) and, in relation to Wales, in the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 10(2), Sch 1 (petition statement).

18 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 10(2); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 10(2).

19 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 10(3)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 10(3)(a).

20 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 10(3)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 10(3)(b).

21 For the meaning of 'petition organiser' see PARA 563 note 6 ante.

22 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 10(4); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 10(4).

23 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 10(5)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 10(5)(a).

24 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 10(5)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 10(5)(b).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(ii) Preparing for the Referendum/A. LOCAL AUTHORITY REFERENDUM ON PROPOSALS FOR ARRANGEMENTS/(B) Petition to Local Authority calling for a Referendum to be Held/566. Procedure on receipt of petitions calling for local authority referendum.

566. Procedure on receipt of petitions calling for local authority referendum.

As soon as reasonably practicable after receipt of a petition¹, the proper officer² must, if he has amalgamated the petition³, notify the petition organiser⁴ of each of the constituent petitions⁵ of the petition date⁶ of the amalgamated petition⁷ or, in any other case, notify the petition organiser of the petition date⁸. As soon as reasonably practicable after receipt of a petition, and not later than the end of the notice period⁹, the proper officer must determine the validity of the petition¹⁰.

Where the petition is a second or subsequent petition ('later petition') which cannot lawfully be amalgamated with an earlier petition¹¹, the proper officer must¹²: (1) within the notice period, notify the petition organiser and (in relation to England) the Secretary of State or (in relation to Wales) the National Assembly for Wales¹³: (a) of the receipt of the petition and of its petition date¹⁴; (b) of the receipt of every earlier petition and of its petition date¹⁵; (c) of the reason why the later petition cannot be amalgamated with any earlier petition¹⁶; and (d) that, by reason of the receipt of an earlier valid petition¹⁷, the proper officer proposes to take no further action in relation to the later petition¹⁸; (2) notify the petition organiser that the petition organiser may, within the period of two months beginning with the date of the notice, request the Secretary of State or the National Assembly for Wales (as the case may be) to consider the exercise of any power¹⁹ to require a referendum to be held following a direction to the authority²⁰; and (3) take such other steps as the Secretary of State or the National Assembly for Wales (as the case may be) may direct²¹.

1 As to the meaning of 'petition' see PARA 564 note 3 ante.

2 For the meaning of 'proper officer' see PARA 155 note 2 ante (definition applied, in relation to England, by virtue of the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 3; and, in relation to Wales, by virtue of the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3).

3 I.e., in relation to England, if the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(3) applies in relation to the petition or, in relation to Wales, if the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(3) applies in relation to the petition (see PARA 564 ante).

4 For the meaning of 'petition organiser' see PARA 563 note 6 ante.

5 For the meaning of 'constituent petition' see PARA 564 note 6 ante.

6 For the meaning of 'petition date' see PARA 565 note 11 ante.

7 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 11(1)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 11(1)(a). For the meaning of 'amalgamated petition' see PARA 564 note 6 ante.

8 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 11(1)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 11(1)(b).

9 For these purposes, 'notice period', in relation to a petition, means the period of one month beginning with the petition date: Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 3; Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3.

10 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 11(2); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 11(2). As to the validity of petitions see PARA 565 ante.

11 le for a reason mentioned in the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(4), (5) (in relation to England) or in the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(4)-(6) (in relation to Wales) (see PARA 564 ante).

12 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 11(3); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 11(3).

13 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 11(4)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 11(4)(a).

14 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 11(4)(a)(i); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 11(4)(a)(i).

15 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 11(4)(a)(ii); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 11(4)(a)(ii).

16 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 11(4)(a)(iii); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 11(4)(a)(iii).

17 For the meaning of 'valid petition' see PARA 561 note 3 ante.

18 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 11(4)(a)(iv); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 11(4)(a)(iv).

19 le any power conferred on the Secretary of State by the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18 or on the National Assembly for Wales by the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18 (see PARA 572 et seq post).

20 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 11(4)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 11(4)(b). For the meaning of 'authority' see PARA 561 note 1 ante.

21 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 11(3); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 11(3).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(ii) Preparing for the Referendum/A. LOCAL AUTHORITY REFERENDUM ON PROPOSALS FOR ARRANGEMENTS/(B) Petition to Local Authority calling for a Referendum to be Held/567. Public inspection of petitions calling for local authority referendum.

567. Public inspection of petitions calling for local authority referendum.

The authority¹ must secure that, for the period of six years beginning with the petition date², a petition³ is available at its principal office for inspection by members of the public at all reasonable times and free of charge⁴.

1 For the meaning of 'authority' see PARA 561 note 1 ante.

2 For the meaning of 'petition date' see PARA 565 note 11 ante.

3 As to the meaning of 'petition' see PARA 564 note 3 ante.

4 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 12; Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 12.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(ii) Preparing for the Referendum/A. LOCAL AUTHORITY REFERENDUM ON PROPOSALS FOR ARRANGEMENTS/(B) Petition to Local Authority calling for a Referendum to be Held/568. Publicity for petitions calling for local authority referendum.

568. Publicity for petitions calling for local authority referendum.

Where the proper officer¹ is satisfied that a petition² is valid³, he must, within the notice period⁴, notify the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales), as well as the petition organiser⁵: (1) of the proper officer's conclusion⁶; and (2) that a referendum is to be held⁷. In such a case, the authority⁸ must publish in at least one newspaper circulating in its area a notice which contains a statement⁹: (a) that a valid petition¹⁰ has been received¹¹; (b) of the constitutional change¹² sought or, as the case may be, treated as sought, by the petition¹³; (c) of the petition date¹⁴; (d) that the petition is available at the authority's principal office for inspection by members of the public at all reasonable times and free of charge¹⁵; (e) of the address of the authority's principal office¹⁶; and (f) that a referendum is to be held¹⁷.

Where the proper officer is satisfied that a petition is not a valid petition, he must, within the notice period¹⁸, notify the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales), as well as the petition organiser (if any), of his determination and of the reasons for that determination¹⁹. In such a case, the authority must publish in at least one newspaper circulating in its area a notice which contains a statement²⁰: (i) that a petition has been received which has been determined to be an invalid petition²¹; (ii) of the reasons for that determination²²; (iii) of the constitutional change sought or, as the case may be, treated as sought, by the petition²³; (iv) of the petition date²⁴; (v) that the petition is available at the authority's principal office for inspection by members of the public at all reasonable times and free of charge²⁵; and (vi) of the address of the authority's principal office²⁶. Where a petition is invalid only because it does not comply with the requirement that it be signed by not less than the verification number²⁷, the notification of invalidity²⁸ and the associated statement to be published by the authority containing the information set out in heads (i) to (vi) above must also include a statement that the invalid petition may be amalgamated with any subsequent petitions which are submitted to the authority²⁹.

1 For the meaning of 'proper officer' see PARA 155 note 2 ante (definition applied, in relation to England, by virtue of the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 3; and, in relation to Wales, by virtue of the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3).

2 As to the meaning of 'petition' see PARA 564 note 3 ante.

3 As to the validity of petitions see PARA 565 ante.

4 For the meaning of 'notice period' see PARA 566 note 9 ante.

5 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 13(1); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 13(1). For the meaning of 'petition organiser' see PARA 563 note 6 ante. In relation to Wales, it is specified that, where the petition has been amalgamated in accordance with reg 8(3) (see PARA 564 ante), the petition organiser of each of the constituent petitions must be notified: see reg 13(1). For the meaning of 'constituent petition' see PARA 564 note 6 ante.

6 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 13(1)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 13(1)(a).

7 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 13(1)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 13(1)(b).

8 For the meaning of 'authority' see PARA 561 note 1 ante.

9 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 13(2); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 13(2).

10 For the meaning of 'valid petition' see PARA 561 note 3 ante.

11 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 13(2)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 13(2)(a).

12 For the meaning of 'constitutional change' see PARA 563 note 10 ante.

13 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 13(2)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 13(2)(b).

14 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 13(2)(c); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 13(2)(c). For the meaning of 'petition date' see PARA 565 note 11 ante.

15 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 13(2)(d); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 13(2)(d). See PARA 567 ante.

16 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 13(2)(e); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 13(2)(e).

17 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 13(2)(f); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 13(2)(f).

18 In relation to Wales, the proper officer must, if possible, make the notification within the petition period, where the petition satisfies the requirements of *ibid* reg 9(1)(c) (as substituted) (see PARA 565 ante); reg 14(1) (amended by SI 2003/398). For the meaning of 'petition period' see PARA 562 note 19 ante.

19 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 14(1); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 14(1). In relation to Wales, where the authority has made a determination under reg 8(8) (see PARA 564 ante), the proper officer must, within the notice period, notify the National Assembly for Wales and the petition organiser of the authority's determination and the reasons for that determination: reg 14(2). In such a case, the authority must publish in at least one newspaper circulating in its area a notice which contains a statement: (1) that a valid petition has been received (reg 14(5)(a)); (2) that the authority will not take any action in relation to that petition on account of its having made a determination under reg 8(8) (reg 14(5)(b)); (3) of the reasons for that determination (reg 14(5)(c)); (4) of the constitutional change sought by the petition (reg 14(5)(d)); (5) of the petition date (reg 14(5)(e)); (6) that the petition is available at the authority's principal office for inspection by members of the public at all reasonable times and free of charge (reg 14(5)(f)); and (7) of the address of the authority's principal office (reg 14(5)(g)).

20 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 14(2); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 14(3) (amended by SI 2003/398). In relation to Wales, where a petition in relation to which a notice is to be published in accordance with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 14(3) (as amended) satisfies the requirements of reg 9(1)(c) (as substituted) (see PARA 565 ante), the authority must, if possible, publish that notice within the petition period and within the notice period: reg 14(3A) (added by SI 2003/398).

21 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 14(2)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 14(3)(a).

22 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 14(2)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 14(3)(b).

23 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 14(2)(c); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 14(3)(c).

24 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 14(2)(d); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 14(3)(d).

25 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 14(2)(e); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 14(3)(e).

26 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 14(2)(f); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 14(3)(f).

27 Ie where the petition does not comply with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 9(1)(a) (in relation to England) or with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 9(1)(a) (in relation to Wales) (see PARA 565 ante). As to the verification number see PARA 562 ante.

28 Ie the notification under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 14(1) (in relation to England) or under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 14(1) (as amended) (in relation to Wales) (see the text and notes 18-19 supra).

29 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 14(3); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 14(4).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(ii) Preparing for the Referendum/A. LOCAL AUTHORITY REFERENDUM ON PROPOSALS FOR ARRANGEMENTS/(B) Petition to Local Authority calling for a Referendum to be Held/569. Timing of local authority referendum in consequence of a valid petition.

569. Timing of local authority referendum in consequence of a valid petition.

Except where the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) holds a referendum in exercise of the default power¹, a referendum in consequence of a valid petition² must be held³ not later than⁴ the end of the period of six months beginning with the petition date⁵; and a referendum must not be held before the end of the period of two months beginning with the date on which proposals for the operation of executive arrangements (including the fall-back provisions) and the accompanying statement are sent (in relation to England) to the Secretary of State or (in relation to Wales) to the National Assembly for Wales⁶.

Such a referendum⁷ may not be held on: (1) a Saturday or Sunday⁸; (2) Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a day which is a bank holiday⁹; or (3) any day appointed as a day of public thanksgiving or mourning¹⁰.

1 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 16(3); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 16(3). The text refers to the circumstances where, in relation to England, the Secretary of State exercises the power conferred by the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 25 or, in relation to Wales, the National Assembly for Wales exercises the power conferred by the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 25 (see PARA 560 ante).

2 For the meaning of 'valid petition' see PARA 561 note 3 ante.

3 I.e., in relation to England, subject to the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 16(2) (see the text and note 6 infra), reg 16(3) (see the text and note 1 supra) and reg 21 (as amended) (see PARA 574 post) and, in relation to Wales, subject to the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 16(1A) (as added) (see note 5 infra), reg 16(2) (see the text and note 6 infra), reg 16(3) (see the text and note 1 supra) and reg 21 (see PARA 574 post).

4 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 16(1) (amended by SI 2001/1310); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 16(1) (amended by SI 2003/398).

5 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 16(1)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 16(1)(a) (amended by SI 2003/398). For the meaning of 'petition date' see PARA 565 note 11 ante. Provision is also made for a referendum as mentioned in the text to be held not later than the end of the period of two months beginning with the date on which regulations under the Local Government Act 2000 s 45 (see LOCAL GOVERNMENT vol 69 (2009) PARA 319) come into force, if this is later: Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 16(1)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 16(1)(b). As to the regulations so made see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298 (as amended); and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. As to the provisions that are so applied and modified see PARA 557 ante.

As to provision made in relation to England where, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 14(5) (see PARA 27 ante), the poll at a referendum is taken together with the poll at an election see the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 16(2A), (2B) (added by SI 2001/1310).

In relation to Wales, where an authority's petition period commences, by virtue of the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3A(5) (as added) (see PARA 562 ante), on the date that is 12 months before the earliest date on which that authority may hold a second (or subsequent) referendum and a valid petition is presented to that authority within that petition period, that authority must hold a referendum on the earliest date on which it may lawfully hold a second (or subsequent) referendum: reg 16(1A) (added by SI 2003/398). For the meaning of 'authority' see PARA 561 note 1 ante; and for the meaning of 'petition period' see PARA 562 note 19 ante.

6 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 16(2); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 16(2). The text refers to proposals sent, in relation to England, to the Secretary of State in accordance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(9) and, in relation to Wales, to the National Assembly for Wales in accordance with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(9) (see PARA 570 post).

7 Ie a referendum held following a petition under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt II (regs 3-17) (as amended) (in relation to England) and under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt II (regs 3-17) (as amended) (in relation to Wales) (see PARA 561 et seq ante).

8 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 16(4)(a) (reg 16(4) added by SI 2001/1310); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 16(4)(a).

9 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 16(4)(b) (as added: see note 8 supra); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 16(4)(b). The text refers to a bank holiday under the Banking and Financial Dealings Act 1971 in England or in Wales (as the case may be): see TIME vol 97 (2010) PARA 321.

10 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 16(4)(c) (as added: see note 8 supra); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 16(4)(c).

UPDATE

569 Timing of local authority referendum in consequence of a valid petition

NOTE 5--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(ii) Preparing for the Referendum/A. LOCAL AUTHORITY REFERENDUM ON PROPOSALS FOR ARRANGEMENTS/(B) Petition to Local Authority calling for a Referendum to be Held/570. Action taken before local authority referendum in consequence of a valid petition.

570. Action taken before local authority referendum in consequence of a valid petition.

Before the holding of a referendum following a petition¹, the authority² must: (1) where the petition does not specify, or is treated as not specifying, the form proposed for the authority's executive³, decide which form the executive is to take⁴ and decide the extent to which specified functions⁵ are to be the responsibility of the executive⁶; or (2) where the petition specifies the form proposed for the authority's executive, decide the extent to which the specified functions are to be the responsibility of the executive⁷. Before holding such a referendum, the authority must also: (a) draw up proposals for the operation of executive arrangements⁸; and (b) draw up outline fall-back proposals⁹. Before drawing up proposals under head (a) or head (b) above, the authority must take reasonable steps to consult the local government electors¹⁰ for, and other interested persons in, the authority's area¹¹.

The authority's proposals under head (a) above must include such details of the executive arrangements as the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) may direct¹², a timetable with respect to the implementation of the proposals¹³, and details of any transitional arrangements which are necessary for the implementation of the proposals¹⁴. In drawing up proposals under head (a) above, the authority must consider the extent to which the proposals, if implemented, are likely to assist in securing continuous improvement in the way in which the authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness¹⁵.

The authority's proposals under head (b) above, where the authority is not then operating executive arrangements or alternative arrangements¹⁶, must include such details of the executive arrangements or alternative arrangements to which they relate as the Secretary of State or the National Assembly for Wales (as the case may be) may direct¹⁷, and a timetable with respect to the implementation of detailed fall-back proposals which are based on the outline fall-back proposals in the event that the proposals that are to be the subject of the referendum are rejected¹⁸; and the authority's proposals may include, as outline fall-back proposals, any proposals¹⁹ approved by the Secretary of State or the National Assembly for Wales (as the case may be)²⁰. Where the authority is then operating executive arrangements or alternative arrangements, the proposals under head (b) above are to consist of a summary of those arrangements²¹.

Not later than two months before the date on which the referendum is to be held, the authority must send to the Secretary of State or the National Assembly for Wales (as the case may be) a copy of the proposals drawn up under heads (a) and (b) above²² and a statement which describes the steps which the authority took to consult the local government electors for, and other interested persons in, the authority's area and the outcome of that consultation and the extent to which that outcome is reflected in the proposals²³.

¹ See a referendum following a petition under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt II (regs 3-17) (as amended) (in relation to England) and under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt II (regs 3-17) (as amended) (in relation to Wales) (see PARA 561 et seq ante).

2 For the meaning of 'authority' see PARA 561 note 1 ante. The authority must comply with any directions given for these purposes by the Secretary of State (in relation to England) or by the National Assembly for Wales (in relation to Wales): Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(10); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(10). As to the Secretary of State see PARA 2 ante; and as to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

3 As to the proposed forms of executive for which a referendum is required see PARA 560 ante.

4 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(1)(a)(i); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(1)(a)(i). The form of executive determined as mentioned in the text must include an elected mayor: Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(2); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(2). For the meaning of 'elected mayor' see LOCAL GOVERNMENT vol 69 (2009) PARA 320.

5 le the functions specified in regulations under the Local Government Act 2000 s 13(3)(b) (see LOCAL GOVERNMENT vol 69 (2009) PARA 324).

6 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(1)(a)(ii); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(1)(a)(ii).

7 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(1)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(1)(b).

8 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(3)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(3)(a). As to executive arrangements see PARA 560 ante; and LOCAL GOVERNMENT vol 69 (2009) PARA 303 et seq.

9 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(3)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(3)(b). For these purposes, 'outline fall-back proposals' means an outline of the proposals that a local authority intends to implement if proposals that are to be the subject of a referendum, in relation to England, under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt II (regs 3-17) (as amended) (see PARA 561 et seq ante) or under Pt III (regs 18-22) (as amended) (see PARAS 572-575 post) are rejected in that referendum or if proposals that are to be the subject of a referendum, in relation to Wales, under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt II (regs 3-17) (as amended) (see PARA 561 et seq ante) or under Pt III (regs 18-22) (as amended) (see PARAS 572-575 post) are rejected in that referendum: Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 2(1); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 2(1). As to fall-back proposals see also PARA 560 ante.

10 As to entitlement to vote as a local government elector see PARA 112 et seq ante. For the meaning of 'elector' see PARA 110 note 2 ante.

11 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(4); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(4). In drawing up proposals under head (a) or head (b) in the text, the authority must also have regard to any guidance for the time being issued by the Secretary of State (in relation to England) or by the National Assembly for Wales (in relation to Wales) under the Local Government Act 2000 s 38 (see LOCAL GOVERNMENT vol 69 (2009) PARA 305): Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(8); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(8).

12 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(5)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(5)(a).

13 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(5)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(5)(b).

14 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(5)(c); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(5)(c).

15 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(6); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(6).

16 In relation to Wales, 'alternative arrangements' means arrangements specified in regulations made by the National Assembly for Wales under the Local Government Act 2000 s 32(1) (alternative arrangements: see LOCAL GOVERNMENT vol 69 (2009) PARA 364); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3. As to the operation of alternative arrangements see LOCAL GOVERNMENT vol 69 (2009) PARA 364 et seq.

17 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(7)(a)(i); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(7)(a)(i).

18 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(7)(a)(ii); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(7)(a)(ii).

19 In proposals under the Local Government Act 2000 s 28(1) (approval of outline fall-back proposals: see LOCAL GOVERNMENT vol 69 (2009) PARA 315).

20 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(7)(a)(iii); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(7)(a)(iii).

21 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(7)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(7)(b).

22 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(9)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(9)(a).

23 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(9)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(9)(b).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(ii) Preparing for the Referendum/A. LOCAL AUTHORITY REFERENDUM ON PROPOSALS FOR ARRANGEMENTS/(B) Petition to Local Authority calling for a Referendum to be Held/571. Restrictions relating to publicity for local authority referendums held in consequence of a valid petition.

571. Restrictions relating to publicity for local authority referendums held in consequence of a valid petition.

An authority¹ must not incur any expenditure for the purpose of: (1) publishing any material which, in whole or in part, appears designed to influence local government electors² in deciding whether or not to sign a petition requesting a local authority referendum³; (2) assisting any person to publish any such material⁴; or (3) influencing or assisting any person to influence, by any other means, local government electors in deciding whether or not to sign a petition requesting a local authority referendum⁵. However, these restrictions are not to be taken as preventing an authority from incurring expenditure on publishing or otherwise providing to any person (whether or not in pursuance of any duty to do so) any factual information so far as it is presented fairly⁶.

1 For the meaning of 'authority' see PARA 561 note 1 ante.

2 As to registration as a local government elector see PARA 128 et seq ante.

3 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 15(1)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 15(1)(a). The text refers to a petition under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt II (regs 3-17) (as amended) (in relation to England) or under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt II (regs 3-17) (as amended) (in relation to Wales) (see PARA 561 et seq ante).

4 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 15(1)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 15(1)(b).

5 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 15(1)(c); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 15(1)(c).

6 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 15(2); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 15(2). In determining for these purposes whether any information is presented fairly, regard must be had to any guidance for the time being issued by the Secretary of State (in relation to England) or by the National Assembly for Wales (in relation to Wales) under the Local Government Act 2000 s 38 (see LOCAL GOVERNMENT vol 69 (2009) PARA 305); Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 15(3); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 15(3).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(ii) Preparing for the Referendum/A. LOCAL AUTHORITY REFERENDUM ON PROPOSALS FOR ARRANGEMENTS/(C) Direction to Local Authority requiring a Referendum to be Held/572. Circumstances in which central authority may require local authority referendum to be held.

(C) DIRECTION TO LOCAL AUTHORITY REQUIRING A REFERENDUM TO BE HELD

572. Circumstances in which central authority may require local authority referendum to be held.

The Secretary of State¹ (in relation to England) or the National Assembly for Wales² (in relation to Wales) may by a direction in writing to the authority³, require the authority to hold a referendum on whether it should operate executive arrangements⁴ involving an executive which takes such permitted form⁵ as may be specified in the direction⁶: (1) where it appears to the Secretary of State or to the Assembly (as the case may be) that specified circumstances have arisen⁷; (2) where he or it (as the case may be) has rejected an authority's application for approval of outline fall-back proposals⁸; (3) where it appears to him or to it (as the case may be) that a direction is necessary to further compliance with best value requirements⁹; (4) if an authority requests him or it (as the case may be) to do so¹⁰; or (5) if a petition organiser¹¹ requests him or it (as the case may be) to do so¹².

Where a direction is given pursuant to head (1) above, the Secretary of State or the Assembly (as the case may be) may specify in the direction¹³: (a) the form of executive to be included in proposals for the operation of executive arrangements¹⁴; (b) details (whether or not in the form of proposals that are to be the subject of the referendum) of the executive arrangements and their operation and any transitional arrangements necessary for the implementation of the proposals on which the referendum is to be held¹⁵; (c) a timetable with respect to the implementation of the proposals¹⁶; (d) the principles or matters to which the authority is to have regard in drawing up the proposals¹⁷; (e) except in a case where details in the form of proposals are specified pursuant to head (b) above, in relation to the consultation to be undertaken in drawing up those proposals, the persons with whom consultation is required, the manner of the consultation and the matters about which those persons are to be consulted¹⁸; (f) the outline fall-back proposals¹⁹; (g) details (whether or not in the form of proposals) of the detailed fall-back proposals that are to be implemented if the proposals that are to be the subject of the referendum are rejected²⁰.

1 As to the Secretary of State see PARA 2 ante.

2 As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

3 For the meaning of 'authority' see PARA 561 note 1 ante.

4 As to the operation of executive arrangements see LOCAL GOVERNMENT vol 69 (2009) PARA 303 et seq.

5 le permitted by or under the Local Government Act 2000 s 11 (see LOCAL GOVERNMENT vol 69 (2009) PARA 327 et seq).

6 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(1); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(1).

7 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(1)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292,

reg 18(1)(a). The text refers to the circumstances that are mentioned in any of the provisions of the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(1)(a), Sch 2 Pt I paras 1-6 (as amended) (in relation to England) or the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(1)(a), Sch 2 Pt I paras 1-6 (in relation to Wales).

Where a form of executive involving an elected mayor is specified in a petition in consequence of which proposals are drawn up under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(3) (in relation to England) (see PARA 570 ante) or under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(3) (in relation to Wales) (see PARA 570 ante), a direction given pursuant to head (1) in the text in respect of those proposals does not require the authority to hold a referendum on proposals involving any other form of executive: Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(4); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(4).

8 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(1)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(1)(b). The text refers to proposals rejected under the Local Government Act 2000 s 28 (approval of outline fall-back proposals: see LOCAL GOVERNMENT vol 69 (2009) PARA 315). For the meaning of 'outline fall-back proposals' see PARA 570 note 9 ante.

9 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(1)(c); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(1)(c). The text refers to further compliance with the requirements of the Local Government Act 1999 Pt I (ss 1-29) (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 688 et seq).

10 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(1)(d); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(1)(d).

11 For the meaning of 'petition organiser' see PARA 563 note 6 ante.

12 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(1)(e); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(1)(e). Where a form of executive involving an elected mayor is specified in a petition, a direction given in response to the request of the person who is the petition organiser in relation to that petition does not require the authority to hold a referendum on proposals involving any other form of executive: Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(3); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(3).

13 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(2); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(2).

14 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(2)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(2)(a). The text refers to proposals drawn up, in relation to England, under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(1)(c) and, in relation to Wales, under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(1)(c) (see PARA 573 post).

15 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(2)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(2)(b).

16 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(2)(c); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(2)(c).

17 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(2)(d); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(2)(d).

18 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(2)(e); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(2)(e).

19 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(2)(f); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(2)(f).

20 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(2)(g); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(2)(g).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(ii) Preparing for the Referendum/A. LOCAL AUTHORITY REFERENDUM ON PROPOSALS FOR ARRANGEMENTS/(C) Direction to Local Authority requiring a Referendum to be Held/573. Action following receipt of direction to hold local authority referendum.

573. Action following receipt of direction to hold local authority referendum.

On receipt of a direction to hold a local authority referendum¹ from the Secretary of State² (in relation to England) or the National Assembly for Wales³ (in relation to Wales) in which a relevant matter is specified⁴, the authority⁵ to which the direction is given must immediately⁶: (1) abandon any arrangements made for the holding of a referendum, whether in consequence of a petition⁷ or an earlier direction by the Secretary of State or by the Assembly (as the case may be), to the extent that those arrangements are inconsistent with the arrangements necessary to conduct the referendum required by the direction⁸; (2) abandon all action in respect of any petition received on or before the day on which it receives the direction⁹; (3) draw up¹⁰ proposals for the operation of executive arrangements¹¹; (4) draw up¹² outline fall-back proposals¹³; and (5) make arrangements for the holding of a referendum on the proposals drawn up in accordance with head (3) above, to the extent required to supplement any arrangements that may continue by virtue of head (1) above¹⁴.

Where, on the day on which the direction is received, the authority is in possession of the first petition submitted¹⁵ to it¹⁶ and has not complied with the requirement as to validity¹⁷ in relation to it¹⁸, the authority must satisfy itself as to the validity of the petition¹⁹ and, subject to head (b) below, the direction is of no further effect²⁰. Where, in a case to which these circumstances apply: (a) the authority is satisfied that the petition is valid, it must publicise the petition in accordance with the requirements as to valid petitions²¹ and the direction²² must be treated as revoked with effect from the date on which the required notice is so given²³; (b) the authority is satisfied that the petition is invalid, it must publicise the petition in accordance with the requirements as to invalid petitions²⁴ and the direction²⁵ must be treated as effective from the date on which the required notice is so given²⁶. On receipt of a direction²⁷ in which either the outline fall-back proposals²⁸ or the detailed fall-back proposals²⁹ are specified, the authority to which the direction is given must immediately take the steps necessary to give effect to the direction³⁰.

Where the authority to which a direction³¹ has been given receives a petition submitted³² to it³³, the petition is received before it has given notice of the date on which the referendum is to be held pursuant to the direction³⁴, the petition proposes a constitutional change³⁵ different from that in relation to which the direction requires a referendum to be held³⁶ and the proper officer determines³⁷ that the petition is a valid petition³⁸, the direction must be treated as revoked with effect from the date of the proper officer's determination³⁹. In such a case, the authority must notify the Secretary of State or the National Assembly for Wales (as the case may be) and the petition organiser⁴⁰ of the date of the proper officer's determination⁴¹.

In drawing up proposals for the operation of executive arrangements under head (3) above, the authority must: (i) where the direction specifies details, a form of executive or a timetable, include those details, that form of executive or that timetable⁴²; (ii) where the direction requires regard to be had to principles or matters, have regard to those principles or matters⁴³; (iii) where the direction requires consultation with specified persons, or in a specified manner or about specified matters, consult those persons, in that manner or about those matters, as the case may be⁴⁴; (iv) consider the extent to which its proposals, if implemented, are likely to assist in securing continuous improvement in the way in which its functions are exercised,

having regard to a combination of economy, efficiency and effectiveness⁴⁵; (v) subject to heads (i) to (iv) above, decide which form the executive is to take⁴⁶, decide the extent to which the specified functions⁴⁷ are to be the responsibility of the executive⁴⁸ and take reasonable steps to consult the local government electors for, and other interested persons in, the authority's area⁴⁹.

The authority's outline fall-back proposals under head (4) above, where the authority is not then operating executive arrangements or alternative arrangements: (A) may not be drawn up before the authority has taken reasonable steps to consult the local government electors for, and other interested persons in, its area⁵⁰; (B) must include such details of the executive arrangements or alternative arrangements to which they relate as the Secretary of State or the National Assembly for Wales (as the case may be) may direct⁵¹; (C) must include a timetable with respect to the implementation of the detailed fall-back proposals in the event that the proposals that are to be the subject of the referendum are rejected⁵²; and (D) may include, as the authority's outline fall-back proposals, any proposals approved⁵³ by the Secretary of State or the National Assembly for Wales (as the case may be)⁵⁴. Where the authority is then operating executive arrangements or alternative arrangements, the authority's outline fall-back proposals under head (4) above are to consist of a summary of those arrangements⁵⁵.

In drawing-up proposals under either head (3) or head (4) above, an authority must comply with any directions given by the Secretary of State or by the National Assembly for Wales (as the case may be)⁵⁶ and must have regard to any guidance for the time being issued by the Secretary of State or by the National Assembly for Wales (as the case may be)⁵⁷.

Not later than two months before the date on which the referendum is to be held, the authority must send to the Secretary of State or to the National Assembly for Wales (as the case may be) a copy of the proposals drawn up under heads (3) and (4) above⁵⁸ and a statement which describes the steps which the authority took to consult the local government electors for, and other interested persons in, the authority's area and the outcome of that consultation and the extent to which that outcome is reflected in the proposals⁵⁹.

1 I.e., in relation to England, under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18 and, in relation to Wales, under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18 (see PARA 572 ante).

2 As to the Secretary of State see PARA 2 ante.

3 As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

4 I.e. a matter referred to in any of the provisions of the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(2)(a)-(e) (in relation to England) or under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(2)(a)-(e) (in relation to Wales) (see PARA 572 ante).

5 For the meaning of 'authority' see PARA 561 note 1 ante.

6 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(1); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(1).

7 As to referendums held in consequence of a petition see PARA 561 et seq ante.

8 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(1)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(1)(a).

9 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(1)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(1)(b).

10 Ie, in relation to England, in accordance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(1), (2), (4) or, in relation to Wales, in accordance with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(1), (2), (4) (see the text and notes 42-49, 56-57 *infra*).

11 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(1)(c); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(1)(c).

12 Ie, in relation to England, in accordance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(3), (4) or, in relation to Wales, in accordance with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(3), (4) (see the text and notes 50-57 *infra*).

13 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(1)(d); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(1)(d). For the meaning of 'outline fall-back proposals' see PARA 570 note 9 *ante*.

14 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(1)(e); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(1)(e).

15 Ie, in relation to England, under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt II (regs 3-17) (as amended) (see PARA 561 *et seq ante*), and including the single petition resulting from an amalgamation of petitions in accordance with reg 8(1) (see PARA 564 *ante*); or, in relation to Wales, under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt II (regs 3-17) (as amended) (see PARA 561 *et seq ante*), and including the single petition resulting from an amalgamation of petitions in accordance with reg 8(1) (see PARA 564 *ante*).

16 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(2)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(2)(a).

17 Ie, in relation to England, compliance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 11(2) or, in relation to Wales, compliance with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 11(2) (see PARA 566 *ante*).

18 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(2)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(2)(b).

19 Ie, in relation to England, in accordance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt II (as amended) or, in relation to Wales, in accordance with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt II (as amended) (see PARA 561 *et seq ante*).

20 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(2); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(2).

21 Ie the authority must comply, in relation to England, with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 13 or, in relation to Wales, with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 13 (see PARA 568 *ante*).

22 See note 1 *supra*.

23 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(3)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(3)(a). The text refers to the notice given, in relation to England, under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 13(1) or, in relation to Wales, under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 13(1) (see PARA 568 *ante*).

24 Ie the authority must comply, in relation to England, with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 14 or, in relation to Wales, with the Local

Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 14 (see PARA 568 ante).

25 See note 1 supra.

26 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(3)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(3)(b). The text refers to the notice given, in relation to England, under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 14(1) or, in relation to Wales, under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 14(1) (see PARA 568 ante).

27 See note 1 supra.

28 Ie a matter specified, in relation to England, in the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(2)(f) or, in relation to Wales, in the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(2)(f) (see PARA 572 ante).

29 Ie a matter specified, in relation to England, in the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(2)(g) or, in relation to Wales, in the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(2)(g) (see PARA 572 ante).

30 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(4); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(4).

31 See note 1 supra.

32 See note 15 supra.

33 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(5)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(5)(a).

34 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(5)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(5)(b).

35 For the meaning of 'constitutional change' see PARA 563 note 10 ante.

36 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(5)(c); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(5)(c).

37 Ie, in relation to England, in accordance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt II (as amended) or, in relation to Wales, in accordance with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt II (as amended) (see PARA 561 et seq ante). For the meaning of 'proper officer' see PARA 155 note 2 ante (definition applied, in relation to England, by virtue of the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 3; and, in relation to Wales, by virtue of the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3).

38 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(5)(d); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(5)(d). For the meaning of 'valid petition' see PARA 561 note 3 ante.

39 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(5); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(5).

40 For the meaning of 'petition organiser' see PARA 563 note 6 ante.

41 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(6); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(6). The authority must include the notification referred to in the text in the notice required, in relation to England, by the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI

2000/2852, reg 13(1) or, in relation to Wales, by the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 13(1) (see PARA 568 ante).

42 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(1)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(1)(a). Without prejudice to head (i) in the text, proposals under head (3) in the text must include such details of the executive arrangements as the Secretary of State or the National Assembly for Wales (as the case may be) may direct, a timetable with respect to the implementation of the proposals and details of any transitional arrangements which are necessary for the implementation of the proposals: Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(2); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(2).

43 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(1)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(1)(b).

44 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(1)(c); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(1)(c).

45 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(1)(d); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(1)(d).

46 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(1)(e)(i); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(1)(e)(i).

47 *le* the functions specified in regulations under the Local Government Act 2000 s 13(3)(b) (see LOCAL GOVERNMENT vol 69 (2009) PARA 324).

48 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(1)(e)(ii); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(1)(e)(ii).

49 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(1)(e)(iii); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(1)(e)(iii).

50 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(3)(a)(i); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(3)(a)(i).

51 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(3)(a)(ii); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(3)(a)(ii).

52 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(3)(a)(iii); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(3)(a)(iii).

53 *le* under the Local Government Act 2000 s 28(1) (approval of outline fall-back proposals: see LOCAL GOVERNMENT vol 69 (2009) PARA 315).

54 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(3)(a)(iv); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(3)(a)(iv).

55 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(3)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(3)(b).

56 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(4)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(4)(a).

57 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(4)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292,

reg 20(4)(b). The text refers to guidance for the time being issued by the Secretary of State (in relation to England) or by the National Assembly for Wales (in relation to Wales) under the Local Government Act 2000 s 38 (see LOCAL GOVERNMENT vol 69 (2009) PARA 305).

58 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(5)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(5)(a).

59 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(5)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(5)(b).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(ii) Preparing for the Referendum/A. LOCAL AUTHORITY REFERENDUM ON PROPOSALS FOR ARRANGEMENTS/(C) Direction to Local Authority requiring a Referendum to be Held/574. Time for holding referendum required by direction.

574. Time for holding referendum required by direction.

Except where the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) holds a referendum in exercise of the default power¹, a referendum required by a direction² must be held³ not later than the end of the period of six months beginning with the date of the direction or the date that is treated⁴ as the date of the direction⁵; and a referendum must not be held before the end of the period of two months beginning with the date on which proposals are sent⁶ to the Secretary of State (in relation to England) or to the Assembly (in relation to Wales)⁷. Where the Secretary of State (in relation to England) or the Assembly (in relation to Wales), in exercise of the default power⁸, draws up outline fall-back proposals or proposals for the operation of executive arrangements⁹ and directs an authority to hold a referendum on those proposals¹⁰, the authority must hold the referendum not later than the end of the period of two months beginning with the date of the direction¹¹.

Such a referendum¹² may not be held on: (1) a Saturday or Sunday¹³; (2) Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a day which is a bank holiday¹⁴; or (3) any day appointed as a day of public thanksgiving or mourning¹⁵.

1 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 21(3); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 21(4). The text refers to the circumstances where the Secretary of State exercises the power conferred by the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 25 (in relation to England) or the National Assembly for Wales exercises the power conferred by the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 25 (in relation to Wales) (see PARA 560 ante).

2 Ie, in relation to England, under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18 and, in relation to Wales, under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18 (see PARA 572 ante).

3 Ie, in relation to England, subject to the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 21(2)-(4) (as amended) and, in relation to Wales, subject to the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 21(2)-(4) (see the text and notes 1 supra, 6-7, 12-15 infra).

4 Ie in accordance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 7(6) (in relation to England) or in accordance with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 7(6) (in relation to Wales) (see PARA 563 ante), in a case to which that provision applies.

5 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 21(1); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 21(1). As to provision made in relation to England where, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 14(5) (see PARA 27 ante), the poll at a referendum is taken together with the poll at an election see the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 21(2A), (2B) (added by SI 2001/1310).

6 Ie in accordance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(5) (in relation to England) or the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(5) (in relation to Wales) (see PARA 573 ante).

7 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 21(2); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 21(2).

8 See note 1 *supra*.

9 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 21(4)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 21(5)(a). For the meaning of 'outline fall-back proposals' see PARA 570 note 9 *ante*.

10 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 21(4)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 21(5)(b).

11 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 21(4); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 21(5).

12 *Ie* under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt III (regs 18-22) (as amended) (in relation to England) or under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt III (regs 18-22) (as amended) (in relation to Wales) (see PARA 572 *et seq ante*).

13 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 21(2C)(a) (reg 21(2C) added by SI 2001/1310); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 21(3)(a).

14 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 21(2C)(b) (as added: see note 13 *supra*); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 21(3)(b). The text refers to a bank holiday under the Banking and Financial Dealings Act 1971 in England or in Wales (as the case may be): see TIME vol 97 (2010) PARA 321.

15 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 21(2C)(c) (as added: see note 13 *supra*); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 21(3)(c).

UPDATE

574 Time for holding referendum required by direction

NOTE 5--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(ii) Preparing for the Referendum/A. LOCAL AUTHORITY REFERENDUM ON PROPOSALS FOR ARRANGEMENTS/(C) Direction to Local Authority requiring a Referendum to be Held/575. Publicity for local authority referendum required to be held by direction.

575. Publicity for local authority referendum required to be held by direction.

The authority¹ to which a direction requiring a referendum to be held is given² must, not later than one month after the date of the direction, publish in at least one newspaper circulating in its area a notice which³: (1) sets out the terms of the direction⁴; and (2) contains a statement⁵: (a) that a direction in the terms set out in the notice has been given by the Secretary of State (in relation to England) or by the National Assembly for Wales (in relation to Wales) requiring a referendum to be held⁶; (b) of the form of executive to be included in the proposals that are to be the subject of the referendum⁷; and (c) that a referendum is to be held⁸. An authority may include in the notice to be so published, or may otherwise provide to any person (whether or not in pursuance of any duty to do so), any other factual information relating to the direction so far as it is presented fairly⁹.

¹ For the meaning of 'authority' see PARA 561 note 1 ante.

² Under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18 (in relation to England) or under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18 (in relation to Wales) (see PARA 572 ante).

³ Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 22(1); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 22(1).

⁴ Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 22(1)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 22(1)(a).

⁵ Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 22(1)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 22(1)(b).

⁶ Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 22(1)(b)(i); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 22(1)(b)(i).

⁷ Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 22(1)(b)(ii); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 22(1)(b)(ii). As to the forms of executive that may be proposed see PARA 560 ante.

⁸ Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 22(1)(b)(iii); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 22(1)(b)(iii).

⁹ Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 22(2); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 22(2). In determining for these purposes whether any information is presented fairly, regard must be had to any guidance for the time being issued by the Secretary of State (in relation to England) or by the National Assembly for Wales (in relation to Wales) under the Local Government Act 2000 s 38 (see LOCAL GOVERNMENT vol 69 (2009) PARA 305); Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 22(3); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 22(3).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(ii) Preparing for the Referendum/A. LOCAL AUTHORITY REFERENDUM ON PROPOSALS FOR ARRANGEMENTS/(D) Campaign to promote a Particular Result in a Local Authority Referendum/(a) Notices etc of Local Authority Referendum/576. Public notice of local authority referendum and proposals.

(D) CAMPAIGN TO PROMOTE A PARTICULAR RESULT IN A LOCAL AUTHORITY REFERENDUM

(a) Notices etc of Local Authority Referendum

576. Public notice of local authority referendum and proposals.

The proper officer¹ must, as soon as reasonably practicable after the proposals date², publish in at least one newspaper circulating in the area of the local authority³ a notice which contains⁴:

- 517 (1) a statement that relevant proposals have been sent to the Secretary of State⁵ (in relation to England) or to the National Assembly for Wales⁶ (in relation to Wales)⁷;
- 518 (2) a description of the main features of the proposals and of the outline fall-back proposals⁸;
- 519 (3) a statement⁹:
- 21
 - 39. (a) that a referendum is to be held¹⁰;
 - 40. (b) of the date on which the referendum will be held¹¹;
 - 41. (c) of the question to be asked in the referendum¹²;
 - 42. (d) where the local authority has made a determination to such an effect¹³, that the votes in the referendum may be cast only by postal ballot¹⁴;
 - 43. (e) where no such determination has been made, that, save for extended hours of polling, the referendum is to be conducted in accordance with procedures similar to those used at local government elections¹⁵;
 - 44. (f) of the referendum expenses limit¹⁶ that will apply in relation to the referendum, and of the number of local government electors by reference to which that limit has been calculated¹⁷;
 - 45. (g) of the address and times at which a copy of the proposals, and of the local authority's outline fall-back proposals, may be inspected¹⁸; and
 - 46. (h) of the procedures for obtaining a copy of the proposals and outline fall-back proposals¹⁹.
- 22

Unless the notice that is required to be published in this way (the 'first notice') is published less than 56 days before the date of the referendum, the proper officer must publish a second notice containing the particulars which were specified for inclusion in the statement contained in the first notice²⁰. The second notice must be published in the same newspaper or newspapers as were used for the publication of the first notice²¹, and not more than 55 days before the date of the referendum and not less than 28 days before that date²².

The authority must make available for inspection throughout the referendum period²³, at the address and times stated in the notice, and free of charge, a copy of the proposals and outline fall-back proposals; and it must secure that sufficient copies are available for persons who wish

to obtain copies²⁴. The authority may also provide (whether or not in pursuance of any duty to do so) any other factual information relating to the proposals, the outline fall-back proposals and the referendum so far as it is presented fairly²⁵.

1 For the meaning of 'proper officer' see PARA 155 note 2 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1); and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 2(1)).

2 In relation to England, and in relation to a referendum other than a further referendum, 'proposals date' means the date on which proposals are sent to the Secretary of State under the Local Government Act 2000 s 25 (proposals involving a form of executive for which a referendum is required: see LOCAL GOVERNMENT vol 69 (2009) PARA 312) or under regulations under s 30 (different executive arrangements: see LOCAL GOVERNMENT vol 69 (2009) PARA 311) or s 33 (alternative arrangements: see LOCAL GOVERNMENT vol 69 (2009) PARA 366) or under an order under s 36 (referendum following order: see LOCAL GOVERNMENT vol 69 (2009) PARA 318) or under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17 (action before referendum: see PARA 570 ante) or reg 19 (action on receipt of direction: see PARA 573 ante); and, in relation to a further referendum, 'proposals date' means the day which falls two months before the day on which the further referendum is held: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1). In relation to Wales, and in relation to a referendum other than a further referendum, 'proposals date' means the date on which proposals are sent to the National Assembly for Wales under the Local Government Act 2000 s 36 (see LOCAL GOVERNMENT vol 69 (2009) PARA 318) or under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17 (see PARA 570 ante) or reg 19 (see PARA 573 ante); and, in relation to a further referendum, 'proposals date' means the day which falls two months before the day on which the further referendum is held: Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 2(1). As to the Secretary of State see PARA 2 ante; and as to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

For these purposes, 'referendum' means a referendum held under the Local Government Act 2000 s 27 (referendum in case of proposals involving elected mayor: see LOCAL GOVERNMENT vol 69 (2009) PARA 314) or by virtue of regulations or an order made under any provision of Pt II (ss 10-48) (as amended) (arrangements with respect to executives etc: see LOCAL GOVERNMENT vol 69 (2009) PARA 303 et seq); and 'further referendum' means a referendum held in pursuance of an order under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(3) or the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 17(3) (procedures subsequent to referendum petitions: see PARA 864 post): Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 2(1). 'Elected mayor', in relation to a local authority, means an individual elected as mayor of the local authority by the local government electors for the local authority's area in accordance with provisions made by or under the Local Government Act 2000 Pt II (as amended) (arrangements with respect to executives etc: see LOCAL GOVERNMENT vol 69 (2009) PARA 303 et seq): Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 2(1).

3 Ie, in relation to England, a local authority in England (Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 1(2)) and, in relation to Wales, a local authority in Wales (Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 1(2)).

4 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(1).

In relation to England only, the proper officer of an authority must, by notice in writing and at least 14 days before he publishes a notice in accordance with the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(1), advise, if he is the proper officer of a county council, the proper officer of the council of each district comprised in the county or, if he is the proper officer of the council of a district comprised in an area for which there is a county council, the proper officer of the council of the county in which the district lies and each of the other district councils in that county, that he intends to publish such a notice and of the date of the referendum to be held in his area: reg 4(2). It is then the duty of each proper officer to whom notice has been given under reg 4(2), and whose council is considering the holding of a referendum in its area, to consider whether it would be reasonably practicable to combine that referendum with the one of which such notice has been given; and each such officer must reply to the notice within seven days of its receipt, indicating whether his authority wishes to combine its referendum with that to which the notice under reg 4(2) refers: reg 4(3).

5 Ie, in relation to England, proposals sent to the Secretary of State under the Local Government Act 2000 s 25, involving a form of executive for which a referendum is required (see LOCAL GOVERNMENT vol 69 (2009) PARA 312), or proposals under regulations under s 30 (see LOCAL GOVERNMENT vol 69 (2009) PARA 311) or s 33 (see

LOCAL GOVERNMENT vol 69 (2009) PARA 366) or proposals under an order under s 36 (see LOCAL GOVERNMENT vol 69 (2009) PARA 318) or proposals under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(3) (see PARA 570 ante) or reg 19(1) (see PARA 573 ante): Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(1)(a).

6 Ie, in relation to Wales, proposals sent to the National Assembly for Wales under an order under the Local Government Act 2000 s 36 (see LOCAL GOVERNMENT vol 69 (2009) PARA 318) or under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(3) (see PARA 570 ante) or reg 19(1) (see PARA 573 ante): Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(1)(a).

7 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(1)(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(1)(a).

8 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(1)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(1)(b).

For these purposes, in relation to England, 'outline fall-back proposals': (1) in relation to proposals under the Local Government Act 2000 s 25 (see LOCAL GOVERNMENT vol 69 (2009) PARA 312), means an outline of the proposals that a local authority intends to implement if its proposals under s 25 are rejected in a referendum; (2) in relation to proposals under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17 (see PARA 570 ante) or reg 19 (see PARA 573 ante), means an outline of the proposals that a local authority intends to implement if proposals that are to be the subject of a referendum under Pt II (regs 3-17) (as amended) (see PARA 561 et seq ante) or under Pt III (regs 18-22) (as amended) (see PARA 572 et seq ante) are rejected in that referendum; (3) in relation to proposals under an order under the Local Government Act 2000 s 36 (see LOCAL GOVERNMENT vol 69 (2009) PARA 318), means, if the authority is then operating executive or alternative arrangements, a summary of those arrangements and, in any other case, an outline of the proposals that the authority intends to implement if proposals that are to be the subject of a referendum are rejected in that referendum; (4) in relation to proposals under regulations under s 30 (see LOCAL GOVERNMENT vol 69 (2009) PARA 311) or s 33 (see LOCAL GOVERNMENT vol 69 (2009) PARA 366), means a summary of the authority's existing executive arrangements or existing alternative arrangements, as the case may be: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1).

For these purposes, in relation to Wales, 'outline fall-back proposals': (a) in relation to proposals under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 17 (see PARA 570 ante) or reg 19 (see PARA 573 ante), means an outline of the proposals that a local authority intends to implement if proposals that are to be the subject of a referendum under Pt II (regs 3-17) (as amended) (see PARA 561 et seq ante) or under Pt III (regs 18-22) (as amended) (see PARA 572 et seq ante) are rejected in that referendum; and (b) in relation to proposals under an order under the Local Government Act 2000 s 36 (see LOCAL GOVERNMENT vol 69 (2009) PARA 318), means, if the local authority is then operating executive or alternative arrangements, a summary of those arrangements and, in any other case, an outline of the proposals specified in the order that the local authority is to implement if proposals that are to be the subject of a referendum are rejected in that referendum: Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 2(1).

9 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(1)(c); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(1)(c). As to the additional requirements that such a statement needs to meet, in relation to England, where the poll at a referendum is combined with the poll at another election or referendum (see PARA 27 ante) see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(1)(c)(iii), (x).

10 Ibid reg 4(1)(c)(i); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(1)(c)(i).

11 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(1)(c)(ii); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(1)(c)(ii). As to the date of a local authority referendum see PARA 578 post.

12 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(1)(c)(iv); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(1)(c)(iii). As to the form of the question to be asked at a local authority referendum see PARA 577 post.

13 Ie, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10(1) and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10(1) (see PARA 595 post).

14 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(1)(c)(v); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(1)(c)(iv). As to all-postal voting see PARA 595 et seq post.

15 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(1)(c)(vi); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(1)(c)(v). For the meaning of 'local government election' see PARA 10 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1); and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 2(1)).

16 le as defined, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 6(1) and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 6(1) (see PARA 580 post).

17 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(1)(c)(vii); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(1)(c)(vi).

18 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(1)(c)(viii); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(1)(c)(vii).

19 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(1)(c)(ix); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(1)(c)(viii).

20 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(4); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(2). In relation to England, the text refers to the particulars specified in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(1)(c)(i)-(ix) and, if reg 4(1)(c)(x) applies (whether or not it applied in relation to the first notice), the particulars specified therein; and, in relation to Wales, the particulars referred to in the text are those specified in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(1)(c)(i)-(viii) (see the text and notes 10-19 supra).

21 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(5)(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(3)(a).

22 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(5)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(3)(b).

23 For these purposes, 'referendum period', in relation to a referendum (including a further referendum), means the period beginning with the proposals date and ending on the date of the referendum: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 2(1).

24 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(6); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(4).

25 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(7); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(5). In determining for these purposes whether any information is presented fairly, regard must be had, in accordance with the Local Government Act 2000 s 38 (see LOCAL GOVERNMENT vol 69 (2009) PARA 305), to any guidance for the time being issued by the Secretary of State (in relation to England) or by the National Assembly for Wales (in relation to Wales) under the Local Government Act 2000 s 38: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(8); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(6).

UPDATE

576-585 Public notice of local authority referendum and proposals ... Disturbances at local authority referendum meetings

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(ii) Preparing for the Referendum/A. LOCAL AUTHORITY REFERENDUM ON PROPOSALS FOR ARRANGEMENTS/(D) Campaign to promote a Particular Result in a Local Authority Referendum/(a) Notices etc of Local Authority Referendum/577. The question to be asked at a local authority referendum.

577. The question to be asked at a local authority referendum.

The question to be asked in a local authority referendum must be in the prescribed form, which differs according to whether the proposals in relation to which a referendum is to be held involve a mayor and cabinet executive¹, a mayor and council manager executive², or a leader and cabinet executive³.

1 See the form set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 3, Sch 1 Pt I para 1 and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 3, Sch 1 Pt I para 1. For the meaning of 'mayor and cabinet executive' see LOCAL GOVERNMENT vol 69 (2009) PARA 327.

2 See the form set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 1 Pt I para 2 and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 1 Pt I para 2. For the meaning of 'mayor and council manager executive' see LOCAL GOVERNMENT vol 69 (2009) PARA 327.

3 See the form set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 1 Pt I para 3 and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 1 Pt I para 3. For the meaning of 'leader and cabinet executive' see LOCAL GOVERNMENT vol 69 (2009) PARA 327.

UPDATE

576-585 Public notice of local authority referendum and proposals ... Disturbances at local authority referendum meetings

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(ii) Preparing for the Referendum/A. LOCAL AUTHORITY REFERENDUM ON PROPOSALS FOR ARRANGEMENTS/(D) Campaign to promote a Particular Result in a Local Authority Referendum/(a) Notices etc of Local Authority Referendum/578. Notice of date etc of local authority referendum.

578. Notice of date etc of local authority referendum.

Not later than the twenty-fifth day before the day of the referendum¹, the counting officer² must publish notice of the referendum, stating the date of the poll³. Such notice must also state the date by which applications to vote by post or by proxy and other applications and notices about postal or proxy voting must reach the registration office in order that they may be effective for the referendum⁴.

1 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 1 (applied and modified, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 3). In calculating any period for the purposes of any provision of the LGA Referendum Rules, a Saturday or Sunday, Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 (see *TIME* vol 97 (2010) PARA 321) in England or Wales, and any day appointed as a day of public thanksgiving or mourning, must be disregarded: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 22; Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 18. For the meaning of 'LGA Referendum Rules' see PARA 557 note 4 ante. In relation to a local authority referendum at which voting is by post only (as to which see PARA 595 et seq post), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 rr 1, 3 (as applied and modified) are further modified, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4.

2 As to the appointment of the counting officer see PARA 591 post.

3 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 3(1) (as applied and modified: see note 1 supra).

4 Ibid Sch 2 r 3(2) (as applied and modified: see note 1 supra).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(ii) Preparing for the Referendum/A. LOCAL AUTHORITY REFERENDUM ON PROPOSALS FOR ARRANGEMENTS/(D) Campaign to promote a Particular Result in a Local Authority Referendum/(b) Referendum Expenses/579. Definition of 'referendum expenses' for purposes of local authority referendum.

(b) Referendum Expenses

UPDATE

**576-585 Public notice of local authority referendum and proposals ...
Disturbances at local authority referendum meetings**

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

579. Definition of 'referendum expenses' for purposes of local authority referendum.

In relation to a local authority referendum¹, 'referendum expenses' means expenses incurred by or on behalf of any individual or body during the referendum period² which are expenses incurred for referendum purposes³ in respect of any of the matters set out in the following list⁴:

- 520 (1) advertising of any nature (whatever the medium used), including agency fees, design costs and other costs in connection with preparing, producing, distributing or otherwise disseminating such advertising or anything incorporating such advertising and intended to be distributed for the purpose of disseminating it⁵;
- 521 (2) unsolicited material addressed to electors (whether addressed to them by name or intended for delivery to households within any particular area or areas), including design costs and other costs in connection with preparing, producing or distributing such material (including the cost of postage)⁶;
- 522 (3) any published promotional material or other document providing information about the referendum or the issues or arguments⁷;
- 523 (4) market research or canvassing conducted for the purpose of ascertaining polling intentions⁸;
- 524 (5) the provision of any services or facilities in connection with press conferences or other dealings with the media⁹;
- 525 (6) the transport (by any means) of persons to any place or places with a view to obtaining publicity in connection with a referendum campaign, including the costs of hiring a particular means of transport for the whole or part of the referendum period¹⁰;
- 526 (7) rallies and other events, including public meetings organised so as to obtain publicity in connection with a referendum campaign or for other purposes connected with a referendum campaign, including costs incurred in connection with the attendance of persons at such events, the hire of premises for the purposes of such events or the provision of goods, services or facilities at them¹¹.

Nothing in heads (1) to (7) above is to be taken as extending to any expenses:

- 527 (a) in respect of any property, services or facilities so far as those expenses fall to be met out of public funds¹²;
- 528 (b) incurred in respect of the remuneration or allowances payable to any member of the staff of the campaign organiser¹³; or
- 529 (c) incurred in respect of an individual by way of travelling expenses (by any means of transport) or in providing for his accommodation or other personal needs to the extent that the expenses are paid by the individual from his own resources and are not reimbursed to him¹⁴.

Where property, services or facilities is or are provided for the use or benefit of any person, either free of charge or at a discount of more than 10 per cent of the commercial rate for the use of the property or for the provision of the services or facilities¹⁵, and the property, services or facilities is or are made use of by or on behalf of that person in circumstances such that, if any expenses were to be (or are) actually incurred by him or on his behalf in respect of that use, they would be (or are) referendum expenses actually incurred by him or on his behalf¹⁶, an amount of referendum expenses (the 'appropriate amount') is treated, for the purposes of the statutory provisions which govern the control of referendum expenses, as incurred by that person during the period for which the property, services or facilities is or are made so use of, unless that amount is not more than £200¹⁷. For these purposes, the appropriate amount is determined as being such proportion of either the commercial rate for the use of the property or the provision of the services or facilities (where the property, services or facilities is or are provided free of charge)¹⁸ or the difference between that commercial rate and the amount of expenses actually incurred by or on behalf of the individual or body in respect of the use of the property or the provision of the services or facilities (where the property, services or facilities is or are provided at a discount)¹⁹, as is reasonably attributable to the use made of the property, services or facilities²⁰. However, no amount of referendum expenses is to be regarded as so incurred in respect of the provision by any individual of his own services which he provides voluntarily in his own time and free of charge²¹.

1 For the meaning of 'referendum' see PARA 576 note 2 ante.

2 For the meaning of 'referendum period' see PARA 576 note 23 ante.

3 'For referendum purposes' means in connection with the conduct or management of any campaign conducted with a view to promoting or procuring a particular outcome in relation to any question asked in the referendum, or otherwise in connection with promoting or procuring any such outcome; and 'referendum campaign' means a campaign conducted with a view to promoting or procuring a particular outcome in relation to the question to be asked in a referendum: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 6(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 6(1). As to the form of the question to be asked at a local authority referendum see PARA 577 ante.

4 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 6(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 6(1). The text refers to the matters set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 6(1), Sch 2 para 1, as read with Sch 2 para 2 and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 6(1), Sch 2 para 1, as read with Sch 2 para 2 (see heads (1)-(7) and (a)-(c) in the text).

5 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 2 para 1(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 2 para 1(a).

6 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 2 para 1(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 2 para 1(b).

7 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 2 para 1(c); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 2 para 1(c). The text refers to material of a description referred to, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 5(1) and, in relation to Wales, in the Local

Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 5(1) (restriction on publication etc of promotional materials: see PARA 581 post).

8 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 2 para 1(d); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 2 para 1(d).

9 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 2 para 1(e); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 2 para 1(e).

10 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 2 para 1(f); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 2 para 1(f).

11 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 2 para 1(g); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 2 para 1(g).

12 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 2 para 2(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 2 para 2(a).

13 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 2 para 2(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 2 para 2(b). For these purposes, 'campaign organiser' means the individual or body by whom, or on whose behalf, referendum expenses are incurred (including expenses treated as incurred) in connection with a referendum campaign: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 6(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 6(1).

14 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 2 para 2(c); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 2 para 2(c).

15 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 7(1)(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 7(1)(a). Where the services of an employee are made available by his employer for the use or benefit of a person, the amount which is to be taken as constituting the commercial rate for the provision of those services is the amount of the remuneration or allowances payable to the employee by his employer in respect of the period for which his services are so made available (but do not include any amount in respect of any contributions or other payments for which the employer is liable in respect of the employee): Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 7(4); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 7(4).

16 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 7(1)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 7(1)(b).

17 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 7(2); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 7(2).

18 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 7(3)(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 7(3)(a).

19 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 7(3)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 7(3)(b).

20 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 7(3); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 7(3).

21 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 7(5); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 7(5).

UPDATE

576-585 Public notice of local authority referendum and proposals ... Disturbances at local authority referendum meetings

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(ii) Preparing for the Referendum/A. LOCAL AUTHORITY REFERENDUM ON PROPOSALS FOR ARRANGEMENTS/(D) Campaign to promote a Particular Result in a Local Authority Referendum/(b) Referendum Expenses/580. General restriction on local authority referendum expenses.

580. General restriction on local authority referendum expenses.

The total referendum expenses¹ incurred or treated as incurred² by or on behalf of any individual or body must not exceed the referendum expenses limit³, which is defined as the aggregate of £2,000 and such amount as is found by multiplying by five pence the number of entries in the relevant register⁴.

Where any referendum expenses are incurred in excess of the referendum expenses limit, a person who knew or reasonably ought to have known that that limit would be exceeded, or who, without reasonable excuse, authorises another person to exceed that limit, is guilty of an offence⁵.

¹ For the meaning of 'referendum expenses' for these purposes see PARA 579 ante; and for the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

² I.e. in accordance with the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 7 in relation to England or the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 7 in relation to Wales (see PARA 579 ante).

³ Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 6(2); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 6(2). However, this provision does not affect the right of any creditor who, when the expense was incurred, was ignorant of that expense being in contravention of the restriction on referendum expenses: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 6(7); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 6(7).

⁴ Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 6(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 6(1). For these purposes, the 'relevant register' means the register (or registers) of local government electors published under the Representation of the People Act 1983 s 13 (as substituted) (publication of registers: see PARA 164 ante) after the conclusion of the canvass conducted under s 10 (as substituted and amended) (maintenance of registers (annual canvass): see PARA 163 ante) in the year immediately preceding that in which the referendum is held, which has (or have) effect in the area of the local authority by which, or as regards which, the referendum is held (whether or not the persons to whom those entries relate are entitled to vote in the referendum): Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 6(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 6(1).

⁵ See the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 6(3)-(6); the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 6(3)-(6); and PARA 754 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(ii) Preparing for the Referendum/A. LOCAL AUTHORITY REFERENDUM ON PROPOSALS FOR ARRANGEMENTS/(D) Campaign to promote a Particular Result in a Local Authority Referendum/(c) Publicity/581. Restriction on publication etc of promotional material regarding local authority referendum.

(c) Publicity

UPDATE

576-585 Public notice of local authority referendum and proposals ... Disturbances at local authority referendum meetings

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

581. Restriction on publication etc of promotional material regarding local authority referendum.

No material which: (1) provides general information about the local authority referendum¹; (2) deals with any of the issues raised by the question² to be asked in the referendum³; or (3) puts any arguments for or against a particular answer to that question⁴, is to be published⁵ by or on behalf of a local authority⁶ during the period of 28 days ending with the date of the poll at the referendum⁷. However, this restriction on publication does not apply to: (a) material made available to persons in response to specific requests for information or to persons specifically seeking access to it⁸; (b) the publication of information relating to the holding of the poll at the referendum⁹; or (c) the publication of press notices containing factual information where the sole purpose of publication is to refute or correct any inaccuracy in material published by a person other than the local authority¹⁰.

1 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 5(1)(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 5(1)(a). For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 As to the form of the question to be asked at a local authority referendum see PARA 577 ante.

3 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 5(1)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 5(1)(b).

4 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 5(1)(c); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 5(1)(c).

5 For these purposes, 'publish' means make available to the public at large, or any section of the public, in whatever form and by whatever means including, in particular, by inclusion in any programme included in a programme service within the meaning of the Broadcasting Act 1990 (see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 328); and 'publication' is to be construed accordingly: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 5(4); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 5(4).

6 As to references to the authority see PARA 576 note 3 ante.

7 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 5(2); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 5(2).

8 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 5(3)(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 5(3)(a).

9 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 5(3)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 5(3)(b).

10 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 5(3)(c); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 5(3)(c).

UPDATE

576-585 Public notice of local authority referendum and proposals ... Disturbances at local authority referendum meetings

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(ii) Preparing for the Referendum/A. LOCAL AUTHORITY REFERENDUM ON PROPOSALS FOR ARRANGEMENTS/(D) Campaign to promote a Particular Result in a Local Authority Referendum/(c) Publicity/582. Control of advertisements relating specifically to a local authority referendum.

582. Control of advertisements relating specifically to a local authority referendum.

In general, the consent of the local planning authority or of the Secretary of State must be obtained before any advertisement may be displayed¹. However, the display on any site in a voting area² of an advertisement³ relating specifically to a local authority referendum does not require⁴ either express consent or deemed consent⁵ provided that the advertisement is removed within 14 days after the close of the poll in the referendum to which it relates⁶.

1 See the Town and Country Planning (Control of Advertisements) Regulations 1992, SI 1992/666; and TOWN AND COUNTRY PLANNING vol 46(2) (Reissue) PARA 769 et seq.

2 For these purposes, 'voting area' means the area in which a referendum is held: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 2(1). For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

3 For the meaning of 'advertisement' see TOWN AND COUNTRY PLANNING vol 46(2) (Reissue) PARA 770.

4 It is provided that it complies with any conditions and limitations specified in the Town and Country Planning (Control of Advertisements) Regulations 1992, SI 1992/666, reg 3(2), Sch 2 (as amended, applied and modified) (see the text and notes 5-6 infra) and all the standard conditions. As to the standard conditions see TOWN AND COUNTRY PLANNING vol 46(2) (Reissue) PARA 775.

5 For the meanings of 'express consent' and 'deemed consent' see TOWN AND COUNTRY PLANNING vol 46(2) (Reissue) PARA 777.

6 See the Town and Country Planning (Control of Advertisements) Regulations 1992, SI 1992/666, Sch 2 Class F para 1 (as amended; and applied and modified by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 23; and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 19); and see TOWN AND COUNTRY PLANNING vol 46(2) (Reissue) PARA 784. As to the computation of time for these purposes see PARA 578 note 1 ante.

UPDATE

576-585 Public notice of local authority referendum and proposals ... Disturbances at local authority referendum meetings

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(ii) Preparing for the Referendum/A. LOCAL AUTHORITY REFERENDUM ON PROPOSALS FOR ARRANGEMENTS/(D) Campaign to promote a Particular Result in a Local Authority Referendum/(c) Publicity/583. Broadcasting from outside United Kingdom with intent to influence local authority referendum.

583. Broadcasting from outside United Kingdom with intent to influence local authority referendum.

No person may, with intent to influence persons to give or refrain from giving their votes at a local authority referendum¹, include, or aid, abet, counsel or procure the inclusion of, any matter relating to the referendum in any programmes service² provided from a place outside the United Kingdom³ otherwise than in pursuance of arrangements made with⁴: (1) the British Broadcasting Corporation⁵; (2) Sianel Pedwar Cymru⁶; or (3) the holder of any licence granted by the Office of Communications ('OFCOM')⁷, for the reception and re-transmission of that matter by that body or the holder of that licence⁸. A contravention of this prohibition is an offence and an illegal practice⁹.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 Ie within the meaning of the Broadcasting Act 1990 (see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 328).

3 For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

4 Representation of the People Act 1983 s 92(1) (substituted by the Broadcasting Act 1990 s 203(1), Sch 20 para 35(3), (5); and applied and modified, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2). As to the provisions that are so applied and modified see PARA 557 ante.

5 Representation of the People Act 1983 s 92(1)(a) (as substituted, applied and modified: see note 4 supra). As to the BBC see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 306 et seq.

6 Ibid s 92(1)(b) (as substituted, applied and modified: see note 4 supra). As to Sianel Pedwar Cymru see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 396.

7 Ibid s 92(1)(c) (as substituted (see note 4 supra); amended by the Communications Act 2003 s 406(1), Sch 17 para 61; and applied and modified (see note 4 supra)). As to OFCOM see TELECOMMUNICATIONS vol 97 (2010) PARA 2 et seq; and as to licences granted by OFCOM see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) PARA 447 et seq.

8 Representation of the People Act 1983 s 92(1) (as substituted, applied and modified: see note 4 supra).

9 See ibid s 92(2) (as applied and modified); and PARA 704 post. As to the punishment of illegal practices see PARA 886 post; as to the incapacities which may be imposed see PARA 899 et seq post; and as to the court's general power to mitigate or remit incapacities see PARA 907 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(ii) Preparing for the Referendum/A. LOCAL AUTHORITY REFERENDUM ON PROPOSALS FOR ARRANGEMENTS/(D) Campaign to promote a Particular Result in a Local Authority Referendum/(d) Public Meetings/584. Rooms for public meetings promoting a particular result in the local authority referendum.

(d) Public Meetings

UPDATE

576-585 Public notice of local authority referendum and proposals ... Disturbances at local authority referendum meetings

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

584. Rooms for public meetings promoting a particular result in the local authority referendum.

Any person is entitled, for the purpose of holding a public meeting to promote a particular result in the local authority referendum¹, to use free of charge at reasonable times during the campaign period² any meeting room³ situated in the voting area⁴, the expense of maintaining which is payable wholly or mainly out of public funds or out of any rate, or by a body whose expenses are so payable⁵. For the purposes of determining rateable occupation, a hereditament⁶ is to be treated as unoccupied if it would otherwise be treated as occupied by reason only of the use of it for the holding of public meetings promoting a particular result in the referendum⁷.

The person by whom, or on whose behalf, a public meeting is convened in a meeting room in pursuance of this right may be required to defray any expenses incurred in preparing, warming, lighting and cleaning the room and providing attendance for the meeting and restoring the room to its usual condition after the meeting⁸. That person must also defray the cost of repairing any damage done to the room or to the premises in which it is situated, or to the furniture, fittings or apparatus in the room or premises⁹. A person is not entitled to exercise this right to use meeting rooms for public meetings except on reasonable notice¹⁰; and the provisions entitling him to use such rooms do not authorise any interference with the use of a meeting room either for the purposes of the person maintaining it or under a prior agreement for its letting for any purpose¹¹.

The lists maintained in England by a county council, district council or London borough council, and in Wales by a county council or county borough council, of meeting rooms which candidates at a parliamentary election in any constituency are entitled to use¹² have effect for the purposes of the referendum¹³; and any person is entitled, before the referendum, at all reasonable hours to inspect those lists or a copy of them¹⁴.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 For these purposes, the 'campaign period' means the period of 25 days ending with the day before the date of the referendum: Representation of the People Act 1983 s 96(1A) (added in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI

2004/870, reg 8, Sch 3 Table 2). Where the day or last day on which anything is required or permitted to be done by or in pursuance of the Representation of the People Act 1983 Pt II (ss 67-119) (as amended, applied and modified) is a Saturday or Sunday, Christmas Eve, Christmas Day, Maundy Thursday, Good Friday, a bank holiday or a day appointed for public thanksgiving or mourning (s 119(1), (2) (s 119(2) substituted by the Representation of the People Act 1985 s 19(4); and the Representation of the People Act 1983 s 119 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2)): (1) the requirement or permission is deemed to relate to the first day thereafter which is not one of those days (Representation of the People Act 1983 s 119(1)(a) (as so applied and modified)); (2) in computing any period of not more than seven days for the purposes of Pt II (as amended), any of the days so mentioned must be disregarded (s 119(1)(b) (as so applied and modified)); and (3) in computing any period referred to in s 96(1A) (as added, applied and modified) or s 97(2A) (as added, applied and modified) (see PARA 585 post) any of the days so mentioned must be disregarded (s 119(1)(c) (as so applied and modified)). For these purposes, 'bank holiday', in relation to any election, means a day which is a bank holiday in the part of the United Kingdom in which the constituency or, as the case may be, electoral area is situated: s 119(3) (substituted by the Representation of the People Act 1985 s 19(4); and as so applied and modified).

3 Representation of the People Act 1983 s 96(1) (substituted in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2).

4 For the meaning of 'voting area' see PARA 582 note 2 ante.

5 Representation of the People Act 1983 s 96(3)(a) (s 96(3), (4) applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2). As to the provisions that are so applied and modified see PARA 557 ante.

6 For the meaning of 'hereditament' in this context see RATING AND COUNCIL TAX vol 39(1B) (Reissue) PARA 33 et seq.

7 See the Local Government Finance Act 1988 s 65(6) (applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 24; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 20); and see RATING AND COUNCIL TAX vol 39(1B) (Reissue) PARA 13.

8 Representation of the People Act 1983 s 95(4)(a) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 37(b)). For these purposes, the provisions of the Representation of the People Act 1983 s 95(4), (5), (7) (as amended) are applied and modified by s 96(4) (as applied and modified: see note 5 supra). For the meaning of 'room' for these purposes see PARA 339 note 8 ante; and for the meaning of 'meeting room' for these purposes see PARA 339 note 15 ante (definitions applied by virtue of s 96(4) (as so applied and modified)).

9 Ibid s 95(4)(b) (as applied and modified: see note 8 supra).

10 Ibid s 95(5) (as applied and modified: see note 8 supra).

11 Ibid s 95(5) (as applied and modified: see note 8 supra).

12 As to the lists so maintained see PARA 341 ante.

13 Representation of the People Act 1983 s 96(5) (added in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2).

14 Representation of the People Act 1983 s 96(5) (as added: see note 13 supra).

UPDATE

576-585 Public notice of local authority referendum and proposals ... Disturbances at local authority referendum meetings

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(ii) Preparing for the Referendum/A. LOCAL AUTHORITY REFERENDUM ON PROPOSALS FOR ARRANGEMENTS/(D) Campaign to promote a Particular Result in a Local Authority Referendum/(d) Public Meetings/585. Disturbances at local authority referendum meetings.

585. Disturbances at local authority referendum meetings.

Any person who at a meeting in connection with a local authority referendum¹ held during the campaign period² acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together is guilty of an illegal practice³.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 For these purposes, the 'campaign period' means the period of 25 days ending with the day before the date of the referendum: Representation of the People Act 1983 s 97(2A) (added in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2). As to the computation of time in relation to the conduct of a local authority referendum see PARA 584 note 2 ante.

3 See the Representation of the People Act 1983 s 97(1), (2) (s 97(1) applied, and s 97(2) substituted, in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2); and PARA 682 post. As to the punishment and consequences of illegal practices see PARA 886 et seq post.

UPDATE

576-585 Public notice of local authority referendum and proposals ... Disturbances at local authority referendum meetings

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(ii) Preparing for the Referendum/B. POLLS CONSEQUENT ON PARISH OR COMMUNITY MEETINGS/586. How polls consequent on a parish or community meeting come about.

B. POLLS CONSEQUENT ON PARISH OR COMMUNITY MEETINGS

586. How polls consequent on a parish or community meeting come about.

A poll may be demanded before the conclusion of a parish or community meeting¹ on any question arising at the meeting². However, no poll may be taken unless either the person presiding at the meeting consents, or the poll is demanded by not less than ten, or one-third, of the local government electors present at the meeting, whichever is the less³. A poll consequent on a parish or community meeting is a poll of those entitled to attend the meeting as local government electors, and must be taken by ballot in accordance with rules made by the Secretary of State⁴.

1 As to parish or community meetings see LOCAL GOVERNMENT vol 69 (2009) PARA 635 et seq.

2 Local Government Act 1972 s 99, Sch 12 paras 18(4), 34(4) (s 99 amended by the Local Government Act 1985 s 84, Sch 14 para 14; the Education Reform Act 1988 s 237, Sch 13 Pt I; the Police and Magistrates' Courts Act 1994 s 43, Sch 4 para 8; the Police Act 1996 s 103, Sch 7 para 1(2)(h); the Police Act 1997 s 88, Sch 6 para 3; the Greater London Authority Act 1999 s 325, Sch 27 para 26; and the Criminal Justice and Police Act 2001 ss 128(1), 137, Sch 6 paras 22, 25, Sch 7 Pt 5(1)). See *Bennett v Chappell* [1966] Ch 391, [1965] 3 All ER 130, CA (the question must have arisen for decision at the meeting by way of a resolution or by an amendment to a resolution).

3 Local Government Act 1972 Sch 12 paras 18(4), 34(4). See further LOCAL GOVERNMENT vol 69 (2009) PARA 638.

4 Ibid Sch 12 paras 18(5), 34(5). As to the Secretary of State see PARA 2 ante. As to the rules that have been made see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1 (as amended); and PARA 388 ante. As to expenses incurred in taking a poll consequent on a parish or community meeting see PARA 594 post.

UPDATE

586 How polls consequent on a parish or community meeting come about

NOTE 2--Local Government Act 1972 s 99 further amended: Local Democracy, Economic Development and Construction Act 2009 Sch 6 para 17.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(ii) Preparing for the Referendum/B. POLLS CONSEQUENT ON PARISH OR COMMUNITY MEETINGS/587. Day of poll consequent on a parish or community meeting taken on any question.

587. Day of poll consequent on a parish or community meeting taken on any question.

The day of a poll consequent on a parish or community meeting¹ must be fixed by the returning officer² and must not be earlier than the fourteenth day or later than the twenty-fifth day after the day on which the poll was demanded³.

1 As to how polls consequent on a parish or community meeting come about see PARA 586 ante.

2 As to returning officers at polls consequent on a parish or community meeting see PARA 593 post.

3 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 1. As to the computation of time in relation to a poll consequent on a parish or community meeting see PARA 219 note 5 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(ii) Preparing for the Referendum/B. POLLS CONSEQUENT ON PARISH OR COMMUNITY MEETINGS/588. Notification to council of poll consequent on a parish or community meeting taken on any question.

588. Notification to council of poll consequent on a parish or community meeting taken on any question.

If a poll consequent on a parish or community meeting is required to be taken¹, the chairman of the meeting must notify the council of the area² in which the parish or community is situate of the fact³; and the chairman of the meeting must give the returning officer⁴ such particulars as will enable him to give notice of the poll⁵.

1 As to how polls consequent on a parish or community meeting come about see PARA 586 ante.

2 I.e. the district council in England and, by virtue of the Local Government (Wales) Act 1994 s 17, the county or county borough council in Wales. For the meanings of 'England' and 'Wales' see PARA 13 note 1 ante. As to districts in England, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 24 et seq; and as to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq.

3 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 4(1). As to parishes generally see LOCAL GOVERNMENT vol 69 (2009) PARA 27 et seq; and as to communities generally see LOCAL GOVERNMENT vol 69 (2009) PARA 41 et seq.

4 As to returning officers at polls consequent on a parish or community meeting see PARA 593 post.

5 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 4(2). As to the giving of public notice by a returning officer see PARA 593 post; and as to the notice of poll see PARA 613 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/A. POLLING DISTRICTS AND POLLING PLACES/589. Polling districts and stations at local authority referendum.

(iii) The Referendum

A. POLLING DISTRICTS AND POLLING PLACES

589. Polling districts and stations at local authority referendum.

For referendums¹ by or in respect of a county in England² or a county or county borough in Wales³, the council may divide a voting area⁴ into polling districts, and may alter any polling district; and for referendums held by or in respect of a London borough or a district⁵, the London borough or the district council may divide the London borough or the district or any voting area thereof into polling districts, and may alter any polling district⁶.

Any power to constitute polling districts for the purpose of referendums must be exercised so that electors from any parliamentary polling district⁷ wholly or partly within the voting area can, in the absence of special circumstances, be allotted to a polling station within the parliamentary polling place for that district unless the parliamentary polling place is outside the voting area⁸.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 For the meaning of 'England' see PARA 13 note 1 ante. As to counties in England, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 24 et seq.

3 For the meaning of 'Wales' see PARA 13 note 1 ante. As to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq.

4 For the meaning of 'voting area' see PARA 582 note 2 ante.

5 As to the London boroughs and their councils see LONDON GOVERNMENT vol 29(2) (Reissue) PARAS 30, 35-39, 59 et seq. As to districts and their councils see LOCAL GOVERNMENT vol 69 (2009) PARA 24 et seq.

6 Representation of the People Act 1983 s 31(1) (amended by the Local Government Act 1985 s 102(2), Sch 17; and the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 68(6)). The provisions of the Representation of the People Act 1983 s 31(1), (3) (as amended) are applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. As to the provisions that are so applied and modified see PARA 557 ante.

7 As to parliamentary polling districts and places see PARA 348 et seq ante.

8 Representation of the People Act 1983 s 31(3) (as applied and modified: see note 6 supra).

UPDATE

589 Polling districts and stations at local authority referendum

NOTE 6--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/A. POLLING DISTRICTS AND POLLING PLACES/590. Extent of poll consequent on a parish or community meeting.

590. Extent of poll consequent on a parish or community meeting.

A poll consequent on a parish or community meeting which is required to be taken on a question not involving any appointment to office¹, may be held in part only of a parish or community², but any reference in the rules of conduct³ to a parish or community must then be construed as reference to a part of a parish or part of a community, as the case may be⁴.

1 As to how polls consequent on a parish or community meeting come about see PARA 586 ante.

2 As to parishes generally see LOCAL GOVERNMENT vol 69 (2009) PARA 27 et seq; and as to communities generally see LOCAL GOVERNMENT vol 69 (2009) PARA 41 et seq.

3 As to the rules of conduct for a poll consequent on a parish or community meeting see PARA 558 ante.

4 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 38(1).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/B. COUNTING OFFICERS AND RETURNING OFFICERS/(A) Counting Officers at Local Authority Referendum/591. Counting officer's functions, and assistance for counting officers at local authority referendum.

B. COUNTING OFFICERS AND RETURNING OFFICERS

(A) COUNTING OFFICERS AT LOCAL AUTHORITY REFERENDUM

591. Counting officer's functions, and assistance for counting officers at local authority referendum.

Functions conferred for the purposes of local authority referendums¹ on the counting officer² must be exercised in each voting area³ by the person who is for the time being the returning officer at local government elections of councillors for that area under the Representation of the People Act 1983⁴. It is the counting officer's general duty at the referendum to do all such acts and things as may be necessary for effectually conducting the referendum in the manner provided by the rules⁵.

The counting officer may appoint persons (known as 'polling observers'⁶) to attend at polling stations for the purpose of detecting personation⁷; and he may by writing under his hand appoint one or more persons to discharge all or any of his functions⁸.

¹ ie, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

² 'Counting officer' means a person referred to, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 11(1) and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 11(1); Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 2(1).

³ For the meaning of 'voting area' see PARA 582 note 2 ante.

⁴ Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 11(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 11(1). The text refers to the returning officer appointed, in relation to England, under the Representation of the People Act 1983 s 35(1) (as amended) or s 35(3) (see PARA 359 ante) and, in relation to Wales, under s 35(1A)(a) (as added) (see PARA 359 ante).

In relation to a referendum held in England, where, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 14(5) (see PARA 27 ante), the poll at a referendum is taken together with the poll at an election, the provisions relating to the functions of a counting officer are subject to regs 15(5), 17(2): see reg 11(1).

⁵ Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 11(2); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 11(2). The text refers to the rules of conduct provided, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298 (as amended) and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. As to the rules of conduct for a local authority referendum see PARA 557 ante.

⁶ 'Polling observer' means a person appointed by a counting officer, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 11(3) and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 11(3):

Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 2(1).

7 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 11(3); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 11(3). As to the offence of personation (which is also a corrupt practice) see PARA 733 post.

8 Representation of the People Act 1983 s 35(4) (applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2). As to the provisions that are so applied and modified see PARA 557 ante.

UPDATE

591-592 Counting officer's functions, and assistance for counting officers at local authority referendum, Counting officer's expenses at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/B. COUNTING OFFICERS AND RETURNING OFFICERS/(A) Counting Officers at Local Authority Referendum/592. Counting officer's expenses at local authority referendum.

592. Counting officer's expenses at local authority referendum.

All expenditure properly incurred by the counting officer¹ for a voting area² in relation to the holding of a referendum³ must be paid by the council for that area in so far as that expenditure does not, in cases where there is a scale fixed for the purpose by the council, exceed that scale⁴.

Before a poll is taken at such a referendum, the authority⁵ which appointed the returning officer⁶ must, at the request of the counting officer or of any person acting as counting officer, advance to him such reasonable sum in respect of his expenses at the referendum as he may require⁷.

1 For the meaning of 'counting officer' see PARA 591 note 2 ante.

2 For the meaning of 'voting area' see PARA 582 note 2 ante.

3 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

4 Representation of the People Act 1983 s 36(4) (s 36(4), (6) applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2). As to the provisions that are so applied and modified see PARA 557 ante.

5 As to references to the authority see PARA 576 note 3 ante.

6 As to the designation of returning officers at local government elections see PARA 359 ante.

7 Representation of the People Act 1983 s 36(6) (as applied and modified: see note 4 supra).

UPDATE

591-592 Counting officer's functions, and assistance for counting officers at local authority referendum, Counting officer's expenses at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/B. COUNTING OFFICERS AND RETURNING OFFICERS/(B) Returning Officers at Poll consequent on a Parish or Community Meeting/593. Returning officer and appointment of office at a poll consequent on parish or community meeting.

(B) RETURNING OFFICERS AT POLL CONSEQUENT ON A PARISH OR COMMUNITY MEETING

593. Returning officer and appointment of office at a poll consequent on parish or community meeting.

If a poll consequent on a parish or community meeting is required to be taken on a question not involving any appointment to office¹, the chairman of the meeting must notify the council of the area² in which the parish or community³ is situated and the council must appoint an officer of the council to be returning officer⁴. The returning officer must appoint an office for the purpose of the poll⁵.

Any public notice required to be given by a returning officer for these purposes must be given by the notice being posted in some conspicuous place or places in the parish or community, and may also be given in such other manner as the returning officer thinks desirable for publicising it⁶.

1 As to when a poll is required to be taken see PARA 586 ante.

2 I.e. the district council in England and, by virtue of the Local Government (Wales) Act 1994 s 17, the county or county borough council in Wales. For the meanings of 'England' and 'Wales' see PARA 13 note 1 ante. As to districts in England, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 24 et seq; and as to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq.

3 As to parishes generally see LOCAL GOVERNMENT vol 69 (2009) PARA 27 et seq; and as to communities generally see LOCAL GOVERNMENT vol 69 (2009) PARA 41 et seq.

4 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 4(1).

5 Ibid r 4(3).

6 Ibid r 5, Schedule r 38(2). Where the poll is held in part only of a parish or community, any reference to a parish or community in the rules is to be construed as a reference to part of the parish or community: Schedule r 38(1).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/B. COUNTING OFFICERS AND RETURNING OFFICERS/(B) Returning Officers at Poll consequent on a Parish or Community Meeting/594. Expenses incurred in taking a poll consequent on a parish or community meeting.

594. Expenses incurred in taking a poll consequent on a parish or community meeting.

The expenditure incurred in taking a poll consequent upon a parish or community meeting¹ falls upon the parish or community².

1 As to how polls consequent on a parish or community meeting come about see PARA 586 ante.

2 See the Local Government Act 1972 s 150; and LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 522.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/C. MANNER OF VOTING AT REFERENDUM OR POLL/(A) Voting Options/595. Manner of voting at a local authority referendum.

C. MANNER OF VOTING AT REFERENDUM OR POLL

(A) VOTING OPTIONS

595. Manner of voting at a local authority referendum.

A person entitled to vote as an elector at a referendum¹ may vote in person at the polling station allotted to him under the appropriate rules², unless he is entitled as an elector to an absent vote at the referendum³. If he is entitled as an elector to vote by post at the referendum, he may vote by post⁴. If he is entitled to vote by proxy at the referendum, he may so vote unless, before a ballot paper has been issued for him to vote by proxy, he applies at the polling station allotted to him under the appropriate rules for a ballot paper for the purpose of voting in person, in which case he may vote in person there⁵. If he is not entitled as an elector to an absent vote at the referendum⁶ but he cannot reasonably be expected to go in person to the polling station allotted to him under the appropriate rules by reason of the particular circumstances of his employment, either as a constable or by the counting officer⁷, on the date of the poll for a purpose connected with the referendum⁸, he may vote in person at any polling station in the voting area⁹.

A local authority¹⁰ may determine, in relation to a referendum which it is to hold¹¹, that the votes in the referendum are to be cast only by postal ballot¹². Where such a determination is made, no polling station is to be used at the referendum¹³ and any person who, but for the determination, may vote in person, either as a person entitled to vote in the referendum or as proxy, may only vote by post¹⁴.

1 For the meaning of 'referendum' see PARA 576 note 2 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1 (Sch 4 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1). As to the provisions that are so applied and modified see PARA 557 ante.

2 The 'appropriate rules', in the case of a referendum, means the LGA Referendum Rules within the meaning of, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298 (as amended) and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870: Representation of the People Act 2000 Sch 4 para 1 (as applied and modified: see note 1 supra). For the meaning of 'LGA Referendum Rules' see PARA 557 note 4 ante.

3 Representation of the People Act 2000 Sch 4 para 2(1), (2) (as applied and modified: see note 1 supra). For the purposes of Sch 4 (as amended, applied and modified) and the Representation of the People Act 1983, so far as it has effect in relation to England and Wales, a person entitled to vote as an elector at a local government election is entitled as an elector to vote by post or entitled to vote by proxy at the referendum if he is shown in the absent voters list for the referendum as so entitled; and references in those provisions to entitlement as an elector to an absent vote at a local government election are references to entitlement as an elector to vote by post or entitlement to vote by proxy at the referendum: Representation of the People Act 2000 Sch 4 para 2(7) (as so applied and modified). For these purposes, the 'absent voters list' means the list kept under Sch 4 para 5(1) (as applied and modified) (see PARA 601 post): Sch 4 para 1(1) (as so applied and modified).

However, nothing in Sch 4 para 2(1)-(5) (as applied and modified) (see the text and notes 4-9 infra) applies to: (1) a person to whom the Representation of the People Act 1983 s 7 (as substituted and amended) (deemed residence for persons in mental hospitals who are not detained offenders or on remand: see PARA 134 ante)

applies and who is liable, by virtue of any enactment, to be detained in the mental hospital in question (Representation of the People Act 2000 Sch 4 para 2(6)(a) (as so applied and modified)); or (2) a person to whom the Representation of the People Act 1983 s 7A (as added and amended) (deemed residence for persons on remand: see PARA 135 ante) applies (Representation of the People Act 2000 Sch 4 para 2(6)(b) (as so applied and modified)), whether he is registered by virtue of that provision or not; and such a person may only vote by post or by proxy (where he is entitled as an elector to vote by post or, as the case may be, by proxy at the referendum) (Sch 4 para 2(6) (as so applied and modified)). As to applications to vote by proxy see PARA 597 et seq post.

4 Ibid Sch 4 para 2(1), (3) (as applied and modified: see note 1 supra).

5 Ibid Sch 4 para 2(1), (4) (as applied and modified: see note 1 supra).

6 Ibid Sch 4 para 2(1), (5)(a) (as applied and modified: see note 1 supra).

7 For the meaning of 'counting officer' see PARA 591 note 2 ante.

8 Representation of the People Act 2000 Sch 4 para 2(1), (5)(b) (as applied and modified: see note 1 supra).

9 Ibid Sch 4 para 2(1), (5) (as applied and modified: see note 1 supra). For the meaning of 'voting area' see PARA 582 note 2 ante.

10 For the meaning of 'authority' see PARA 561 note 1 ante.

11 In relation to a referendum held in Wales, the function of making a determination under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10(1) is not to be the responsibility of an executive of a local authority operating executive arrangements: reg 10(3). As to operating executive arrangements generally see LOCAL GOVERNMENT vol 69 (2009) PARA 303 et seq.

12 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10(1). In such a case, the references in those Regulations and any reference in the Political Parties, Elections and Referendums Act 2000, the Representation of the People Act 2000, the Representation of the People Act 1983, rules under s 36 (as amended) (see PARA 388 ante), the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, or any enactment relating to the qualification or disqualification for election to, or membership of, a local authority: (1) to polling day, the day or date of the poll or the date fixed for the poll, continue to have effect, in respect of that referendum, as references to the date of the referendum; and (2) to the close of the poll, continue to have effect, in respect of that referendum, as references to 10 pm on the day of the referendum: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10(1)(c); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10(1)(c). The provisions as applied, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8 (see PARA 557 ante) of the Representation of the People Act 1983 (with the exception of s 31 (as amended, applied and modified) (polling districts and stations: see PARA 589 ante)), the Representation of the People Act 1985, the Political Parties, Elections and Referendums Act 2000, the Representation of the People Act 2000, the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) (with the exception of reg 55 (as substituted, applied and modified) (additional requirements: see PARA 600 post), reg 62 (as applied and modified) (marked register for application to vote by proxy at a particular election: see PARA 605 post) and reg 79 (as amended, applied and modified) (alternative means of returning postal ballot paper or declaration of identity: see PARA 646 post)), and the Local Elections (Principal Areas) Rules 1986, SI 1986/2214 (revoked) apply, as regards the referendum; but the provisions set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4 and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4 apply subject to the further modifications set out in relation to them in that Schedule in addition to the modifications having effect by virtue of, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8 and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10(4); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10(2). In relation to England, restrictions apply to the making of a determination under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10(1) where arrangements are made to combine the poll with that at another election or referendum (as to which see PARA 27 ante): see reg 10(2), (2A), (3) (reg 10(2) amended, and reg 10(2A) added, by SI 2002/251).

13 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10(1)(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10(1)(a).

14 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10(1)(b);
Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10(1)(b).

UPDATE

595 Manner of voting at a local authority referendum

TEXT AND NOTES--SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

NOTES 12-14--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/C. MANNER OF VOTING AT REFERENDUM OR POLL/(A) Voting Options/596. Manner of voting at a poll consequent on a parish or community meeting.

596. Manner of voting at a poll consequent on a parish or community meeting.

A poll consequent on a parish or community meeting¹ is a poll of those entitled to attend the meeting as local government electors, and must be taken by ballot in accordance with rules made by the Secretary of State².

1 As to how polls consequent on a parish or community meeting come about see PARA 586 ante.

2 See the Local Government Act 1972 s 99 (as amended), Sch 12 paras 18(5), 34(5); and PARA 586 ante. As to the rules that have been made see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1 (as amended); and PARA 388 ante. Those rules make no provision for postal voting in relation to a poll consequent on a parish or community meeting.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/C. MANNER OF VOTING AT REFERENDUM OR POLL/(B) Absent Voting at a Local Authority Referendum/(a) Applications relating to a Particular Period or an Indefinite Period/597. Application for absent vote at referendums for a particular period or for an indefinite period.

(B) ABSENT VOTING AT A LOCAL AUTHORITY REFERENDUM

(a) Applications relating to a Particular Period or an Indefinite Period

597. Application for absent vote at referendums for a particular period or for an indefinite period.

Where a person applies to the registration officer¹ to vote by post at a local authority referendum² (whether for an indefinite period or for a particular period specified in his application), the registration officer must grant the application³ if he is satisfied that the applicant is or will be registered in the register of local government electors⁴ and if the application meets the prescribed requirements⁵.

Where a person applies to the registration officer to vote by proxy⁶ at referendums (whether for an indefinite period or for a particular period specified in his application), the registration officer must grant the application⁷ if he is satisfied that the applicant is eligible to vote by proxy at referendums to which the application relates⁸, if he is satisfied that the applicant is or will be registered in the register of local government electors⁹, and if the application meets the prescribed requirements¹⁰. For these purposes, a person is eligible to vote by proxy at referendums:

- 530 (1) if he is or will be registered as a service voter¹¹;
- 531 (2) if he cannot reasonably be expected to go in person to the polling station allotted or likely to be allotted to him under the appropriate rules¹² or to vote unaided there¹³, by reason of blindness or other physical incapacity¹⁴;
- 532 (3) if he cannot reasonably be expected to go in person to that polling station by reason of the general nature of his occupation, service or employment or that of his spouse or civil partner, or by reason of his or his spouse's or his civil partner's attendance on a course provided by an educational institution¹⁵; or
- 533 (4) if he cannot go in person from his qualifying address to that polling station without making a journey by air or sea¹⁶.

Such an application¹⁷ must state: (a) the full name of the applicant¹⁸; (b) the address in respect of which the applicant is registered or has applied to be (or is treated as having applied to be) registered in the register¹⁹; (c) in the case of a person applying to vote by post, the address to which the ballot paper should be sent²⁰; and (d) in the case of an application to vote by proxy, the grounds on which the elector claims to be entitled to an absent vote²¹. The application must be made in writing and must be signed and dated by the applicant²². Such an application which is made for an indefinite period or the period specified in the application must state that it is so made²³ and must specify all or any of the referendums or elections in respect of which it is made²⁴. Where an application is made by an elector to vote by proxy, it must include an application for the appointment of a proxy which meets the prescribed requirements²⁵.

Where the registration officer grants an application to vote by post, he must notify the applicant of his decision²⁶; and where he refuses an application, he must notify the applicant of his decision and of the reason for it²⁷.

1 For these purposes, a reference to the registration officer, in relation to a local authority, is a reference to the relevant registration officer appointed under the Representation of the People Act 1983 s 8 (as amended) (see PARA 154 ante); and for the purpose of the exercise of a registration officer's functions in relation to the referendum, s 52(1)-(4) (as amended) (discharge of registration duties: see PARAS 155-156 ante) and s 54(1), (3), (4) (as amended) (payment of expenses of registration: see PARA 158 ante) have effect: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8(1)(m); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8(1)(m). For the meaning of 'authority' see PARA 561 note 1 ante. The registration officer must supply free of charge as many forms for use in connection with applications made under the provisions relating to absent voting as appear to that officer reasonable in the circumstances to any person who satisfies that officer of his intention to use the forms in connection with a referendum or referendums: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 4(1) (applied and modified, in relation to England, by SI 2001/1298; and, in relation to Wales, by SI 2004/870).

2 For the meaning of 'referendum' see PARA 576 note 2 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1 (Sch 4 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1). As to the provisions that are so applied and modified see PARA 557 ante.

3 Representation of the People Act 2000 Sch 4 para 3(1) (as applied and modified: see note 2 supra). Such an application must be disregarded for the purposes of any particular referendum if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that referendum; and where a registration officer disregards an application for the purposes of any particular referendum, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 56(1), 57(5) (both amended by SI 2006/752). The Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 56, 57 (both as amended) are applied and modified, in relation to England, by SI 2001/1298; and, in relation to Wales, by SI 2004/870.

In computing a period of days for the purposes of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56 (as applied and modified), Saturday, Sunday, Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a bank holiday is disregarded: reg 56(6) (as so applied and modified). 'Bank holiday' means a day which is a bank holiday under the Banking and Financial Dealings Act 1971 (see TIME vol 97 (2010) PARA 321) in England and Wales: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(7) (as so applied and modified).

4 Representation of the People Act 2000 Sch 4 para 3(1)(a) (as applied and modified: see note 2 supra). As to the register of local government electors see PARA 160 et seq ante.

5 Ibid Sch 4 para 3(1)(b) (as applied and modified: see note 2 supra). For these purposes, a reference to anything being prescribed must be construed as a reference to its being provided for by a provision of subordinate legislation applied, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8(1)(k); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8(1)(k). Accordingly, the text refers to the requirements set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt IV (regs 50-63) (as amended, applied and modified).

6 As to voting by proxy for an elector at a referendum see PARA 602 et seq post.

7 Representation of the People Act 2000 Sch 4 para 3(2) (as applied and modified: see note 2 supra). Such an application must be disregarded for the purposes of a particular referendum if it is received by the registration officer after 5 pm on the sixth day before the date of the poll at that referendum: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(2) (amended by SI 2006/752; and applied and modified (see note 3 supra)). Where a registration officer disregards an application for the purposes of any particular referendum, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (as amended, applied and modified: see note 3 supra). Where the day or last day of the time allowed by the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended, applied and modified) for the doing of any thing falls on a Saturday or Sunday, Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a bank holiday, that time must be extended until the next following day which is not one of those days: reg 8(1), (3) (reg 8 applied and modified, in relation to England, by SI 2001/1298; and, in relation to Wales, by SI 2004/870). Subject to the Representation of the

People (England and Wales) Regulations 2001, SI 2001/341, reg 56(6) (as applied and modified), in computing any period of not more than 7 days for these purposes a Saturday or Sunday, Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a bank holiday must be disregarded: reg 8(2), (3) (as so applied and modified). 'Bank holiday' means a day which is a bank holiday under the Banking and Financial Dealings Act 1971 (see TIME vol 97 (2010) PARA 321) in England and Wales: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 8(4) (as so applied and modified).

8 Representation of the People Act 2000 Sch 4 para 3(2)(a) (as applied and modified: see note 2 supra).

9 Ibid Sch 4 para 3(2)(b) (as applied and modified: see note 2 supra).

10 Ibid Sch 4 para 3(2)(c) (as applied and modified: see note 2 supra). As to the prescribed requirements see note 5 supra. As to applications made by an elector to appoint a person as proxy to vote for him see PARA 602 et seq post.

11 Ibid Sch 4 para 3(3)(a) (as applied and modified: see note 2 supra). As to registration as a service voter see PARA 140 et seq ante.

12 Ibid Sch 4 para 3(3)(b)(i) (as applied and modified: see note 2 supra). For the meaning of the 'appropriate rules' see PARA 595 note 2 ante.

13 Ibid Sch 4 para 3(3)(b)(ii) (as applied and modified: see note 2 supra).

14 Ibid Sch 4 para 3(3)(b) (as applied and modified: see note 2 supra).

15 Ibid Sch 4 para 3(3)(c) (amended by the Civil Partnership Act 2004 s 261(1), Sch 27 para 164(1), (2); and applied and modified (see note 2 supra)).

16 Ibid Sch 4 para 3(3)(d) (as applied and modified: see note 2 supra).

17 Applications relating to absent voting must comply with such requirements as are relevant to the application: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(1) (reg 51 applied and modified, in relation to England, by SI 2001/1298; and, in relation to Wales, by SI 2004/870).

18 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(a) (as applied and modified: see note 17 supra).

19 Ibid reg 51(2)(b) (amended by SI 2006/752; and applied and modified (see note 17 supra)).

20 Ibid reg 51(2)(d) (as applied and modified: see note 17 supra).

21 Ibid reg 51(2)(e) (as applied and modified: see note 17 supra). For these purposes, a reference to a person voting as an elector is to be construed as a reference to a person voting on their own behalf; and a reference to a person's entitlement as an elector to an absent vote is to be construed as a reference to a person's entitlement to vote by post on their own behalf or to vote by proxy: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8(1)(h), (i); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8(1)(h), (i).

22 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(3) (as applied and modified: see note 17 supra). The requirement in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended, applied and modified) that any application, notice or objection should be in writing is satisfied where (apart from the usual meaning of that expression) the text of it is transmitted by electronic means, is received in legible form, and is capable of being used for subsequent reference: reg 5 (regs 5, 6 applied and modified, in relation to England, by SI 2001/1298; and, in relation to Wales, by SI 2004/870). A requirement in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) for an application, notice or objection to be signed is satisfied (as an alternative to the signature given by hand) where there is both an electronic signature incorporated into or logically associated with a particular electronic communication and the certification by any person of such a signature: reg 6(1) (as so applied and modified). For these purposes, an electronic signature is so much of anything in electronic form as is incorporated into or otherwise logically associated with any electronic communication or both and purports to be so incorporated or associated for the purpose of being used in establishing the authenticity of the communication, the integrity of the communication or both (reg 6(2) (as so applied and modified)); and an electronic signature incorporated into or associated with a particular electronic communication is certified by any person if that person (whether before or after the making of the communication) has made a statement confirming that the signature, a means of producing, communicating or verifying the signature or a procedure applied to the signature, is (either alone or in combination with other factors) a valid means of establishing the authenticity of the communication, the integrity of the communication or both (reg 6(3) (as so applied and modified)).

In relation to England only, the registration officer may satisfy himself that an application for an absent vote meets the requirement that it has been signed by the applicant by referring to any signature previously provided by the applicant to the registration officer or the counting officer: reg 51A (added by SI 2006/752; and applied and modified in relation to England by virtue of SI 2001/1298). For the meaning of 'counting officer' see PARA 591 note 2 ante.

23 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(4)(a) (as applied and modified: see note 17 supra).

24 Ibid reg 51(4)(b) (as applied and modified: see note 17 supra).

25 See ibid regs 51(6), 52 (as applied and modified); and PARA 603 post.

26 Ibid reg 57(1) (amended by SI 2006/752; and applied and modified (see note 3 supra)).

27 Ibid reg 57(4) (as applied and modified: see note 3 supra). In the context of elections, a right of appeal lies to the county court from certain decisions of the registration officer disallowing a person's application to vote by proxy or by post as elector: see PARA 189 et seq ante.

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/C. MANNER OF VOTING AT REFERENDUM OR POLL/(B) Absent Voting at a Local Authority Referendum/(a) Applications relating to a Particular Period or an Indefinite Period/598. Record of those entitled to an absent vote at referendums for a definite period or for an indefinite period.

598. Record of those entitled to an absent vote at referendums for a definite period or for an indefinite period.

The registration officer¹ must keep a record of those whose applications for an absent vote at referendums² for a definite period or for an indefinite period³ have been granted showing⁴: (1) whether their applications were to vote by post or proxy for an indefinite or a particular period (specifying that period)⁵; (2) whether their applications were in respect of referendums and elections⁶; (3) in the case of those who may vote by post, the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent⁷; and (4) in the case of those who may vote by proxy, the names and addresses of those appointed as their proxies⁸. The registration officer must make available for inspection at his office a copy of the records so kept⁹ and any person may make a copy (whether handwritten or by other means) of the whole or any part of them¹⁰.

The registration officer must remove a person from the record: (a) if he applies to the registration officer to be removed¹¹; (b) in the case of any registered person, if he ceases to be registered or registered at the same qualifying address or ceases to be, or becomes, registered in pursuance of¹² a service declaration¹³ or a declaration of local connection¹⁴; (c) in the case of any person shown in the record as voting by proxy, if the registration officer gives notice that he has reason to believe there has been a material change of circumstances¹⁵; or (d) in the case of a person who applied to vote by post or proxy for a particular period, once that period has expired¹⁶. Where a person is removed from the record under any of heads (a) to (d) above, the registration officer must notify him of this and the reason for it¹⁷.

A person shown in the record as voting by post may subsequently alter his choice by applying to the registration officer to vote by proxy instead (whether for an indefinite period or for a particular period specified in his application); and, if the registration officer would be required to grant that application to vote by proxy¹⁸, the registration officer must amend the record accordingly¹⁹. Equally, a person shown in the record as voting by proxy may subsequently alter his choice by applying to the registration officer to vote by post instead (whether for an indefinite period or for a particular period specified in his application); and, if the application meets the prescribed requirements, the registration officer must amend the record accordingly²⁰.

1 As to the meaning of references to the registration officer for these purposes see PARA 597 note 1 ante.

2 For the meaning of 'referendum' see PARA 576 note 2 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1 (Sch 4 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1). As to the provisions that are so applied and modified see PARA 557 ante. As to the meaning of references to a person's entitlement as an elector to an absent vote see PARA 597 note 21 ante.

3 I.e. applications for the purposes of a local authority referendum under the Representation of the People Act 2000 Sch 4 para 3 (as amended, applied and modified) (see PARA 597 ante).

4 Ibid Sch 4 para 3(4) (as applied and modified: see note 2 supra).

- 5 Ibid Sch 4 para 3(4)(a)(ii) (as applied and modified: see note 2 supra).
- 6 Ibid Sch 4 para 3(4)(a)(i) (as applied and modified: see note 2 supra).
- 7 Ibid Sch 4 para 3(4)(b) (as applied and modified: see note 2 supra).
- 8 Ibid Sch 4 para 3(4)(c) (as applied and modified: see note 2 supra). As to the appointment of proxies see PARA 602 et seq post.
- 9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61(2) (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). 'Available for inspection' means available for inspection during ordinary office hours: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 3(1) (definition applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870).
- 10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 7(1) (renumbered by SI 2002/1871; and applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870).
- 11 Representation of the People Act 2000 Sch 4 para 3(5)(a) (as applied and modified: see note 2 supra). Such an application by an elector to be removed from the record must be disregarded for the purposes of a particular referendum if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that referendum (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(5) (amended by SI 2001/1700)); and where a registration officer disregards an application for the purposes of any particular referendum, he must notify the applicant of this (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752)). The Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 56, 57 (both as amended) are applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870. As to the computation of time for these purposes see PARA 597 notes 3, 7 ante.
- 12 Representation of the People Act 2000 Sch 4 para 3(5)(b) (as applied and modified: see note 2 supra).
- 13 Ibid Sch 4 para 3(5)(b)(i) (as applied and modified: see note 2 supra). As to registration in pursuance of a service declaration see PARA 140 et seq ante.
- 14 Ibid Sch 4 para 3(5)(b)(ii) (as applied and modified: see note 2 supra). As to registration in pursuance of a declaration of local connection see PARA 136 et seq ante.
- 15 Ibid Sch 4 para 3(5)(c) (as applied and modified: see note 2 supra).
- 16 Ibid Sch 4 para 3(5)(d) (as applied and modified: see note 2 supra).
- 17 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4B) (added by SI 2006/752; and applied and modified (see note 11 supra)).
- 18 Ie if it were one that had been made for the purposes of a local authority referendum under the Representation of the People Act 2000 Sch 4 para 3(2) (as applied and modified) (see PARA 597 ante).
- 19 Ibid Sch 4 para 3(6) (as applied and modified: see note 2 supra). Such an application must be disregarded for the purposes of a particular referendum if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that referendum: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(1) (amended by SI 2006/752; and applied and modified (see note 11 supra)). Where a registration officer disregards an application for the purposes of any particular referendum, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (as amended, applied and modified: see note 11 supra). As to the computation of time for these purposes see PARA 597 notes 3, 7 ante.
- 20 Representation of the People Act 2000 Sch 4 para 3(7) (as applied and modified: see note 2 supra). For these purposes, a reference to anything being prescribed must be construed as a reference to its being provided for by a provision of subordinate legislation applied, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8(1)(k); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8(1)(k). Accordingly, the text refers to the requirements set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt IV (regs 50-63) (as amended, applied and modified). An application under the Representation of the People Act 2000 Sch 4 para 3(7) (as applied and modified) must be disregarded for the purposes of a particular referendum if it is received by the registration officer after 5 pm on the eleventh day before the date

of the poll at that referendum: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(1) (as amended, applied and modified: see notes 11, 19 *supra*). Where a registration officer disregards an application for the purposes of any particular referendum, he must notify the applicant of this: reg 57(5) (as amended, applied and modified: see note 11 *supra*).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/C. MANNER OF VOTING AT REFERENDUM OR POLL/(B) Absent Voting at a Local Authority Referendum/(b) Applications relating to a Particular Referendum/599. Applications for absent vote at particular referendum.

(b) Applications relating to a Particular Referendum

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

599. Applications for absent vote at particular referendum.

Where a person applies to the registration officer¹ to vote by post at a particular referendum², the registration officer must grant the application³ if he is satisfied that the applicant is or will be registered in the register of local government electors⁴ and if the application meets the prescribed requirements⁵. Where a person applies to the registration officer to vote by proxy⁶ at a particular referendum, the registration officer must grant the application⁷ if: (1) he is satisfied that the applicant's circumstances on the date of the poll will be or are likely to be such that he cannot reasonably be expected to vote in person at the polling station allotted or likely to be allotted to him under the appropriate rules⁸; (2) he is satisfied that the applicant is or will be registered in the register of local government electors⁹; and (3) the application meets the prescribed requirements¹⁰.

A person who is included in the record kept of those entitled to an absent vote in respect of referendums either for a particular period or for an indefinite period¹¹, may, in respect of a particular referendum, apply to the registration officer¹² for his ballot paper to be sent to a different address from that shown in the record¹³ or to vote by proxy¹⁴, if he is shown in the record so kept as voting by post at referendums of the kind in question¹⁵; and the registration officer must grant such an application if¹⁶, in the case of any application, it meets the prescribed requirements¹⁷ and, in the case of an application to vote by proxy, the registration officer is satisfied that the applicant's circumstances on the date of the poll will be or are likely to be such that he cannot reasonably be expected to vote in person at the polling station allotted or likely to be allotted to him under the appropriate rules¹⁸.

Such an application¹⁹ must state: (a) the full name of the applicant²⁰; (b) the address in respect of which the applicant is registered or has applied to be (or is treated as having applied to be) registered in the register²¹; (c) in the case of a person applying to vote by post, the address to which the ballot paper should be sent²²; and (d) in the case of an application to vote by proxy, the grounds on which the elector claims to be entitled to an absent vote²³. Additionally, in relation to England, an application for a ballot paper to be sent to a different address from that shown in the record must set out why the applicant's circumstances will be or are likely to be such that he requires his ballot paper to be sent to that address²⁴. Such an application which is made for a particular referendum must identify the referendum in question²⁵ and must state

that it is made for a particular referendum²⁶. The application must be made in writing and must be signed and dated by the applicant²⁷. Where an application is made by an elector to vote by proxy, it must include an application for the appointment of a proxy which meets the prescribed requirements²⁸.

Where the registration officer grants an application to vote by post, he must notify the applicant of his decision²⁹; and where he refuses an application, he must notify the applicant of his decision³⁰.

1 As to the meaning of references to the registration officer for these purposes see PARA 597 note 1 ante. The registration officer must supply free of charge as many forms for use in connection with applications made under the provisions relating to absent voting as appear to that officer reasonable in the circumstances to any person who satisfies that officer of his intention to use the forms in connection with a referendum or referendums: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 4(1) (applied and modified, in relation to England, by SI 2001/1298; and, in relation to Wales, by SI 2004/870). As to the provisions that are so applied and modified see PARA 557 ante.

2 For the meaning of 'referendum' see PARA 576 note 2 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1 (Sch 4 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1). As to the provisions that are so applied and modified see PARA 557 ante. As to the meaning of references to a person's entitlement as an elector to an absent vote at a referendum see PARA 597 note 21 ante.

3 Representation of the People Act 2000 Sch 4 para 4(1) (as applied and modified: see note 2 supra). Such an application must be refused if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at the referendum for which it is made; and where a registration officer disregards such an application for the purposes of any particular referendum, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 56(4), 57(5) (both amended by SI 2006/752). The Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 56, 57 (both as amended) are applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870. As to the computation of time for these purposes see PARA 597 notes 3, 7 ante.

4 Representation of the People Act 2000 Sch 4 para 4(1)(a) (as applied and modified: see note 2 supra). As to the registers of electors see PARA 160 et seq ante.

5 Ibid Sch 4 para 4(1)(b) (as applied and modified: see note 2 supra). For these purposes, a reference to anything being prescribed must be construed as a reference to its being provided for by a provision of subordinate legislation applied, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8(1)(k); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8(1)(k). Accordingly, the text refers to the requirements set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt IV (regs 50-63) (as amended, applied and modified).

6 As to voting by proxy at a referendum see PARA 602 et seq post.

7 Representation of the People Act 2000 Sch 4 para 4(2) (as applied and modified: see note 2 supra). Such an application must be refused if it is received by the registration officer after 5 pm on the sixth day before the date of the poll at the referendum for which it is made: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(3) (substituted by SI 2006/752; and applied and modified (see note 3 supra)). Where an application under the Representation of the People Act 2000 Sch 4 para 4(2) (as applied and modified) is made on the grounds of the applicant's physical incapacity, and the applicant became physically incapacitated after 5 pm on the sixth day before the date of the poll at the referendum for which it is made, the application must be refused if it is received after 5 pm on the day of the poll at the referendum for which it is made: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(3A) (added by SI 2006/752; and as so applied and modified). Where a registration officer disregards such an application for the purposes of any particular referendum, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (as amended, applied and modified: see note 3 supra). This restriction applies also to applications made under the Representation of the People Act 2000 Sch 4 para 6(8) (as applied and modified) made by virtue of an application under Sch 4 para 4(2) (as applied and modified): see PARA 603 post.

8 Ibid Sch 4 para 4(2)(a) (as applied and modified: see note 2 supra). For the meaning of 'appropriate rules' see PARA 595 note 2 ante.

9 Ibid Sch 4 para 4(2)(b) (as applied and modified: see note 2 supra).

10 Ibid Sch 4 para 4(2)(c) (as applied and modified: see note 2 supra). For these purposes, a reference to anything being prescribed must be construed as a reference to its being provided for by a provision of subordinate legislation applied, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8(1)(k); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8(1)(k). Accordingly, the text refers to the requirements set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt IV (as amended, applied and modified). As to additional requirements to be included in applications to vote by proxy at a particular referendum see PARA 600 post.

11 Ie the record kept under the Representation of the People Act 2000 Sch 4 para 3 (as amended, applied and modified) (see PARA 598 ante).

12 Ibid Sch 4 para 4(3) (as applied and modified: see note 2 supra).

13 Ibid Sch 4 para 4(3)(a) (as applied and modified: see note 2 supra).

14 Ibid Sch 4 para 4(3)(b) (as applied and modified: see note 2 supra).

15 Ibid Sch 4 para 4(3) (as applied and modified: see note 2 supra). Such an application must be refused for the purposes of any particular referendum if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that referendum: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(1) (amended by SI 2006/752; and applied and modified (see note 3 supra)). Where a registration officer disregards such an application for the purposes of any particular referendum, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (as amended, applied and modified: see note 3 supra).

16 Representation of the People Act 2000 Sch 4 para 4(4) (as applied and modified: see note 2 supra). Where the registration officer grants such an application made by a person shown as voting by post, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4A) (added by SI 2006/752; and applied and modified (see note 3 supra)).

17 Representation of the People Act 2000 Sch 4 para 4(4)(a) (as applied and modified: see note 2 supra). For these purposes, a reference to anything being prescribed must be construed as a reference to its being provided for by a provision of subordinate legislation applied, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8(1)(k); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8(1)(k). Accordingly, the text refers to the requirements set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt IV (as amended, applied and modified); and see note 19 infra.

18 Representation of the People Act 2000 Sch 4 para 4(4)(b) (as applied and modified: see note 2 supra).

19 Applications relating to absent voting must comply with such requirements as are relevant to the application: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(1) (reg 51 applied and modified, in relation to England, by SI 2001/1298; and, in relation to Wales, by SI 2004/870).

20 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(a) (as applied and modified: see note 19 supra).

21 Ibid reg 51(2)(b) (amended by SI 2006/752; and applied and modified (see note 19 supra)).

22 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(d) (as applied and modified: see note 19 supra).

23 Ibid reg 51(2)(e) (as applied and modified: see note 19 supra).

24 Ibid reg 51B (added by SI 2006/752; and applied and modified in relation to England by virtue of SI 2001/1298).

25 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(5)(b) (as applied and modified: see note 19 supra).

26 Ibid reg 51(5)(a) (as applied and modified: see note 19 supra). However, where the poll at one election or referendum falls on the same day as the poll at another election or referendum (as to which see PARA 20 ante), the same application may be used for both: reg 51(5) (as so applied and modified).

27 Ibid reg 51(3) (as applied and modified: see note 19 supra). In relation to England, the registration officer may satisfy himself that an application for an absent vote meets the requirement that it has been signed by the applicant by referring to any signature previously provided by the applicant to the registration officer or the counting officer: reg 51A (added by SI 2006/752; and applied and modified in relation to England by virtue of SI 2001/1298). For the meaning of 'counting officer' see PARA 591 note 2 ante. As to the requirements for documents to be in writing and signed see PARA 597 note 22 ante.

28 See the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 51(6), 52 (as applied and modified); and PARA 603 post.

29 Ibid reg 57(1) (amended by SI 2006/752; and applied and modified (see note 3 supra)).

30 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4) (as applied and modified: see note 3 supra). In the context of elections, a right of appeal lies to the county court only from certain decisions of the registration officer disallowing a person's application to vote by proxy or by post as elector: see PARA 189 et seq ante.

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/C. MANNER OF VOTING AT REFERENDUM OR POLL/(B) Absent Voting at a Local Authority Referendum/(b) Applications relating to a Particular Referendum/600. Additional requirements for applications for a proxy vote at a particular referendum.

600. Additional requirements for applications for a proxy vote at a particular referendum.

An application to vote by proxy at a particular referendum¹ must set out why the applicant's circumstances on the date of the poll for that referendum will be or are likely to be such that he cannot reasonably be expected to vote in person at his allotted polling station². Where such an application is made on the grounds of the applicant's physical incapacity³ and is made after 5 pm on the sixth day before the date of the poll at the referendum for which it is made⁴, such an application must be attested and signed by⁵:

- 534 (1) a registered medical practitioner⁶;
- 535 (2) a nurse registered on the register maintained by the Nursing and Midwifery Council⁷ by virtue of qualifications in nursing⁸;
- 536 (3) a Christian Science practitioner⁹;
- 537 (4) the person registered as carrying on a residential care home¹⁰, where the applicant states that he is resident in such a home¹¹;
- 538 (5) the matron or other person in charge of residential accommodation provided by a local authority¹², where the applicant states that he is resident in such accommodation¹³; or
- 539 (6) the warden of premises forming one of a group of premises provided for persons of pensionable age or physically disabled persons for which there is a resident warden, where the applicant states that he resides in such premises¹⁴.

A person who qualifies by virtue of head (1), (2) or (3) above may not attest an application for this purpose unless he is treating the applicant for the physical incapacity specified in the application or the applicant is receiving care from him in respect of that incapacity¹⁵. The person attesting the application must state: (a) his name and address and the qualification by virtue of which he attests the application and, where the person who attests the application is a person who qualifies by virtue of head (1), (2) or (3) above, that he is treating the applicant for the physical incapacity specified in the application or the applicant is receiving care from him in respect of that incapacity¹⁶; (b) that, to the best of his knowledge and belief, the applicant is suffering from the physical incapacity specified in the application and that he cannot reasonably be expected to go in person to his allotted polling station or to vote unaided there by reason of that incapacity¹⁷; and (c) that, to the best of his knowledge and belief, the physical incapacity specified in the application is likely to continue either indefinitely or for a period specified by the person attesting the application¹⁸. In addition¹⁹, the person who attests the application must state, to the best of his knowledge and belief, the date upon which the applicant became physically incapacitated²⁰.

However, the provisions as to attestation²¹ do not apply where the application is based on the applicant's blindness and the applicant is registered as a blind person by the local authority²² which is specified in the application²³ or where the application states that the applicant is in receipt of the higher rate of the mobility component of a disability living allowance²⁴ because of the physical incapacity specified in the application²⁵.

1 Ie an application under the Representation of the People Act 2000 s 12, Sch 4 para 4(2) (as applied and modified) (see PARA 599 ante). For the meaning of 'referendum' see PARA 576 note 2 ante; definition applied by virtue of Sch 4 para 1 (Sch 4 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1). As to the meaning of references to a person's entitlement as an elector to an absent vote at a referendum see PARA 597 note 21 ante.

2 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 55(1) (reg 55 substituted by SI 2006/752; and applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). For the meaning of 'his allotted polling station' in relation to an elector see PARA 373 note 30 ante; definition applied by virtue of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 50 (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see PARA 557 ante. The application referred to in the text must also satisfy the general requirements of absent voting applications (as to which see PARA 599 ante). As to the offence in respect of false statements see PARA 738 post.

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 55(2)(a) (as substituted, applied and modified: see note 2 supra).

4 Ibid reg 55(2)(b) (as substituted, applied and modified: see note 2 supra). As to the computation of time for these purposes see PARA 597 note 7 ante.

5 Ibid reg 53(2); applied by reg 55(2) (as substituted, applied and modified: see note 2 supra). As to the offence of attesting such an application when not authorised to do so see PARA 738 post.

6 Ibid reg 53(2)(a); applied by reg 55(2) (as substituted, applied and modified: see note 2 supra).

7 Ie the register maintained under the Nursing and Midwifery Order 2001, SI 2002/253, art 5 (see MEDICAL PROFESSIONS vol 30(1) (Reissue) PARA 717).

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(b) (substituted by SI 2002/881; and amended by SI 2004/1771); applied by the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 55(2) (as substituted, applied and modified: see note 2 supra).

9 Ibid reg 53(2)(c); applied by reg 55(2) (as substituted, applied and modified: see note 2 supra).

10 As to the registration of residential care homes see SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue) PARA 1042 et seq.

11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(d); applied by reg 55(2) (as substituted, applied and modified: see note 2 supra).

12 Ie under the National Assistance Act 1948 s 21(1) (as amended) (see SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue) PARAS 1029-1030).

13 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(e); applied by reg 55(2) (as substituted, applied and modified: see note 2 supra).

14 Ibid reg 53(2)(f); applied by reg 55(2) (as substituted, applied and modified: see note 2 supra).

15 Ibid reg 53(3); applied by reg 55(2) (as substituted, applied and modified: see note 2 supra).

16 Ibid reg 53(4)(a); applied by reg 55(2) (as substituted, applied and modified: see note 2 supra).

17 Ibid reg 53(4)(b); applied by reg 55(2) (as substituted, applied and modified: see note 2 supra). For these purposes, 'his allotted polling station', in relation to an elector, means the polling station allotted or likely to be allotted to him under the appropriate rules: reg 53(7); applied by reg 55(2) (as so substituted, applied and modified). For the meaning of the 'appropriate rules' see PARA 595 note 2 ante.

18 Ibid reg 53(4)(c); applied by reg 55(2) (as substituted, applied and modified: see note 2 supra).

19 Ie in addition to those matters specified in ibid reg 53(4) (as amended and applied) (see the text and notes 16-18 supra).

20 Ibid reg 55(3) (as substituted, applied and modified: see note 2 supra).

21 le in ibid reg 53(2)-(4) (as amended and applied) (see the text and notes 5-18 supra).

22 le the local authority which has made arrangements for compiling and maintaining classified registers of persons who are blind, etc under the National Assistance Act 1948 s 29(4)(g) (see SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue) PARA 1021).

23 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(5)(a); applied by reg 55(2) (as substituted, applied and modified: see note 2 supra). The fact that an applicant is registered with a local authority under the National Assistance Act 1948 s 29(4)(g) (see SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue) PARA 1021) is deemed sufficient evidence that he is eligible to vote by proxy on grounds of the applicant's physical incapacity: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(6); applied by reg 55(2) (as so substituted, applied and modified).

24 le payable under the Social Security Contributions and Benefits Act 1992 ss 71, 73 (as amended) (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) PARA 106).

25 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(5)(b); applied by reg 55(2) (as substituted, applied and modified: see note 2 supra).

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/C. MANNER OF VOTING AT REFERENDUM OR POLL/(B) Absent Voting at a Local Authority Referendum/(b) Applications relating to a Particular Referendum/601. Absent voters list at a local authority referendum.

601. Absent voters list at a local authority referendum.

In respect of each local authority referendum¹, the registration officer² must keep a special list (called the 'absent voters list') which consists of two lists³. The first is a list⁴ of: (1) those whose applications to vote by post at that particular referendum⁵ have been granted, together with the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent⁶; and (2) those who are for the time being shown in the record kept of those entitled to an absent vote at referendums either for a particular period or for an indefinite period⁷ as voting by post at particular referendums of the kind in question⁸, together with the addresses provided by them in their applications⁹ as the addresses to which their ballot papers are to be sent¹⁰. The second is a list¹¹ of: (a) those whose applications to vote by proxy at that particular referendum¹² have been granted¹³; and (b) those who are for the time being shown in the record kept of those entitled to an absent vote at referendums either for a particular period or for an indefinite period¹⁴ as voting by proxy at particular referendums of the kind in question¹⁵, together with (in each case) the names and addresses of those appointed as their proxies¹⁶.

As soon as practicable after the sixth day¹⁷ before the day of the poll at a referendum, the registration officer must publish the absent voters list by making a copy of it available for inspection at his office¹⁸ and any person may make a copy (whether handwritten or by other means) of the whole or any part of it¹⁹.

1 For the meaning of 'referendum' see PARA 576 note 2 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1 (Sch 4 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1). As to the provisions that are so applied and modified see PARA 557 ante.

2 As to the meaning of references to the registration officer for these purposes see PARA 597 note 1 ante.

3 Representation of the People Act 2000 Sch 4 para 5(1) (as applied and modified: see note 1 supra).

4 Ibid Sch 4 para 5(2) (as applied and modified: see note 1 supra).

5 I.e. applications made under ibid Sch 4 para 4(1) (as applied and modified) (see PARA 599 ante).

6 Ibid Sch 4 para 5(2)(a) (as applied and modified: see note 1 supra).

7 I.e. the record kept under ibid Sch 4 para 3 (as amended, applied and modified) (see PARA 598 ante).

8 I.e. excluding those so shown whose applications to vote by proxy at the referendum under ibid Sch 4 para 4(3)(b) (as applied and modified) have been granted (see PARA 599 ante).

9 I.e. the applications made under ibid Sch 4 para 3 (as applied and modified) (see PARA 597 ante) or, as the case may be, under Sch 4 para 4(3)(a) (as applied and modified) (see PARA 599 ante).

10 Ibid Sch 4 para 5(2)(b) (as applied and modified: see note 1 supra).

11 Ibid Sch 4 para 5(3) (as applied and modified: see note 1 supra).

12 I.e. the applications made under ibid Sch 4 para 4(2), (3) (as applied and modified) (see PARA 599 ante).

13 Ibid Sch 4 para 5(3)(a) (as applied and modified: see note 1 supra).

14 See note 7 supra.

15 Representation of the People Act 2000 Sch 4 para 5(3)(b) (as applied and modified: see note 1 supra).

16 Ibid Sch 4 para 5(3) (as applied and modified: see note 1 supra).

17 As to the computation of time for these purposes see PARA 597 note 7 ante.

18 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61(3)(a) (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). For the meaning of 'available for inspection' see PARA 598 note 9 ante.

19 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 7(1) (renumbered by SI 2002/1871; and applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/C. MANNER OF VOTING AT REFERENDUM OR POLL/(B) Absent Voting at a Local Authority Referendum/(c) Voting as Proxy at a Referendum/602. Capacity of person to act as proxy for an elector at a referendum.

(c) Voting as Proxy at a Referendum

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

602. Capacity of person to act as proxy for an elector at a referendum.

Any person is capable of being appointed proxy to vote for another¹ at any local authority referendum² and he may vote in pursuance of the appointment³. However, the elector⁴ cannot have more than one person at a time appointed as proxy to vote for him at referendums held in the same voting area⁵; and a person is not capable of being appointed to vote or voting as proxy if he is subject to any legal incapacity⁶ (age apart⁷) to vote at that referendum as elector⁸ or if he is neither a Commonwealth citizen⁹ nor a citizen of the Republic of Ireland¹⁰ nor a relevant citizen of the Union¹¹.

A person is not capable of voting as proxy at any local authority referendum unless on the date of the poll he has attained the age of 18¹². A person is not entitled to vote as proxy at the same referendum held in any voting area¹³ on behalf of more than two electors of whom that person is not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild¹⁴.

1 Ie subject to the restrictions contained in the Representation of the People Act 2000 s 12, Sch 4 para 6 (as amended, applied and modified). As to applications made by an elector to vote by proxy at referendums for a particular period or for an indefinite period see PARA 597 et seq ante; and as to such applications made in relation to a particular referendum see PARA 598 et seq ante.

2 For the meaning of 'referendum' see PARA 576 note 2 ante; definition applied by virtue of ibid Sch 4 para 1 (Sch 4 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1). As to the provisions that are so applied and modified see PARA 557 ante.

3 Representation of the People Act 2000 Sch 4 para 6(1) (as applied and modified: see note 2 supra).

4 For these purposes, the term 'elector' refers to a person for whom a proxy is appointed: ibid Sch 4 para 6(1) (as applied and modified: see note 2 supra).

5 Ibid Sch 4 para 6(2)(b) (as applied and modified: see note 2 supra). For the meaning of 'voting area' see PARA 582 note 2 ante.

6 As to the meaning of 'legal incapacity' for these purposes see PARA 110 note 8 ante.

7 'Voting age' for a local government elector means 18 years or over: see PARA 112 note 14 ante. See the text and note 12 infra.

8 Representation of the People Act 2000 Sch 4 para 6(4)(a) (as applied and modified: see note 2 supra).

9 As to who are Commonwealth citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 11.

10 As to who are citizens of the Republic of Ireland see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 12.

11 Representation of the People Act 2000 Sch 4 para 6(4)(b) (as applied and modified: see note 2 supra). For the meaning of 'relevant citizen of the Union' see PARA 112 note 13 ante.

12 Ibid Sch 4 para 6(5) (as applied and modified: see note 2 supra).

13 Ibid Sch 4 para 6(6)(b) (as applied and modified: see note 2 supra).

14 Ibid Sch 4 para 6(6) (Sch 4 para 6(6) amended by the Civil Partnership Act 2004 s 261(1), Sch 27 para 164(1), (3); and applied and modified (see note 2 supra)).

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/C. MANNER OF VOTING AT REFERENDUM OR POLL/(B) Absent Voting at a Local Authority Referendum/(c) Voting as Proxy at a Referendum/603. Applications for appointment to vote as proxy at a referendum.

603. Applications for appointment to vote as proxy at a referendum.

Where the elector¹ applies to the registration officer² for the appointment of a proxy to vote for him at a local authority referendum³ (whether for an indefinite period or for a particular period specified in his application⁴), the registration officer must make the appointment if the application meets the prescribed requirements⁵ and he is satisfied that the elector is or will be registered in the register of local government electors⁷ and shown in the record kept of those entitled to an absent vote at referendums either for a particular period or for an indefinite period⁸ as voting by proxy at such referendums⁹, and that the proxy is capable of being, and willing to be, appointed to vote as proxy at such referendums¹⁰.

Where the elector applies to the registration officer for the appointment of a proxy to vote for him at a particular referendum¹¹, the registration officer must make the appointment if the application meets the prescribed requirements¹² and he is satisfied that the elector¹³ is or will be registered in the register of local government electors¹⁴ and is or will be entitled to vote by proxy at that referendum by virtue of that application¹⁵, and that the proxy is capable of being, and willing to be, appointed¹⁶.

Such an application¹⁷ must state: (1) the full name of the applicant¹⁸; and (2) the address in respect of which the applicant is registered or has applied to be (or is treated as having applied to be) registered in the register¹⁹. The application must be made in writing and must be signed and dated by the applicant²⁰. An application which is made for an indefinite period or the period specified in the application must identify those elections or referendums in respect of which it is made²¹ and must state that it is made for an indefinite period or for a period specified in the application²². An application which is made for a particular referendum must identify the referendum in question²³ and must state that it is so made²⁴. Where the poll at one election or referendum falls on the same day as the poll at another election or referendum, the same application may be used for both²⁵. An application for the appointment of a proxy must state also the full name and address of the person whom the applicant wishes to appoint as his proxy, together with his family relationship, if any, with the applicant²⁶. If the application is signed only by the applicant, it must contain a statement by him that he has consulted the person so named and that the person is capable of being and willing to be appointed to vote as his proxy²⁷. If the application is signed also by the person to be appointed, it must contain a statement by that person that he is capable of being and willing to be appointed to vote as the applicant's proxy²⁸.

The appointment of a proxy is to be made by means of a proxy paper in the prescribed form issued by the registration officer²⁹.

Where the registration officer grants an application for the appointment of a proxy, he must confirm in writing to the elector that the proxy has been appointed, his name and address, and the duration of the appointment³⁰. Where he refuses an application, he must notify the applicant of his decision and of the reason for it³¹.

1 For the meaning of 'elector' in this context see PARA 602 note 4 ante.

2 As to the meaning of references to the registration officer for these purposes see PARA 597 note 1 ante. The registration officer must supply free of charge as many forms for use in connection with applications made under the provisions relating to absent voting as appear to that officer reasonable in the circumstances to any person who satisfies that officer of his intention to use the forms in connection with a referendum or referendums: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 4(1) (reg 4 applied and modified, in relation to England, by SI 2001/1298; and, in relation to Wales, by SI 2004/870).

3 For the meaning of 'referendum' see PARA 576 note 2 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1 (Sch 4 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1). As to the provisions that are so applied and modified see PARA 557 ante.

4 As to applications made by an elector to vote by proxy at referendums for a particular period or for an indefinite period see PARA 597 et seq ante.

5 For these purposes, a reference to anything being prescribed must be construed as a reference to its being provided for by a provision of subordinate legislation applied, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8(1)(k); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8(1)(k). Accordingly, the text refers to the requirements set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt IV (regs 50-63) (as amended, applied and modified). An application referred to in the text must be disregarded for the purposes of a particular referendum if it is received by the registration officer after 5 pm on the sixth day before the date of the poll at that referendum; and where a registration officer disregards an application for the purposes of any particular referendum, he must notify the applicant of this: regs 56(2), 57(5) (both amended by SI 2006/752). The Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 56, 57 (both as amended) are applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870. As to the computation of time for these purposes see PARA 597 notes 3, 7 ante.

6 Representation of the People Act 2000 Sch 4 para 6(7) (as applied and modified: see note 3 supra).

7 Ibid Sch 4 para 6(7)(a) (as applied and modified: see note 3 supra). As to the registers of electors see PARA 160 et seq ante.

8 The record kept for the purposes under ibid Sch 4 para 3 (as amended, applied and modified) (see PARA 598 ante).

9 Ibid Sch 4 para 6(7)(b) (as applied and modified: see note 3 supra).

10 Ibid Sch 4 para 6(7) (as applied and modified: see note 3 supra).

11 As to such applications see PARA 599 ante.

12 As to the statutory requirements see note 5 supra; and as to the requirements that have been prescribed see PARA 599 ante. An application must be refused if it is received by the registration officer after 5 pm on the sixth day before the date of the poll at the referendum for which it is made: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(3) (substituted by SI 2006/752; and applied and modified (see note 5 supra)). Where a registration officer disregards such an application for the purposes of any particular referendum, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (as amended, applied and modified: see note 5 supra).

13 Representation of the People Act 2000 Sch 4 para 6(8) (as applied and modified: see note 3 supra).

14 Ibid Sch 4 para 6(8)(a) (as applied and modified: see note 3 supra).

15 Ibid Sch 4 para 6(8)(b) (as applied and modified: see note 3 supra). The text refers to entitlement to vote by virtue of an application under Sch 4 para 4(2), (3) (as applied and modified) (see PARA 599 ante). Where an application under Sch 4 para 4(2) (as applied and modified) is made on the grounds of the applicant's physical incapacity and the applicant became physically incapacitated after 5 pm on the sixth day before the date of the poll at the referendum for which it is made, an application under Sch 4 para 6(8) (as applied and modified) made by virtue of that application must be refused if it is received after 5 pm on the day of the poll at the referendum for which it is made: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(3A) (added by SI 2006/752; and applied and modified (see note 5 supra)). Where a registration officer disregards such an application for the purposes of any particular referendum, he must notify

the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (as amended, applied and modified: see note 5 supra).

16 Representation of the People Act 2000 Sch 4 para 6(8) (as applied and modified: see note 3 supra).

17 Applications relating to absent voting must comply with such requirements as are relevant to the application: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(1) (reg 51 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870).

18 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(a) (as applied and modified: see note 17 supra).

19 Ibid reg 51(2)(b) (amended by SI 2006/752; and applied and modified (see note 17 supra)).

20 Ibid reg 51(3) (as applied and modified: see note 17 supra). In relation to England, the registration officer may satisfy himself that an application for an absent vote meets the requirement that it has been signed by the applicant by referring to any signature previously provided by the applicant to the registration officer or the counting officer: reg 51A (added by SI 2006/752; and applied and modified in relation to England by virtue of SI 2001/1298). For the meaning of 'counting officer' see PARA 591 note 2 ante. As to the requirements for documents to be in writing and signed see PARA 597 note 22 ante.

21 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(4)(b) (as applied and modified: see note 17 supra).

22 Ibid reg 51(4)(a) (as applied and modified: see note 17 supra).

23 Ibid reg 51(5)(b) (as applied and modified: see note 17 supra).

24 Ibid reg 51(5)(a) (as applied and modified: see note 17 supra).

25 Ibid reg 51(5) (as applied and modified: see note 17 supra).

26 Ibid reg 51(6) (as applied and modified: see note 17 supra); reg 52 (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870).

27 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 52(a) (as applied and modified: see note 26 supra). As to capacity to act as proxy at a referendum see PARA 602 ante.

28 Ibid reg 52(b) (as applied and modified: see note 26 supra).

29 Representation of the People Act 2000 Sch 4 para 6(9) (as applied and modified: see note 3 supra). As to forms generally see note 2 supra. As to the prescribed form of proxy paper for these purposes see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(3) (as applied and modified: see note 5 supra), Sch 3 (Form E: proxy paper) (amended by SI 2005/2114; and applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). The prescribed form or a form substantially to the like effect may be used with such variations as the circumstances may require: see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 4(2) (as applied and modified: see note 2 supra).

30 Ibid reg 57(2) (as applied and modified: see note 5 supra).

31 Ibid reg 57(4) (as applied and modified: see note 5 supra). In the context of elections, a right of appeal lies to the county court only from certain decisions of the registration officer disallowing a person's application to vote by proxy or by post as elector: see PARA 189 et seq ante.

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/C. MANNER OF VOTING AT REFERENDUM OR POLL/(B) Absent Voting at a Local Authority Referendum/(c) Voting as Proxy at a Referendum/604. Duration of appointment to vote as proxy at a referendum.

604. Duration of appointment to vote as proxy at a referendum.

The appointment of a proxy at a local authority referendum¹ may be cancelled by the elector² giving notice to the registration officer³. The appointment also ceases to be in force⁴:

- 540 (1) on the issue of a proxy paper appointing a different person to vote for him at a referendum or referendums, whether in the same voting area⁵ or elsewhere⁶; and
- 541 (2) where the appointment was for a particular period, once that period expires⁷.

The appointment otherwise remains in force for the particular referendum for which the appointment was made⁸ or, where the appointment was made for a particular period or for an indefinite period, while the elector is shown as voting by proxy in the record kept of those entitled to an absent vote at referendums either for a particular period or for an indefinite period⁹, in pursuance of the same application¹⁰ in respect of which he was included in that record¹¹.

Where the appointment of a proxy is cancelled by the elector or otherwise ceases to be in force, the registration officer must notify the elector that the appointment has been cancelled or, as the case may be, notify him that the appointment has ceased and the reason for it¹². Where the appointment of a proxy is cancelled by notice given to the registration officer¹³ or ceases to be in force¹⁴ or is no longer in force for a particular period or for an indefinite period¹⁵, the registration officer¹⁶ must notify the person whose appointment as proxy has been cancelled, expired, ceases to be or is no longer in force (unless the registration officer has previously been notified by that person that he no longer wishes to act as proxy)¹⁷ and must remove his name from the record of names and addresses of those appointed as proxies¹⁸.

1 For the meaning of 'referendum' see PARA 576 note 2 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1 (Sch 4 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1). As to the provisions that are so applied and modified see PARA 557 ante. As to applications for the appointment of a proxy at a referendum see PARA 603 ante.

2 For the meaning of 'elector' in this context see PARA 602 note 4 ante.

3 Representation of the People Act 2000 Sch 4 para 6(10) (as applied and modified: see note 1 supra). However, such a notice must be disregarded for the purposes of a particular referendum if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that referendum (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(5) (amended by SI 2001/1700); and where a registration officer disregards an application for the purposes of any particular referendum, he must notify the applicant of this (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752). The Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 56, 57 (both as amended) are applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870. As to the meaning of references to the registration officer for these purposes see PARA 597 note 1 ante; and as to the computation of time see PARA 597 notes 3, 7 ante.

4 Representation of the People Act 2000 Sch 4 para 6(10) (as applied and modified: see note 1 supra).

- 5 For the meaning of 'voting area' see PARA 582 note 2 ante.
- 6 Representation of the People Act 2000 Sch 4 para 6(10)(b) (as applied and modified: see note 1 supra).
- 7 Ibid Sch 4 para 6(10)(c) (as applied and modified: see note 1 supra).
- 8 Ibid Sch 4 para 6(11)(a) (as applied and modified: see note 1 supra).
- 9 Ie the record kept under ibid Sch 4 para 3 (as amended, applied and modified) (see PARA 598 ante).
- 10 Ie under ibid Sch 4 para 3 (as amended, applied and modified) (see PARA 597 ante).
- 11 Ibid Sch 4 para 6(11)(b) (as applied and modified: see note 1 supra).
- 12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4C) (added by SI 2006/752; and applied and modified (see note 3 supra)).
- 13 Ie under the Representation of the People Act 2000 Sch 4 para 6(10) (as applied and modified) (see the text and notes 1-3 supra).
- 14 Ie under ibid Sch 4 para 6(10) (as applied and modified) (see the text and notes 4-7 supra).
- 15 Ie under ibid Sch 4 para 6(11)(b) (as applied and modified) (see the text and notes 9-11 supra).
- 16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 59 (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870).
- 17 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 59(a) (as applied and modified: see note 16 supra).
- 18 Ibid reg 59(b) (as applied and modified: see note 16 supra). The text refers to the record kept under the Representation of the People Act 2000 Sch 4 para 3(4)(c) (as applied and modified) (see PARA 598 ante).

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/C. MANNER OF VOTING AT REFERENDUM OR POLL/(B) Absent Voting at a Local Authority Referendum/(c) Voting as Proxy at a Referendum/605. Voting in person as proxy at referendum.

605. Voting in person as proxy at referendum.

A person entitled to vote as proxy at a referendum¹ may do so in person at the polling station allotted to the elector² under the appropriate rules³. Where a person is entitled to vote by post as proxy for the elector at any referendum⁴, the elector may not apply for a ballot paper for the purpose of voting in person at the referendum⁵. To indicate that an elector or his proxy is entitled to vote by post and is for that reason not entitled to vote in person, the letter 'A' is placed against the name of that elector in any copy of the register, or part of it, provided for a polling station⁶.

1 For the meaning of 'referendum' see PARA 576 note 2 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1 (Sch 4 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1). As to the provisions that are so applied and modified see PARA 557 ante. As to applications for the appointment of a proxy at a referendum see PARA 602 et seq ante.

2 For the meaning of 'elector' in this context see PARA 602 note 4 ante.

3 Representation of the People Act 2000 Sch 4 para 7(1) (as applied and modified: see note 1 supra). For the meaning of the 'appropriate rules' see PARA 595 note 2 ante.

4 As to applications to vote by post as proxy at referendum see PARA 606 et seq post.

5 Representation of the People Act 2000 Sch 4 para 7(2) (as applied and modified: see note 1 supra).

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 62 (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870).

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/C. MANNER OF VOTING AT REFERENDUM OR POLL/(B) Absent Voting at a Local Authority Referendum/(c) Voting as Proxy at a Referendum/606. Application by person to vote by post as proxy at referendum.

606. Application by person to vote by post as proxy at referendum.

Where a person applies to the registration officer¹ to vote by post either as proxy at local authority referendums² (whether for an indefinite period or for a particular period specified in his application)³ or as proxy at a particular referendum⁴, the registration officer must grant the application⁵ if: (1) the registration officer is satisfied that the elector⁶ is or will be registered in the register of local government electors⁷; and (2) there is in force an appointment of the applicant as the elector's proxy to vote for him at referendums of the kind in question or, as the case may be, the referendum concerned⁸; and (3) the application meets the prescribed requirements⁹.

Such an application¹⁰ must state: (a) the full name of the applicant¹¹; (b) the proxy's address, together with the name of the elector for whom he will act as proxy and the elector's address in respect of which the elector is registered or has applied to be (or is treated as having applied to be) registered in the register¹²; (c) the address to which the ballot paper should be sent¹³; and (d) the grounds on which the elector claims to be entitled to an absent vote¹⁴. The application must be made in writing and must be signed and dated by the applicant¹⁵. An application which is made for an indefinite period or the period specified in the application must state that it is so made¹⁶ and must specify all or any of the elections or referendums in respect of which it is made¹⁷. An application which is made for a particular referendum must state that it is so made¹⁸ and must identify the referendum in question¹⁹. Where the poll at one election or referendum falls on the same day as the poll at another election or referendum, the same application may be used for both²⁰.

Where the registration officer grants an application to vote by post, he must notify the applicant of his decision²¹; and where he refuses an application, he must notify the applicant of his decision and give the reason for it²².

1 As to the meaning of references to the registration officer for these purposes see PARA 597 note 1 ante.

2 For the meaning of 'referendum' see PARA 576 note 2 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1 (Sch 4 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1). As to the provisions that are so applied and modified see PARA 557 ante. As to applications for the appointment of a proxy at a referendum see PARA 602 et seq ante.

3 Representation of the People Act 2000 Sch 4 para 7(4)(a) (as applied and modified: see note 2 supra). As to applications so made see PARA 597 ante.

4 Ibid Sch 4 para 7(4)(b) (as applied and modified: see note 2 supra). As to applications so made see PARA 599 ante.

5 Ibid Sch 4 para 7(4) (as applied and modified: see note 2 supra). Such an application must be disregarded for the purposes of any particular referendum if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that referendum; and where a registration officer disregards an application for the purposes of any particular referendum, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 56(1), 57(5) (both amended by SI 2006/752). The Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 56, 57

(both as amended) are applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870. As to the computation of time for these purposes see PARA 597 notes 3, 7 ante.

6 For the meaning of 'elector' in this context see PARA 602 note 4 ante.

7 Representation of the People Act 2000 Sch 4 para 7(5)(a) (as applied and modified: see note 2 supra). As to the registers of electors see PARA 160 et seq ante.

8 Ibid Sch 4 para 7(5)(b) (as applied and modified: see note 2 supra). As to the appointment of a proxy see PARA 603 et seq ante.

9 Ibid Sch 4 para 7(5)(c) (as applied and modified: see note 2 supra). For these purposes, a reference to anything being prescribed must be construed as a reference to its being provided for by a provision of subordinate legislation applied, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8(1)(k); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8(1)(k). Accordingly, the text refers to the requirements set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt IV (regs 50-63) (as amended, applied and modified).

10 Applications relating to absent voting must comply with such requirements as are relevant to the application: ibid reg 51(1) (reg 51 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870).

11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(a) (as applied and modified: see note 10 supra).

12 Ibid reg 51(2)(b) (amended by SI 2006/752; and applied and modified (see note 10 supra)); Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(c) (as so applied and modified).

13 Ibid reg 51(2)(d) (as applied and modified: see note 10 supra).

14 Ibid reg 51(2)(e) (as applied and modified: see note 10 supra).

15 Ibid reg 51(3) (as applied and modified: see note 10 supra). In relation to England, the registration officer may satisfy himself that an application for an absent vote meets the requirement that it has been signed by the applicant by referring to any signature previously provided by the applicant to the registration officer or the counting officer: reg 51A (added by SI 2006/752; and applied and modified in relation to England by virtue of SI 2001/1298). For the meaning of 'counting officer' see PARA 591 note 2 ante. As to the requirements for documents to be in writing and signed see PARA 597 note 22 ante.

16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(4)(a) (as applied and modified: see note 10 supra).

17 Ibid reg 51(4)(b) (as applied and modified: see note 10 supra).

18 Ibid reg 51(5)(a) (as applied and modified: see note 10 supra).

19 Ibid reg 51(5)(b) (as applied and modified: see note 10 supra).

20 Ibid reg 51(5) (as applied and modified: see note 10 supra).

21 Ibid reg 57(1) (amended by SI 2006/752; and applied and modified (see note 5 supra)).

22 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4) (as applied and modified: see note 5 supra). In the context of elections, a right of appeal lies to the county court only from certain decisions of the registration officer disallowing a person's application to vote by proxy or by post as elector: see PARA 189 et seq ante.

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/C. MANNER OF VOTING AT REFERENDUM OR POLL/(B) Absent Voting at a Local Authority Referendum/(c) Voting as Proxy at a Referendum/607. Record of persons entitled to vote by post as proxy at a referendum.

607. Record of persons entitled to vote by post as proxy at a referendum.

The registration officer¹ must keep a record of those whose applications to vote by post as proxy at local authority referendums² (whether for an indefinite period or for a particular period specified in the application)³ have been granted showing⁴: (1) whether their applications were to vote by post as proxy for an indefinite or a particular period (specifying that period)⁵; (2) whether the applications were in respect of referendums⁶; and (3) the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent⁷. The registration officer must make a copy of the records so kept available for inspection at his office⁸ and any person may make a copy (whether handwritten or by other means) of the whole or any part of them⁹.

The registration officer must remove a person from the record so kept¹⁰: (a) if he applies to the registration officer to be removed¹¹, (b) if the elector¹² ceases to be registered in the register of local government electors¹³; (c) if the appointment of the person concerned as the elector's proxy ceases to be in force (whether or not he is re-appointed)¹⁴; or (d) in the case of a person who applied to vote by post as proxy for a particular period, once that period expires¹⁵.

1 As to the meaning of references to the registration officer for these purposes see PARA 597 note 1 ante.

2 For the meaning of 'referendum' see PARA 576 note 2 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1 (Sch 4 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1). As to the provisions that are so applied and modified see PARA 557 ante.

3 I.e a record of those whose applications have been granted under the Representation of the People Act 2000 Sch 4 para 7(4)(a) (as applied and modified) (see PARA 606 ante).

4 Ibid Sch 4 para 7(6) (as applied and modified: see note 2 supra).

5 Ibid Sch 4 para 7(6)(a)(ii) (as applied and modified: see note 2 supra).

6 Ibid Sch 4 para 7(6)(a)(i) (as applied and modified: see note 2 supra).

7 Ibid Sch 4 para 7(6)(b) (as applied and modified: see note 2 supra).

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61(2) (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). For the meaning of 'available for inspection' see PARA 598 note 9 ante.

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 7(1) (renumbered by SI 2002/1871; and applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870).

10 Representation of the People Act 2000 Sch 4 para 7(9) (as applied and modified: see note 2 supra).

11 Ibid Sch 4 para 7(9)(a) (as applied and modified: see note 2 supra). Such an application by a proxy to be removed from the record so kept must be disregarded for the purposes of a particular referendum if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that referendum (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(5) (amended by SI 2001/1700)); and where a registration officer disregards an application for the purposes of any

particular referendum, he must notify the applicant of this (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752). The Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 56, 57 (both as amended) are applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870. As to the computation of time for these purposes see PARA 597 notes 3, 7 ante.

12 For the meaning of 'elector' in this context see PARA 602 note 4 ante.

13 Representation of the People Act 2000 Sch 4 para 7(9)(b) (as applied and modified: see note 2 supra). The text refers to registration as mentioned in Sch 4 para 7(5)(a) (as applied and modified) (see PARA 606 ante).

14 Ibid Sch 4 para 7(9)(c) (as applied and modified: see note 2 supra).

15 Ibid Sch 4 para 7(9)(d) (as applied and modified: see note 2 supra).

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/C. MANNER OF VOTING AT REFERENDUM OR POLL/(B) Absent Voting at a Local Authority Referendum/(c) Voting as Proxy at a Referendum/608. Application in respect of a particular referendum by a proxy entitled to vote by post for an indefinite period or for a particular period.

608. Application in respect of a particular referendum by a proxy entitled to vote by post for an indefinite period or for a particular period.

Where a person, who is included in the record kept of those entitled to vote by post as proxy either for an indefinite period or for a particular period¹ in respect of local authority referendums², applies to the registration officer³ for his ballot paper in relation to a particular referendum to be sent to a different address from that shown in the record, the registration officer must grant the application if it meets the prescribed requirements⁴.

Such an application⁵ must state: (1) the full name of the applicant⁶; and (2) the proxy's address, together with the name of the elector for whom he will act as proxy and the elector's address in respect of which the elector is registered or has applied to be (or is treated as having applied to be) registered in the register⁷. In relation to England, an application must also set out why the applicant's circumstances will be or are likely to be such that he requires his ballot paper to be sent to a different address from that shown in the record⁸. An application must identify the referendum in question⁹ and must state that it is made for a particular referendum¹⁰. The application must be made in writing and must be signed and dated by the applicant¹¹. Where the poll at one election or referendum falls on the same day as the poll at another election or referendum, the same application may be used for both¹².

Where the registration officer grants an application to vote by post, he must notify the applicant of his decision¹³; and where he refuses an application, he must notify the applicant of his decision and of the reason for it¹⁴.

1 le a record kept under the Representation of the People Act 2000 s 12, Sch 4 para 7(6) (as applied and modified) (see PARA 607 ante).

2 For the meaning of 'referendum' see PARA 576 note 2 ante; definition applied by virtue of ibid Sch 4 para 1 (Sch 4 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1). As to the provisions that are so applied and modified see PARA 557 ante.

3 As to the meaning of references to the registration officer for these purposes see PARA 597 note 1 ante.

4 Representation of the People Act 2000 Sch 4 para 7(7) (as applied and modified: see note 2 supra). For these purposes, a reference to anything being prescribed must be construed as a reference to its being provided for by a provision of subordinate legislation applied, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8(1)(k); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8(1)(k). Accordingly, the text refers to the requirements set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt IV (regs 50-63) (as amended, applied and modified). An application under the Representation of the People Act 2000 Sch 4 para 7(7) (as applied and modified) must be refused if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at the referendum for which it is made; and where a registration officer disregards such an application for the purposes of any particular referendum, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 56(4), 57(5) (both amended by SI 2006/752). The Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 56, 57 (both as amended) are applied and modified in

relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870. As to the computation of time for these purposes see PARA 597 notes 3, 7 ante.

5 Applications relating to absent voting must comply with such requirements as are relevant to the application: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(1) (reg 51 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870).

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(a) (as applied and modified: see note 5 supra).

7 Ibid reg 51(2)(b) (amended by SI 2006/752; and applied and modified (see note 5 supra)); Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(c) (as so applied and modified).

8 Ibid reg 51B (added by SI 2006/752; and applied and modified in relation to England by virtue of SI 2001/1298).

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(5)(b) (as applied and modified: see note 5 supra).

10 Ibid reg 51(5)(a) (as applied and modified: see note 5 supra).

11 Ibid reg 51(3) (as applied and modified: see note 5 supra). In relation to England, the registration officer may satisfy himself that an application for an absent vote meets the requirement that it has been signed by the applicant by referring to any signature previously provided by the applicant to the registration officer or the counting officer: reg 51A (added by SI 2006/752; and applied and modified in relation to England by virtue of SI 2001/1298). For the meaning of 'counting officer' see PARA 591 note 2 ante. As to the requirements for documents to be in writing and signed see PARA 597 note 22 ante.

12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(5) (as applied and modified: see note 5 supra).

13 Ibid reg 57(4A) (added by SI 2006/752; and applied and modified (see note 4 supra)).

14 Ibid reg 57(4) (as applied and modified: see note 4 supra). In the context of elections, a right of appeal lies to the county court only from certain decisions of the registration officer disallowing a person's application to vote by proxy or by post as elector: see PARA 189 et seq ante.

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/C. MANNER OF VOTING AT REFERENDUM OR POLL/(B) Absent Voting at a Local Authority Referendum/(c) Voting as Proxy at a Referendum/609. List of postal proxy voters at a referendum.

609. List of postal proxy voters at a referendum.

The registration officer¹ must, in respect of each local authority referendum², keep a special list³: (1) of those who are for the time being included in the record kept of persons entitled to vote by post as proxy either for an indefinite period or for a particular period⁴ in respect of referendums of the kind in question, together with the addresses provided by them in their applications⁵ as the addresses to which their ballot papers are to be sent⁶; and (2) of those whose applications to vote by post as proxy at a particular referendum⁷ have been granted in respect of the referendum concerned, together with the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent⁸.

As soon as practicable after the sixth day⁹ before the day of the poll at a referendum, the registration officer must publish the list of postal proxy voters by making a copy of it available for inspection at his office¹⁰ and any person may make a copy (whether handwritten or by other means) of the whole or any part of it¹¹.

1 As to the meaning of references to the registration officer for these purposes see PARA 597 note 1 ante.

2 For the meaning of 'referendum' see PARA 576 note 2 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1 (Sch 4 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1). As to the provisions that are so applied and modified see PARA 557 ante.

3 Representation of the People Act 2000 Sch 4 para 7(8) (as applied and modified: see note 2 supra).

4 I.e. a record kept under *ibid* Sch 4 para 7(6) (as applied and modified) (see PARA 607 ante).

5 I.e. applications made under *ibid* Sch 4 para 7(4)(a) (as applied and modified) (see PARA 606 ante) or, as the case may be, under Sch 4 para 7(7) (as applied and modified) (see PARA 608 ante).

6 *Ibid* Sch 4 para 7(8)(a) (as applied and modified: see note 2 supra).

7 I.e. a record of those whose applications have been granted under *ibid* Sch 4 para 7(4)(b) (as applied and modified) (see PARA 606 ante).

8 *Ibid* Sch 4 para 7(8)(b) (as applied and modified: see note 2 supra).

9 As to the computation of time for these purposes see PARA 597 note 7 ante.

10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61(3)(a) (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). For the meaning of 'available for inspection' see PARA 598 note 9 ante.

11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 7(1) (renumbered by SI 2002/1871; and applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870).

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/C. MANNER OF VOTING AT REFERENDUM OR POLL/(B) Absent Voting at a Local Authority Referendum/(c) Voting as Proxy at a Referendum/610. Voting by post as proxy at referendum.

610. Voting by post as proxy at referendum.

If a person is entitled to vote as proxy at a local authority referendum¹ (by being included in the relevant list² in respect of that referendum) he may vote by post³. Where a person is entitled to vote by post as proxy for the elector⁴ at any referendum, the elector may not apply for a ballot paper for the purpose of voting in person at the referendum⁵.

1 For the meaning of 'referendum' see PARA 576 note 2 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1 (Sch 4 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1 and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1). As to the provisions that are so applied and modified see PARA 557 ante. As to the entitlement to vote as proxy at a local authority referendum see PARA 602 et seq ante.

2 Ie the list kept under the Representation of the People Act 2000 Sch 4 para 7(8) (as applied and modified) (see PARA 609 ante).

3 Ibid Sch 4 para 7(1), (3) (as applied and modified: see note 1 supra).

4 For the meaning of 'elector' in this context see PARA 602 note 4 ante.

5 Representation of the People Act 2000 Sch 4 para 7(2) (as applied and modified: see note 1 supra). To indicate that an elector or his proxy is entitled to vote by post and is for that reason not entitled to vote in person, the letter 'A' is placed against the name of that elector in any copy of the register, or part of it, provided for a polling station: see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 62 (as applied and modified); and PARA 605 ante.

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/(A) In general/611. Poll at referendum or poll to be taken by secret ballot.

D. POLLING

(A) IN GENERAL

611. Poll at referendum or poll to be taken by secret ballot.

The votes at a local authority referendum¹ or at a poll consequent on a parish or community meeting² must be given by ballot³. A person who has voted at the referendum or poll (as the case may be) is not required, in any legal proceedings to question the referendum or poll, to state how or for whom he has voted⁴.

The counting officer at a local authority referendum⁵ or the returning officer at a poll consequent on a parish or community meeting⁶ must make such arrangements as he thinks fit to ensure that: (1) every person attending at a polling station (otherwise than for the purpose of voting or assisting a blind voter to vote⁷ or as a constable on duty there)⁸; and (2) every person attending at the counting of the votes (otherwise than as a constable on duty at the counting)⁹, has been given a copy in writing of the statutory provisions relating to the requirement of secrecy that apply to attendance at a polling station or at the counting of votes (as the case may be)¹⁰.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 As to how polls consequent on a parish or community meeting come about see PARA 586 ante.

3 Local Government Act 1972 s 99, Sch 12 paras 18(5), 34(5) (s 99 amended by the Local Government Act 1985 s 84, Sch 14 para 14; the Education Reform Act 1988 s 237, Sch 13 Pt I; the Police and Magistrates' Courts Act 1994 s 43, Sch 4 para 8; the Police Act 1996 s 103, Sch 7 para 1(2)(h); the Police Act 1997 s 88, Sch 6 para 3; the Greater London Authority Act 1999 s 325, Sch 27 para 26; and the Criminal Justice and Police Act 2001 ss 128(1), 137, Sch 6 paras 22, 25, Sch 7 Pt 5(1)); Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 13 (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). In relation to a local authority referendum at which voting is by post only (as to which see PARA 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 13 (as applied and modified) is further modified, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298 (see reg 10, Sch 4); and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870 (see reg 10, Sch 4). As to the provisions that are so applied and modified see PARA 557 ante.

4 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 16 (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 6. As to the provisions that are so applied and modified see PARA 557 ante.

5 For the meaning of 'counting officer' see PARA 591 note 2 ante.

6 As to returning officers at polls consequent on a parish or community meeting see PARA 593 ante.

7 As to persons assisting voters on the grounds of blindness or other physical incapacity see PARA 628 post.

8 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 25(a) (Sch 2 r 25 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 13(a). As to the provisions that are so applied and modified see PARA 557 ante. As to constables on duty see PARA 623 post.

9 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 25(b) (as applied and modified: see note 8 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 13(b).

10 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 25(a), (b) (as applied and modified: see note 8 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 13(a), (b). The text refers to: (1) for the purposes of those attending at a polling station, the requirement of secrecy set out in the Representation of the People Act 1983 s 66(1), (3), (6) (as amended, applied and modified) (see PARAS 742, 744 post); and (2) for the purposes of those attending the counting of the votes, the requirement of secrecy set out in s 66(2), (6) (as amended, applied and modified) (see PARA 743 post). At a poll consequent on a parish or community meeting, the provisions relating to the requirement of secrecy are subject to the adaptations, alterations and exceptions in the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(e): Schedule r 13(a). In relation to a local authority referendum at which voting is by post only (as to which see PARA 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 25 (as applied and modified) is further modified, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4.

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

611 Poll at referendum or poll to be taken by secret ballot

NOTE 3--Local Government Act 1972 s 99 further amended: Local Democracy, Economic Development and Construction Act 2009 Sch 6 para 17.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/(A) In general/612. The ballot papers and the official mark used at referendum or poll.

612. The ballot papers and the official mark used at referendum or poll.

The ballot of every voter at a local authority referendum¹ or at a poll consequent on a parish or community meeting² consists of a ballot paper, which must be in the prescribed form³. Every such ballot paper: (1) must be capable of being folded up⁴; (2) must have a number printed on the back⁵; and (3) must have attached a counterfoil with the same number printed on it⁶.

Every ballot paper must be marked with an official mark, which must perforate the ballot paper⁷. The official mark must be kept secret⁸.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 As to how polls consequent on a parish or community meeting come about see PARA 586 ante.

3 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 4(1), (2); and see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 9(1)-(4); and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 9(1)-(4).

As to the form of ballot paper appropriate to a poll consequent on a parish or community meeting as mentioned in the text see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule Appendix of Forms (Form of ballot papers on a question other than that of appointment to an office). Where such a poll is taken on any question other than appointment to any office, every ballot paper must state the question or questions on which the poll is to be taken: Schedule r 4(2)(b). The question or questions must appear in the space indicated in the form set out in Schedule Appendix (Form of ballot papers on a question other than that of appointment to an office). The ballot papers at such a poll must be printed in accordance with the prescribed directions: Schedule r 4(2). As to the directions so prescribed see Schedule Appendix of Forms (Directions as to printing the ballot paper). Where a poll on the question of appointment to any office and a poll on any other question are taken together, ballot papers of a different colour must be used for each poll: Schedule r 4(3). As to polls consequent on a parish meeting involving a question of appointment to any office see PARA 207 et seq ante.

Where the statement and the question to be asked in the local authority referendum are those set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 3, Sch 1 Pt I para 1 or, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 3, Sch 1 Pt I para 1 (proposals involving a mayor and cabinet executive: see PARA 577 ante), the front of the ballot papers to be used in that referendum must be as set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 1 Pt II (Form of front of ballot paper: Form A) or, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 1 Pt II (Form of front of ballot paper: Form A): Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 9(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 9(1). Where the statement and the question to be asked in the local authority referendum are those set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 1 Pt I para 2 or, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 1 Pt I para 2 (proposals involving a mayor and council manager executive: see PARA 577 ante), the front of the ballot papers to be used in that referendum must be as set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 1 Pt II (Form of front of ballot paper: Form B) or, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 1 Pt II (Form of front of ballot paper: Form B): Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 9(2); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 9(2). Where the statement and the question to be asked in the local authority referendum are those set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 1 Pt I para 3 or, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 1 Pt I para 3 (proposals involving a leader and cabinet executive: see PARA 577 ante), the front of the ballot papers to be used in that referendum must be as set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 1 Pt II (Form of front of ballot paper: Form C) or, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 1 Pt II

(Form of front of ballot paper: Form C): Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 9(3); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 9(3). The back of the ballot papers to be used in any referendum must be in the form set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 1 Pt III (Form of back of ballot paper) or, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 1 Pt III (Form of back of ballot paper): Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 9(4); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 9(4).

4 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 4(2)(c); Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 9(5)(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 9(5)(a).

5 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 4(2)(d); Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 9(5)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 9(5)(b).

6 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 4(2)(e); Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 9(5)(c); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 9(5)(c).

7 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 15(1) (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 5(1). In relation to a local authority referendum at which voting is by post only (as to which see PARA 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 15 (as applied and modified) is further modified, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298 (see reg 10, Sch 4); and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870 (see reg 10, Sch 4).

8 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 15(2) (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 5(2).

In relation to a local authority referendum, it is further specified that the official mark used for ballot papers issued for the purpose of voting by post must not be used for ballot papers issued for the purpose of voting in person: Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 15(3) (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). In relation to a poll consequent on a parish or community meeting, where there is no provision for absent voting (see PARA 596 ante), it is further specified that the same official mark must not be used at consecutive polls in the same parish or community: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 5(2).

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/(A) In general/613. Notice of poll at referendum or poll.

613. Notice of poll at referendum or poll.

Not later than the sixth day before the date of the local authority referendum¹ and not later than the fifth day before the day of the poll at a poll consequent on a parish or community meeting², the returning officer at such a poll³ or the counting officer at such a referendum⁴ must give public notice of the poll⁵ which states⁶: (1) the day and hours fixed for the poll⁷; (2) the question to be asked⁸; and (3) the situation of each polling station and the description of the persons entitled to vote there⁹.

1 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 18(2) (substituted in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante. In relation to a local authority referendum at which voting is by post only (as to which see PARA 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 18 (as applied and modified) is further modified, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298 (see reg 10, Sch 4); and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870 (see reg 10, Sch 4). As to the provisions that are so applied and modified see PARA 557 ante. As to the computation of time for the purposes of a local authority referendum see PARA 578 note 1 ante.

2 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 1. As to the computation of any period of time for these purposes see PARA 219 note 5 ante. As to how polls consequent on a parish or community meeting come about see PARA 586 ante.

3 As to returning officers at polls consequent on a parish or community meeting see PARA 593 ante.

4 For the meaning of 'counting officer' see PARA 591 note 2 ante.

5 At a poll consequent on a parish or community meeting, the notice referred to in the text must refer to the parish or community meeting at which a poll was demanded: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 8.

6 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 18(1) (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 8. See note 1 supra.

7 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 18(1)(a) (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 8(a). See note 1 supra. As to the date of a local authority referendum see PARA 578 ante; and as to the day of a poll consequent on a parish or community meeting taken on any question see PARA 587 ante.

8 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 18(1)(b) (substituted in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 8(c). See note 1 supra. At a poll consequent on a parish or community meeting, head (2) in the text applies only if the poll is taken on any question other than appointment to any office; and, in such a case, the name and address of the proposer of the resolution in respect of which the poll is being taken must be specified along with the particulars of the question: Schedule r 8(c). As to polls consequent on a parish meeting involving a question of appointment to any office see PARA 207 et seq ante.

9 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 18(3) (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 8(d). See note 1 supra.

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/(A) In general/614. Issue of official poll cards at referendum.

614. Issue of official poll cards at referendum.

The counting officer at a local authority referendum¹ must, as soon as practicable, send to electors and their proxies an official poll card². However, such a card need not be sent to any person as an elector³ if he is placed on the absent voters list⁴ for the referendum or to any person as a proxy if he is entitled to vote by post as proxy⁵ at the referendum⁶. An elector's official poll card must be sent or delivered to his qualifying address and a proxy's card to his address as shown in the list of proxies⁷. The official poll card must set out the name of the council and of the voting area⁸, the elector's name, qualifying address and number on the register⁹ and the date and hours of the poll and situation of the elector's polling station¹⁰. The official poll card must be in the prescribed form or a form to the like effect¹¹. The issue of any poll card by any other means, or of any document so closely resembling an official poll card as to be calculated to deceive, is an offence and an illegal practice¹².

1 For the meaning of 'counting officer' see PARA 591 note 2 ante; and for the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 22(1) (Sch 2 r 22(1)-(4) applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see PARA 557 ante. In relation to a local authority referendum at which voting is by post only (as to which see PARA 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 22 (as applied and modified) is omitted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. There is no provision for poll cards to be issued for the purposes of a poll consequent on a parish or community meeting (as to which see generally para 586 ante).

3 'Elector' means a person who is registered in the register of local government electors for the voting area in question on the last day for the publication of notice of the referendum; and includes a person then shown in the register as below voting age if (but only if) it appears from the register that he will be of voting age on the day fixed for the poll: Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 5(7) (substituted by SI 2001/81); applied by virtue of the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 22(4) (as applied and modified: see note 2 supra). For the meaning of 'voting area' see PARA 582 note 2 ante. As to the register of local government electors see PARA 160 et seq ante; and as to publication of the notice of the referendum see PARA 578 ante.

4 As to the absent voters list see PARA 601 ante.

5 As to proxies entitled to vote by post see PARA 602 et seq ante.

6 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 22(1) (as applied and modified: see note 2 supra).

7 Ibid Sch 2 r 22(2) (as applied and modified: see note 2 supra). As to the list of proxies see PARA 601 ante.

8 Ibid Sch 2 r 22(3)(a) (as applied and modified: see note 2 supra).

9 Ibid Sch 2 r 22(3)(b) (as applied and modified: see note 2 supra).

10 Ibid Sch 2 r 22(3)(c) (as applied and modified: see note 2 supra). As to the date of a local authority referendum see PARA 578 ante.

11 Ibid Sch 2 r 22(3) (as applied and modified: see note 2 supra). The form is set out in Sch 2 Appendix of Forms (elector's official poll card) (amended by SI 1990/158; SI 2006/390; and applied and modified in relation

to England by SI 2001/1298; and in relation to Wales by SI 2004/870); or the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 Appendix of Forms (proxy's official poll card) (amended by SI 1990/158; SI 2005/2114; SI 2006/390; and applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870).

12 See PARA 705 post.

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/ (B) Votes given for Referendum or Poll at Polling Station/615. Provision and allotment of polling stations for use at referendum or poll.

(B) VOTES GIVEN FOR REFERENDUM OR POLL AT POLLING STATION

615. Provision and allotment of polling stations for use at referendum or poll.

The counting officer at a local authority referendum¹ or the returning officer at a poll consequent on a parish or community meeting² must provide a sufficient number of polling stations³ and allot the electors to the polling stations in such manner as he thinks most convenient, subject to the following requirements⁴. The polling station allotted to electors from any parliamentary polling district⁵ wholly or partly within the electoral area⁶ (in the case of such a referendum) or within the parish or community⁷ (in the case of such a poll) must, in the absence of special circumstances, be in the parliamentary polling place for that district⁸. One or more polling stations may be provided in the same room⁹. However, the counting officer or returning officer (as the case may be) must also provide each polling station with such number of compartments as may be necessary in which the voters can mark their votes screened from observation¹⁰.

The counting officer or returning officer (as the case may be) may use free of charge for the purpose of taking the poll or counting the votes: (1) a room in a school maintained or assisted by a local education authority¹¹ or a school in respect of which grants are made out of moneys provided by Parliament to the person or body of persons responsible for the management of the school¹²; or (2) a room the expense of maintaining which is payable out of any rate¹³. The counting officer or returning officer (as the case may be) must make good any damage done to, and defray any expense incurred by the persons having control over, any such room by reason of its being used for the purpose of taking the poll or counting the votes¹⁴.

1 For the meaning of 'counting officer' see PARA 591 note 2 ante; and for the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 As to how polls consequent on a parish or community meeting come about see PARA 586 ante; and as to returning officers appointed at polls consequent on a parish or community meeting see PARA 593 ante.

3 I.e., at a poll consequent on a parish or community meeting, if more than one polling station is provided: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 9(1).

4 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 20(1) (Sch 2 r 20 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 9(1). In relation to a local authority referendum at which voting is by post only (as to which see PARA 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 20 (as applied and modified) is omitted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see PARA 557 ante.

5 As to parliamentary polling districts see PARA 348 et seq ante.

6 As to the meaning of 'electoral area' see PARA 10 ante.

7 As to parishes generally see LOCAL GOVERNMENT vol 69 (2009) PARA 27 et seq; and as to communities generally see LOCAL GOVERNMENT vol 69 (2009) PARA 41 et seq.

8 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 20(3) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 9(3).

9 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 20(2) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 9(2).

10 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 20(4) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 9(4).

11 As to local education authorities see EDUCATION vol 15(1) (2006 Reissue) PARA 20 et seq.

12 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 17(1)(a) (amended by SI 2001/81; and the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 17 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 7(1)(a). As to such schools as are mentioned in the text see EDUCATION vol 15(1) (2006 Reissue) PARA 102 et seq. In relation to a local authority referendum at which voting is by post only (as to which see PARA 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 17 (as applied and modified) is further modified, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298 (see reg 10, Sch 4); and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870 (see reg 10, Sch 4). As to the provisions that are so applied and modified see PARA 557 ante.

13 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 17(1)(b) (as applied and modified: see note 12 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 7(1)(b). For the purposes of determining rateable occupation, a hereditament is to be treated as unoccupied if it would otherwise be treated as occupied by reason only of the use of it by a person exercising functions of a counting officer, in relation to England, in accordance with the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 11 and, in relation to Wales, in accordance with the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 11 (see PARA 591 ante) for the purpose of taking the poll in a local authority referendum: see the Local Government Finance Act 1988 s 65(6) (applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 24; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 20); and see RATING AND COUNCIL TAX vol 39(1B) (Reissue) PARA 13. For the meaning of 'hereditament' in this context see RATING AND COUNCIL TAX vol 39(1B) (Reissue) PARA 33 et seq. At a poll consequent on a parish or community meeting, it is specified that the use of a room in an unoccupied house for such purpose or purposes as are mentioned in the text does not render a person liable to be rated or to pay any rate for the house: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 7(3).

14 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 17(2) (as applied and modified: see note 12 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 7(2).

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/ (B) Votes given for Referendum or Poll at Polling Station/616. Equipment of polling stations.

616. Equipment of polling stations.

The counting officer at a local authority referendum¹ or the returning officer at a poll consequent on a parish or community meeting² must provide each presiding officer³ with such number of ballot boxes and ballot papers as in the counting officer's or returning officer's opinion (as the case may be) may be necessary⁴. Every ballot box must be so constructed that the ballot papers can be put in it, but cannot be withdrawn from it, without the box being unlocked⁵.

The counting officer or returning officer (as the case may be) also must provide each polling station⁶ with:

- 542 (1) materials to enable voters to mark the ballot papers⁷;
- 543 (2) instruments for stamping on them the official mark⁸;
- 544 (3) copies of the register of electors for the electoral area⁹ (in the case of such a referendum) or for the parish or community¹⁰ (in the case of such a poll) or such part of it as contains the names of the electors allotted to the station¹¹; and
- 545 (4) (in the case of a referendum) the parts of any special lists¹² prepared for the referendum corresponding to the register of electors or the part of it provided under head (3) above¹³.

A notice in the specified form, giving directions for the guidance of the voters in voting¹⁴, must be printed in conspicuous characters and exhibited inside and outside every polling station¹⁵. In the case of a referendum, there must also be: (a) inside each polling station, at least one large version of the ballot paper, provided by the presiding officer and displayed for the assistance of voters who are partially-sighted¹⁶; and (b) in every compartment of every polling station¹⁷, a notice which instructs voters how many votes they may give¹⁸.

1 For the meaning of 'counting officer' see PARA 591 note 2 ante; and for the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 As to how polls consequent on a parish or community meeting come about see PARA 586 ante; and as to returning officers appointed at polls consequent on a parish or community meeting see PARA 593 ante.

3 As to the appointment of presiding officers and their clerks see PARA 618 post.

4 Local Elections (Parishes and Communities) Rules 1986, SI 1986/2215, r 5, Sch 2 r 23(1) (Sch 2 r 23 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 11(1). In relation to a local authority referendum at which voting is by post only (as to which see PARA 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 23 (as amended, applied and modified) is omitted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see PARA 557 ante.

5 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 23(2) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 11(2).

6 As to the provision and allotment of polling stations see PARA 615 ante.

7 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 23(3)(a) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 11(3)(a).

The counting officer at a local authority referendum must also provide each polling station with a device of such description as may be prescribed for enabling voters who are blind or partially-sighted to vote without any need for assistance from the presiding officer or any companion: Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 23(3A)(b) (Sch 2 r 23(3A) added by SI 2001/81; and applied and modified (see note 4 supra)). Accordingly, the device referred to must be capable of being attached firmly to a ballot paper and of being removed from it after use without damage to the paper: Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 23(6) (Sch 2 r 23(6)-(11) added by SI 2001/81; and applied and modified (see note 4 supra)). On the right-hand side of the device there must be tabs of equal size which:

- 77 (1) must all be capable of being positioned on the ballot paper so that each one is above one of the spaces to the right of the answers to the question on which the vote is to be marked (the 'relevant space') (Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 23(7), (8) (as so added, applied and modified));
- 78 (2) must be worded, with each word on a tab being in raised form and capable of being clearly identified by touch, so that, when the device is positioned over a ballot paper, the word on each tab corresponds to that of the answer which is to the left of the relevant space covered by the tab in question (Sch 2 r 23(7), (9), (10) (as so added, applied and modified)); and
- 79 (3) must each be capable of being lifted so as to reveal the relevant space and so that there is sufficient room to allow a voter to mark a cross on that space (Sch 2 r 23(7), (11) (as so added, applied and modified)).

8 Ibid Sch 2 r 23(3)(b) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 11(3)(b).

9 As to the meaning of 'electoral area' see PARA 10 ante.

10 As to parishes generally see LOCAL GOVERNMENT vol 69 (2009) PARA 27 et seq; and as to communities generally see LOCAL GOVERNMENT vol 69 (2009) PARA 41 et seq.

11 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 23(3)(c) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 11(3)(c).

12 As to the special lists referred to in the text see PARA 601 ante.

13 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 23(3)(d) (as applied and modified: see note 4 supra).

14 As to the form giving directions for the guidance of the voters in voting see the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 Appendix of Forms (Form of directions for guidance of the voters in voting) (amended by SI 1987/261; and applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); and the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule Appendix of Forms (Form of directions for the guidance of the voters in voting where the poll is on a question other than that of appointment to an office).

15 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 23(4) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 11(4).

16 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 23(3A)(a) (as added, applied and modified: see notes 4, 7 supra).

17 As to the provision of compartments in polling stations see PARA 615 ante.

18 Local Elections (Parishes and Communities) Rules 1986, SI 1986/2215, Sch 2 r 23(5) (substituted in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870).

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/ (B) Votes given for Referendum or Poll at Polling Station/617. Loan of equipment provided for referendum or poll.

617. Loan of equipment provided for referendum or poll.

Any ballot boxes, fittings and compartments provided for parliamentary elections¹ out of money provided by Parliament may, on request, be lent to: (1) the counting officer at a local authority referendum²; or (2) the returning officer at a poll consequent on a parish or community meeting³, on such terms and conditions as the Secretary of State may determine⁴. Any ballot boxes, fittings and compartments provided by, or belonging to, a local authority within the meaning of the Local Government Act 1972⁵, must, on request, and if not required for immediate use by that authority, be lent to such a counting officer or such a returning officer (as the case may be) on such terms and conditions as may be agreed⁶.

1 As to the equipment of polling stations for parliamentary elections see PARA 396 ante.

2 For the meaning of 'counting officer' see PARA 591 note 2 ante; and for the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

3 As to how polls consequent on a parish or community meeting come about see PARA 586 ante; and as to returning officers appointed at polls consequent on a parish or community meeting see PARA 593 ante.

4 Representation of the People Act 1983 s 47(1) (amended by the Transfer of Functions (Returning Officers' Charges) Order 1991, SI 1991/1728, art 4; and the Representation of the People Act 1983 s 47 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1); Local Government Act 1972 s 99, Sch 12 para 21(1) (s 99 amended by the Local Government Act 1985 s 84, Sch 14 para 14; the Police and Magistrates' Courts Act 1994 s 43, Sch 4 Pt I para 8; the Police Act 1996 s 103, Sch 7 para 1(2)(h); the Police Act 1997 s 88, Sch 6 para 3; and the Greater London Authority Act 1999 s 325, Sch 27 para 26). As to the Secretary of State see PARA 2 ante. In relation to a local authority referendum at which voting is by post only (as to which see PARA 595 et seq ante), the Representation of the People Act 1983 s 47 (as applied and modified) is further modified, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298 (see reg 10, Sch 4); and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870 (see reg 10, Sch 4). As to the provisions that are so applied and modified see PARA 557 ante.

5 For the meaning of 'local authority' for these purposes see LOCAL GOVERNMENT vol 69 (2009) PARA 23.

6 Representation of the People Act 1983 s 47(2) (amended by the Education Reform Act 1988 s 237, Sch 13 Pt I; and applied and modified (see note 4 supra)); Local Government Act 1972 Sch 12 para 21(2).

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

617 Loan of equipment provided for referendum or poll

NOTE 4--Local Government Act 1972 s 99 further amended: Local Democracy, Economic Development and Construction Act 2009 Sch 6 para 17.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/ (B) Votes given for Referendum or Poll at Polling Station/618. Appointment of presiding officers and clerks at referendum or poll.

618. Appointment of presiding officers and clerks at referendum or poll.

The counting officer at a local authority referendum¹ or the returning officer at a poll consequent on a parish or community meeting² must appoint and pay³ a presiding officer to attend at each polling station⁴. He must also appoint and pay such clerks as may be necessary for the purposes of the poll or referendum⁵. The counting officer or returning officer (as the case may be) may, if he thinks fit, preside at a polling station⁶.

A presiding officer may do, by the clerks appointed to assist him, any act (including the asking of questions) which he is required or authorised to do at a polling station except order the arrest, exclusion or removal of any person from the polling station⁷.

1 For the meaning of 'counting officer' see PARA 591 note 2 ante; and for the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 As to how polls consequent on a parish or community meeting come about see PARA 586 ante; and as to returning officers appointed at polls consequent on a parish or community meeting see PARA 593 ante.

3 At a poll consequent on a parish or community meeting, the remuneration of a presiding officer and clerks is discretionary: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 10(1).

4 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 21(1) (Sch 2 r 21 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 10(1). In relation to a local authority referendum at which voting is by post only (as to which see PARA 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 21 (as applied and modified) is omitted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see PARA 557 ante.

5 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 21(1) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 10(1). See note 4 supra.

6 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 21(2) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 10(2). The provisions relating to a presiding officer apply to a counting officer or returning officer (as the case may be) so presiding with the necessary modifications as to things to be done by the counting officer or returning officer to the presiding officer or by the presiding officer to the counting officer or returning officer: Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 21(2) (as so applied and modified); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 10(2). See note 4 supra.

7 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 21(3) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 10(3). See note 4 supra. As to the presiding officer's duty to keep order in a polling station see PARA 622 post.

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/ (B) Votes given for Referendum or Poll at Polling Station/619. Appointments for the counting of votes at referendum or poll.

619. Appointments for the counting of votes at referendum or poll.

The counting officer at a local authority referendum¹: (1) must appoint and pay such persons as may be necessary for the purpose of the counting of the votes²; and (2) must appoint persons to observe the counting of the votes and the verification of the ballot paper account ('counting observers')³. For the purpose of assisting the counting officer in the discharge of his functions under head (2) above, a petition organiser⁴ may, not less than the fifth day before the date of the poll⁵, by notice in writing to the counting officer, nominate persons who, in the opinion of the petition organiser, are suitable for appointment as counting observers; and the notice must also contain the address of each nominee⁶. The counting officer must not, without good cause, decline to appoint as a counting observer a person nominated by a petition organiser⁷. However, the counting officer may limit the number of counting observers so that the number is the same in the case of each petition organiser and the number allowed to a petition organiser is not (except in special circumstances) less than the number obtained by dividing the number of clerks employed on the counting by the number of petition organisers⁸. If a counting observer dies or becomes incapable of acting the counting officer may appoint another counting observer in his place⁹.

A petition organiser may do any act or thing which any counting observer of his, if appointed, would have been authorised to do or may assist any such counting observer in doing any such act or thing¹⁰. Where any act or thing is required or authorised to be done by the appropriate rules¹¹ in the presence of the counting observers, the non-attendance of any such observer or observers at the time and place appointed for the purpose does not, if the act or thing is otherwise duly done, invalidate the act or thing done¹². Any notice required to be given to a counting observer by the counting officer may be delivered at, or sent by post to, the address stated in the nomination¹³.

1 For the meaning of 'counting officer' see PARA 591 note 2 ante; and for the meaning of 'referendum' for these purposes see PARA 576 note 2 ante. As to the facility afforded to candidates to appoint counting agents at a poll consequent on a parish meeting on a question of appointment to any office see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 12; and PARA 399 ante.

2 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(1)(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(1)(a).

3 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(1)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(1)(b). 'Counting observer' means a person appointed by a counting officer, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(1)(b) or, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(1)(b); Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 2(1). See also note 8 infra.

4 'Petition organiser', in relation to a referendum, means a person who is treated, in relation to England, for the purposes of the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 10(4) or, as the case may be, reg 10(5) and, in relation to Wales, for the purposes of the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 10(4) or, as the case may be, reg 10(5) (formalities of petition: see PARA 565 ante) as the petition organiser of any valid petition (whether an amalgamated petition, a constituent petition or a post-announcement petition) received by the local authority by or in respect of which the referendum is held: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1); Local Authorities (Conduct of Referendums) (Wales)

Regulations 2004, SI 2004/870, reg 2(1). For the meaning of 'valid petition' see PARA 561 note 3 ante; for the meaning of 'post-announcement petition' see PARA 563 note 7 ante; and for the meanings of 'amalgamated petition' and 'constituent petition' see PARA 564 note 6 ante.

5 As to the date of a local authority referendum see PARA 578 ante; and as to the computation of time for these purposes see PARA 578 note 1 ante.

6 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(2); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(2).

7 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(3); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(3).

8 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 24(4) (Sch 2 r 24(4), (6), (8)-(10), (12) applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). For the purposes of the calculation required as mentioned in the text, a counting observer who has been nominated by more than one petition organiser is a separate observer for each of the petition organisers by whom he has been nominated: Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 24(4) (as so applied and modified). For the purposes of para 620 et seq post, references to counting observers must be taken as references to counting observers whose appointments have been duly made and, where the number of counting observers is restricted, who are within the permitted numbers: Sch 2 r 24(8) (as so applied and modified). As to the provisions that are so applied and modified see PARA 557 ante.

9 Ibid Sch 2 r 24(6) (as applied and modified: see note 8 supra).

10 Ibid Sch 2 r 24(10) (as applied and modified: see note 8 supra).

11 For the meaning of the 'appropriate rules' see PARA 595 note 2 ante.

12 Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 24(12) (as applied and modified: see note 8 supra).

13 Ibid Sch 2 r 24(9) (as applied and modified: see note 8 supra). The text refers to the nomination, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(2) or, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(2) (see the text and notes 4-6 supra).

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/ (B) Votes given for Referendum or Poll at Polling Station/620. Hours of polling at a referendum or poll.

620. Hours of polling at a referendum or poll.

Except where the local authority¹ has made a determination² that the votes in the local authority referendum³ may be cast only by postal ballot⁴, the hours of polling must be between seven in the morning and ten in the evening on the day of the referendum⁵.

Polling at a poll consequent on a parish or community meeting⁶ takes place between the hours of four in the afternoon and nine at night on the day fixed for the poll⁷.

1 As to references to the authority see PARA 576 note 3 ante.

2 I.e., in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10(1) (see PARA 595 ante) and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10(1) (see PARA 595 ante).

3 For the meaning of 'referendum' see PARA 576 note 2 ante.

4 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 12(2) (substituted by SI 2006/752); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 12(2).

5 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 12(1) (amended by SI 2006/752); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 12(1).

6 As to how polls consequent on a parish or community meeting come about see PARA 586 ante.

7 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 1.

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/ (B) Votes given for Referendum or Poll at Polling Station/621. Sealing of ballot boxes at referendum or poll.

621. Sealing of ballot boxes at referendum or poll.

Immediately before the commencement of the poll, the presiding officer¹ must show the ballot box empty to such persons, if any, as are present in the polling station, so that they may see that it is empty, and must then lock it up and place his seal on it in such manner as to prevent its being opened without breaking the seal, and must place it in his view for the receipt of ballot papers, and keep it so locked and sealed².

¹ As to the appointment of presiding officers and clerks at a referendum or poll see PARA 618 ante.

² Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 28 (Sch 2 r 28 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 16. In relation to a local authority referendum at which voting is by post only (as to which see PARA 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 28 (as applied and modified) is omitted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see PARA 557 ante.

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/ (B) Votes given for Referendum or Poll at Polling Station/622. Keeping of order at referendum or poll; adjournment in case of riot.

622. Keeping of order at referendum or poll; adjournment in case of riot.

It is the duty of the presiding officer¹ to keep order at his polling station². If a person misconducts himself in the polling station, or fails to obey the lawful orders of the presiding officer, he may immediately, by order of the presiding officer, be removed from the polling station by a constable in or near that station, or by any other person authorised in writing by the counting officer (in relation to a local authority referendum)³ or by the returning officer (in relation to a poll consequent on a parish or community meeting)⁴ to remove him; and the person so removed may not, without the permission of the presiding officer, again enter the polling station during the day⁵. Any person so removed, may, if charged with the commission in the polling station of an offence, be dealt with as a person taken into custody by a constable for an offence without a warrant⁶. However, the powers of keeping order so conferred are not to be exercised so as to prevent a voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station⁷.

Where the proceedings at any polling station are interrupted or obstructed by riot or open violence, the presiding officer must adjourn the proceedings until the following day⁸ and forthwith give notice to the counting officer or to the returning officer (as the case may be)⁹. The hours of the poll on the day to which it is adjourned are the same as for the original day and references to the close of the poll are to be construed accordingly¹⁰.

1 As to the appointment of presiding officers and clerks at a referendum or poll see PARA 618 ante.

2 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 27(1) (Sch 2 r 27 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 15(1). In relation to a local authority referendum at which voting is by post only (as to which see PARA 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 27 (as applied and modified) is omitted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see PARA 557 ante.

3 For the meaning of 'counting officer' see PARA 591 note 2 ante; and for the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

4 As to how polls consequent on a parish or community meeting come about see PARA 586 ante; and as to returning officers appointed at polls consequent on a parish or community meeting see PARA 593 ante.

5 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 27(2) (as applied and modified: see note 2 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 15(2). The power to order the removal of any person may be exercised only by the presiding officer and not by one of the clerks appointed to assist him: see PARA 618 ante.

6 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 27(3) (as applied and modified: see note 2 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 15(3).

7 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 27(4) (as applied and modified: see note 2 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 15(4).

8 As to the computation of time for these purposes, in relation to a poll consequent on a parish or community meeting, see PARA 219 note 5 ante; and, in relation to a local authority referendum, see PARA 578 note 1 ante.

9 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 36(1) (as applied and modified: see note 2 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 24(1). In relation to a local authority referendum at which voting is by post only (as to which see PARA 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 36 (as applied and modified) is omitted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4.

10 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 36(2) (as applied and modified: see note 2 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 24(2). As to the normal procedure on close of poll see PARA 631 post.

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/ (B) Votes given for Referendum or Poll at Polling Station/623. Admission to polling station at referendum or poll.

623. Admission to polling station at referendum or poll.

The presiding officer¹ must regulate the number of voters to be admitted to the polling station at the same time². He must exclude all other persons except³: (1) any petition organiser in relation to a local authority referendum⁴ or the proposer of the resolution in respect of which the poll consequent on a parish or community meeting is taken⁵, as the case may be; (2) the polling observers appointed to attend at the polling station⁶; (3) the clerks appointed to attend at the polling station⁷; (4) the constables on duty⁸; (5) the companions of voters with disabilities⁹; and (6) at a local authority referendum, the elected mayor¹⁰, if any, of the council in respect of which the referendum is held¹¹.

At a local authority referendum, each voter must vote at the polling station allotted to him¹² with the exception of constables on duty and persons employed by the counting officer¹³, who may be admitted to vote in person elsewhere than at his own polling station, but only on production and surrender of a certificate as to his employment in the prescribed form, or a form to like effect¹⁴. The certificate must be signed by an officer of police of or above the rank of inspector or by the counting officer, as the case may be¹⁵. The certificate when surrendered must forthwith be cancelled¹⁶.

The counting officer (in relation to a local authority referendum) or the returning officer¹⁷ (in relation to a poll consequent on a parish or community meeting) must make such arrangements as he thinks fit to ensure that every person attending at a polling station (otherwise than for the purpose of voting or assisting a voter who has an incapacity or as a constable on duty there) has been given a copy in writing of the statutory provisions relating to the requirement of secrecy that apply to such attendance¹⁸.

1 As to the appointment of presiding officers and clerks at a referendum or poll see PARA 618 ante.

2 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 26(1) (Sch 2 r 26 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 14. In relation to a local authority referendum at which voting is by post only (as to which see PARA 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 26 (as applied and modified) is omitted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see PARA 557 ante.

3 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 26(1) (as applied and modified: see note 2 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 14.

4 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 26(1)(g) (as applied and modified: see note 2 supra). For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante; and for the meaning of 'petition organiser' for these purposes see PARA 619 note 4 ante.

5 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 14(b). As to how polls consequent on a parish or community meeting come about see PARA 586 ante.

6 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 26(1)(b) (as applied and modified: see note 2 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 14(c). As to the appointment of polling observers at a referendum see PARA 591 ante.

7 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 26(1)(c) (as applied and modified: see note 2 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 14(d). As to the clerks appointed to attend at the polling station see PARA 618 ante.

8 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 26(1)(d) (as applied and modified: see note 2 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 14(e).

9 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 26(1)(e) (as applied and modified: see note 2 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 14(f). At a poll consequent on a parish or community meeting the reference in the text is to the companions of blind voters only: Schedule r 14(f). As to the companions of voters with disabilities see PARA 628 post.

10 For the meaning of 'elected mayor' see PARA 576 note 2 ante.

11 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 26(1)(f) (as applied and modified: see note 2 supra).

12 As to the allocation of polling stations see PARA 615 ante.

13 For the meaning of 'counting officer' see PARA 591 note 2 ante.

14 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 26(3) (as applied and modified: see note 2 supra). As to the form of certificate mentioned in the text see Sch 2 Appendix of Forms (Form of certificate of employment) (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). There is no such provision at a poll consequent on a parish or community meeting on a question not involving appointment to office.

15 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 26(3) (as applied and modified: see note 2 supra).

16 Ibid Sch 2 r 26(4) (as applied and modified: see note 2 supra).

17 As to returning officers at polls consequent on a parish or community meeting see PARA 593 ante.

18 See PARAS 611 ante, 742-746 post.

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/ (B) Votes given for Referendum or Poll at Polling Station/624. Questions to be put to voters at a referendum or poll.

624. Questions to be put to voters at a referendum or poll.

At a local authority referendum¹ or at a poll consequent on a parish or community meeting², the presiding officer³ may put to any person applying for a ballot paper at the time of his application, but not afterwards, any of the prescribed questions⁴. A ballot paper must not be delivered to any person required to answer any of the prescribed questions unless he has answered the questions or question satisfactorily⁵. No inquiry, except as so authorised, is permitted as to the right of any person to vote⁶.

If any person knowingly and wilfully makes a false answer to any of the prescribed questions, he is guilty of an indictable offence and may be punished accordingly⁷.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 As to how polls consequent on a parish or community meeting come about see PARA 586 ante.

3 As to the appointment of presiding officers and clerks at a referendum or poll see PARA 618 ante.

4 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 29(1) (Sch 2 r 29 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 17(1). In relation to a local authority referendum, the prescribed questions as mentioned in the text are set out, in the case of a person applying to vote on his own behalf, in the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 29(2) (as so applied and modified) and, in the case of a person applying as proxy, in Sch 2 r 29(2A), (2B) (as so applied and modified). At a poll consequent on a parish or community meeting on a question not involving appointment to office, the questions are set out in the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 17(1). The function set out in the text may be discharged by a clerk appointed to assist the presiding officer: see PARA 618 ante. In relation to a local authority referendum at which voting is by post only (as to which see PARA 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 29 (as applied and modified) is omitted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see PARA 557 ante.

There is no provision for voting by proxy at a poll consequent on a parish or community meeting on a question not involving appointment to office. As to voting by proxy at a referendum see PARA 602 et seq ante.

5 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 29(3) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 17(2).

6 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 29(4) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 17(3).

7 See the Perjury Act 1911 s 5 (false statutory declarations and other false statements without oath); and CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(2) (2006 Reissue) PARA 717.

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/ (B) Votes given for Referendum or Poll at Polling Station/625. Voting procedure at a referendum or poll.

625. Voting procedure at a referendum or poll.

At a local authority referendum¹ or at a poll consequent on a parish or community meeting², a ballot paper must be delivered to a voter who applies for one and, immediately before delivery³:

- 546 (1) the ballot paper must be stamped with the official mark⁴;
- 547 (2) the number and name of the elector as stated in the copy of the register of electors must be called out⁵;
- 548 (3) the number of the elector must be marked on the counterfoil⁶;
- 549 (4) a mark must be placed in the register of electors against the number of the elector to denote that a ballot paper has been received but without showing the particular ballot paper which has been received⁷; and
- 550 (5) in the case of a person applying for a ballot paper as proxy⁸, a mark must also be placed against his name in the list of proxies⁹.

On receiving the ballot paper, the voter must forthwith proceed into one of the compartments in the polling station and there secretly mark his paper¹⁰. The voter must then fold his paper up in such a way as to conceal his vote and he must then show to the presiding officer¹¹ the back of the paper, so as to disclose the official mark, and put the ballot paper so folded up in the ballot box in the presence of the presiding officer¹². The voter must vote without undue delay and must leave the polling station as soon as he has put his ballot paper into the ballot box¹³.

It is an offence to interfere or attempt to interfere with a voter when he is recording his vote¹⁴.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 As to how polls consequent on a parish or community meeting come about see PARA 586 ante.

3 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 31(1) (Sch 2 r 31 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 19(1). In relation to a local authority referendum at which voting is by post only (as to which see PARA 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 31 (as applied and modified) is omitted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see PARA 557 ante.

4 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 31(1)(a) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 19(1)(a). As to the official mark used at a referendum or poll see PARA 612 ante.

5 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 31(1)(b) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 19(1)(b).

6 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 31(1)(c) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 19(1)(c).

7 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 31(1)(d) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 19(1)(d).

8 There is no provision for voting by proxy at a poll consequent on a parish or community meeting on a question not involving appointment to office and accordingly head (5) in the text does not apply in that case. As to voting by proxy at a referendum see PARA 602 et seq ante.

9 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 31(1)(e) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 19(1)(e). As to the list of proxies see PARA 601 ante.

10 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 31(2) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 19(2).

11 As to the appointment of presiding officers and clerks at a referendum or poll see PARA 618 ante.

12 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 31(2) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 19(2).

13 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 31(3) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 19(3).

UPDATE

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/ (B) Votes given for Referendum or Poll at Polling Station/626. Challenge of voter at a referendum or poll.

626. Challenge of voter at a referendum or poll.

At a local authority referendum¹ or at a poll consequent on a parish or community meeting², if, at the time a person applies for a ballot paper for the purpose of voting in person or after he has applied for a ballot paper for that purpose and before he has left the polling station, any petition organiser³ or polling observer permitted to be present⁴ declares to the presiding officer⁵ that he has reasonable cause to believe that the applicant has committed an offence of personation⁶ and undertakes to substantiate the charge in a court of law⁷, the presiding officer may order a constable to arrest the applicant, and the order of the presiding officer is sufficient authority for the constable so to do⁸. The person who has been challenged must not by reason of it be prevented from voting⁹. A person who is arrested is to be dealt with as a person taken into custody by a constable for an offence without a warrant¹⁰.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 As to how polls consequent on a parish or community meeting come about see PARA 586 ante.

3 For the meaning of 'petition organiser' see PARA 619 note 4 ante.

4 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 30(1) (Sch 2 r 30 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 18(1). Polling observers are permitted to be present at a referendum as mentioned in the text in accordance with the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 26(1) (as applied and modified) (see PARA 623 ante). As to the appointment of polling observers at a referendum see PARA 591 ante. In relation to a local authority referendum at which voting is by post only (as to which see PARA 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 30 (as applied and modified) is omitted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see PARA 557 ante.

5 As to the appointment of presiding officers and clerks at a referendum or poll see PARA 618 ante.

6 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 30(1)(a) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 18(1)(a). As to the offence of personation see PARA 733 post.

7 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 30(1)(b) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 18(1)(b).

8 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 30(1) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 18(1).

9 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 30(2) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 18(2).

10 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 30(3) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 18(3).

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/ (B) Votes given for Referendum or Poll at Polling Station/627. Ballot papers marked by presiding officer at a referendum or poll.

627. Ballot papers marked by presiding officer at a referendum or poll.

At a local authority referendum¹ or at a poll consequent on a parish or community meeting², on the application of a voter who is incapacitated by blindness or other physical cause from voting in the manner directed by the rules³, or who declares orally that he is unable to read, the presiding officer⁴ must, in the presence of the polling observers (if any)⁵, cause the vote of the voter to be marked on a ballot paper in manner directed by the voter, and the ballot paper to be placed in the ballot box⁶.

The name and number⁷ on the register of electors of every voter whose vote is marked in pursuance of this rule, and the reason why it is so marked, must be entered on a list which is called the 'list of votes marked by the presiding officer'⁸. However, this is subject to the proviso, in the case of a person voting as proxy for an elector⁹, that the number to be entered together with the name of the voter must be the number of the elector¹⁰.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 As to how polls consequent on a parish or community meeting come about see PARA 586 ante.

3 I.e., in relation to a local authority referendum, by the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 (as applied and modified) (as to which see PARA 557 ante) or, at a poll consequent on a parish or community meeting, by the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule (as to which see PARA 558 ante).

4 As to the appointment of presiding officers and clerks at a referendum or poll see PARA 618 ante.

5 As to the appointment of polling observers at a referendum see PARA 591 ante.

6 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 32(1) (Sch 2 r 32 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 20(1). In relation to a local authority referendum at which voting is by post only (as to which see PARA 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 32 (as applied and modified) is omitted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see PARA 557 ante.

7 As to the number of an elector see PARA 160 ante.

8 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 32(2) (as applied and modified: see note 6 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 20(2).

9 As to voting by proxy at a referendum see PARA 602 et seq ante.

10 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 32(2) proviso (as applied and modified: see note 6 supra). There is no provision for voting by proxy at a poll consequent on a parish or community meeting on a question not involving appointment to office and accordingly the provision set out in the text does not apply in that case.

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/ (B) Votes given for Referendum or Poll at Polling Station/628. Voting at a referendum or poll by persons with disabilities.

628. Voting at a referendum or poll by persons with disabilities.

At a local authority referendum¹ or at a poll consequent on a parish or community meeting², if a voter makes an application to the presiding officer³ to be allowed, on the ground of blindness or other physical incapacity or inability to read⁴, to vote with the assistance of another person by whom he is accompanied (called the 'companion'), the presiding officer must require the voter to declare, orally or in writing⁵, whether he is so incapacitated by his blindness or other incapacity, or by his inability to read⁶, as to be unable to vote without assistance⁷.

If the presiding officer is satisfied that the voter is so incapacitated, and is also satisfied by a written declaration made by the companion of the voter with disabilities⁸ that the companion is a qualified person and has not previously assisted more than one voter with disabilities⁹ to vote at the referendum or poll, he must grant the application, and then anything required to be done to or by the voter in connection with the giving of his vote may be done to, or with the assistance of, the companion¹⁰. The name and number in the register of electors¹¹ of every voter whose vote is given by a companion, and the name and address of the companion¹², must be entered on a list (which is called the 'list of voters with disabilities assisted by companions' in the case of a local authority referendum or the 'list of blind voters assisted by companions' in the case of a poll consequent on a parish or community meeting)¹³. The declaration made by the companion must be in the prescribed form¹⁴ and must be made before the presiding officer at the time when the voter applies to vote with the assistance of a companion and must forthwith be given to the presiding officer who must attest and retain it¹⁵. No fee or other payment may be charged in respect of the declaration¹⁶.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 As to how polls consequent on a parish or community meeting come about see PARA 586 ante.

3 As to the appointment of presiding officers and clerks at a referendum or poll see PARA 618 ante.

4 At a poll consequent on a parish or community meeting on a question not involving appointment to office, the provision set out in the text applies only to voters with blindness and, accordingly, in relation to such a poll all references to other physical incapacities or an inability to read must be ignored (although a voter who is unable to read may vote at such a poll with the assistance of the presiding officer: see PARA 627 ante): see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 21(1).

5 At a poll consequent on a parish or community meeting on a question not involving appointment to office, the reference to the declaration being made orally or in writing is omitted: see *ibid* Schedule r 21(1).

6 See note 4 *supra*.

7 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 33(1) (Sch 2 r 33 substituted by SI 2001/81; and the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 33 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 21(1). In relation to a local authority referendum at which voting is by post only (as to which see PARA 595 *et seq* ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 33 (as applied and modified) is omitted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see PARA 557 ante.

8 For the purposes of a local authority referendum, a person is a voter with disabilities if he has made such a declaration as is mentioned in the text; and a person is qualified to assist a voter with disabilities to vote if that person is a person who is entitled to vote as an elector at the referendum or is the father, mother, brother, sister, spouse, civil partner, son or daughter of the voter and has attained the age of 18 years: Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 33(3) (Sch 2 r 33 as substituted, applied and modified (see note 7 supra); and Sch 2 r 33(3) amended by SI 2005/2114). For the purposes of a poll consequent on a parish or community meeting on a question not involving appointment to office, a person is qualified to assist a blind voter to vote if that person is either a person who is entitled to vote at the poll or the father, mother, brother, sister, spouse, civil partner, son or daughter of the blind voter and has attained the age of 18 years: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 21(3) (amended by SI 2005/2114).

9 See note 4 supra.

10 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 33(2) (as substituted, applied and modified: see note 7 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 21(2).

11 As to the registers of electors and the number of an elector see PARA 160 ante.

12 In the case of a person voting as proxy for an elector, the number to be entered together with the name of the voter must be the number of the elector: Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 33(4) (as substituted, applied and modified: see note 7 supra). As to voting by proxy at a referendum see PARA 602 et seq ante. There is no provision for voting by proxy at a poll consequent on a parish or community meeting on a question not involving appointment to office and accordingly this provision does not apply in that case.

13 Ibid Sch 2 r 33(4) (as substituted, applied and modified: see note 7 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 21(4).

14 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 33(5)(a) (as substituted, applied and modified: see note 7 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 21(5)(a). The prescribed form is set out, in relation to a local authority referendum, in the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 Appendix of Forms (Form of declaration to be made by the companion of a voter with disabilities) (amended by SI 2001/81; and applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). In relation to a poll consequent on a parish or community meeting on a question not involving appointment to office, the prescribed form is set out in the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule Appendix of Forms (Form of declaration to be made by the companion of a blind voter).

15 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 33(5)(b) (as substituted, applied and modified: see note 7 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 21(5)(b).

16 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 33(6) (as substituted, applied and modified: see note 7 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 21(6).

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/ (B) Votes given for Referendum or Poll at Polling Station/629. Tendered ballot papers at a referendum or poll.

629. Tendered ballot papers at a referendum or poll.

At a local authority referendum¹ or at a poll consequent on a parish or community meeting², if a person who represents himself to be a particular elector named on the register³ applies for a ballot paper after another person has voted in person either as the elector or his proxy, the applicant, on satisfactorily answering the questions permitted by law to be asked at the poll⁴, is entitled to mark a ballot paper (called a 'tendered ballot paper') in the same manner as any other voter⁵.

A tendered ballot paper must be of a colour differing from the other ballot papers⁶ and, instead of being put into the ballot box, it must be given to the presiding officer⁷ and endorsed by him with the name of the voter and his number in the register of electors⁸, and set aside in a separate packet⁹. The name of the voter and his number on the register of electors must be entered¹⁰ on a list (called the 'tendered votes list')¹¹.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 As to how polls consequent on a parish or community meeting come about see PARA 586 ante.

3 As to the registers of electors see PARA 160 ante. In the case of a local authority referendum, the provision set out in the text applies to a person who represents himself to be a particular elector named on the register and who is not named in the absent voters list or, alternatively, to a person who represents himself to be a particular person named in the list of proxies as proxy for an elector and who is not entitled to vote by post as proxy: see the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 34(1) (Sch 2 r 34 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the absent voters list and the list of proxies see PARA 601 ante; and as to the entitlement to vote by post as proxy see PARA 595 et seq ante. There is no provision for absent voting at a poll consequent on a parish or community meeting on a question not involving appointment to office and accordingly the qualifications relating to absent voting do not apply in that case: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 22(1).

4 As to the questions that may be put to person applying for a ballot paper see PARA 624 ante.

5 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 34(1) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 22(1). In relation to a local authority referendum at which voting is by post only (as to which see PARA 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 34 (as applied and modified) is omitted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see PARA 557 ante.

6 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 34(2)(a) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 22(2)(a). As to the provisions relating to ballot papers generally see PARA 612 et seq ante.

7 As to the appointment of presiding officers and clerks at a referendum or poll see PARA 618 ante.

8 As to the number of an elector see PARA 160 ante. In the case of a person voting as proxy for an elector, the number to be endorsed together with the name of the voter must be the number of that elector: Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 34(4) (as applied and modified: see note 3 supra). There is no provision for voting by proxy at a poll consequent on a parish or community meeting on a question not involving appointment to office and accordingly this provision does not apply in that case.

9 Ibid Sch 2 r 34(2)(b) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 22(2)(b).

10 In the case of a person voting as proxy for an elector, the number to be entered on the list together with the name of the voter must be the number of that elector: Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 34(4) (as applied and modified: see note 3 supra). There is no provision for voting by proxy at a poll consequent on a parish or community meeting on a question not involving appointment to office and accordingly this provision does not apply in that case.

11 Ibid Sch 2 r 34(3) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 22(3).

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/ (B) Votes given for Referendum or Poll at Polling Station/630. Spoilt ballot papers at a referendum or poll.

630. Spoilt ballot papers at a referendum or poll.

At a local authority referendum¹ or at a poll consequent on a parish or community meeting², a voter who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper may, on delivering it to the presiding officer³ and proving to his satisfaction the fact of the inadvertence, obtain another ballot paper in place of the ballot paper so delivered (the 'spoilt ballot paper')⁴. The spoilt ballot paper must be immediately cancelled⁵.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 As to how polls consequent on a parish or community meeting come about see PARA 586 ante.

3 As to the appointment of presiding officers and clerks at a referendum or poll see PARA 618 ante.

4 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 35 (Sch 2 r 35 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 23. In relation to a local authority referendum at which voting is by post only (as to which see PARA 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 35 (as applied and modified) is omitted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see PARA 557 ante.

5 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 35 (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 23.

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/ (B) Votes given for Referendum or Poll at Polling Station/631. Procedure on close of poll at a referendum or poll.

631. Procedure on close of poll at a referendum or poll.

As soon as practicable after the close of the poll at a local authority referendum¹ or at a poll consequent on a parish or community meeting², the presiding officer³ must, in the presence of the polling observers (if any)⁴, make up into separate packets, sealed with his own seal and the seals of such polling observers (if any) as desire to affix their seals⁵:

- 551 (1) each ballot box in use at his station, sealed so as to prevent the introduction of additional ballot papers and unopened (but with the key attached)⁶;
- 552 (2) the unused and spoilt ballot papers, placed together⁷;
- 553 (3) the tendered ballot papers⁸;
- 554 (4) the marked copies of the register of electors and (in the case of a referendum) of the list of proxies⁹;
- 555 (5) the counterfoils of the used ballot papers and (in the case of a referendum) the certificates as to employment on duty on the day of the poll¹⁰; and
- 556 (6) the tendered votes list¹¹, the list of voters with disabilities assisted by companions¹², the list of votes marked by the presiding officer¹³, a statement of the number of voters whose votes are so marked by the presiding officer under the heads 'physical incapacity' and 'unable to read', and the declarations made by the companions of voters with disabilities¹⁴.

The presiding officer must deliver the packets or cause them to be delivered to the counting officer¹⁵ (in relation to a local authority referendum) or to the returning officer¹⁶ (in relation to a poll consequent on a parish or community meeting), to be taken charge of by him; but if the packets are not delivered by the presiding officer personally to the counting officer or to the returning officer (as the case may be), the arrangements for their delivery require the approval of that counting officer or that returning officer (as the case may be)¹⁷.

The marked copies of the register of electors and (in the case of a referendum) of the list of proxies must be in one packet but must not be in the same packet as the counterfoils of the used ballot papers and (in the case of a referendum) the certificates as to employment on duty on the day of the poll¹⁸. The packets must be accompanied by a statement (the 'ballot paper account') made by the presiding officer showing the number of ballot papers entrusted to him, and accounting for them under the heads of ballot papers issued and not otherwise accounted for, unused ballot papers, spoilt ballot papers, and tendered ballot papers¹⁹.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 As to how polls consequent on a parish or community meeting come about see PARA 586 ante.

3 As to the appointment of presiding officers and clerks at a referendum or poll see PARA 618 ante.

4 As to the appointment of polling observers at a referendum see PARA 591 ante.

5 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 37(1) (Sch 2 r 37 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 25(1). In relation to a local authority referendum at which voting is by post only (as to which see PARA 595 et seq ante), the Local Elections (Principal

Areas) Rules 1986, SI 1986/2214, Sch 2 r 37 (as applied and modified) is omitted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see PARA 557 ante.

6 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 37(1)(a) (as applied and modified: see note 5 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(1)(a).

7 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 37(1)(b) (as applied and modified: see note 5 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(1)(b). As to spoilt ballot papers see PARA 630 ante.

8 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 37(1)(c) (as applied and modified: see note 5 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(1)(c). As to tendered ballot papers see PARA 629 ante.

9 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 37(1)(d) (as applied and modified: see note 5 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(1)(d). As to the procedure for marking copies of voter records see PARA 625 ante. There is no provision for voting by proxy at a poll consequent on a parish or community meeting on a question not involving appointment to office and accordingly the reference to the list of proxies in head (4) in the text does not apply in such a case. As to the list of proxies see PARA 601 ante.

10 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 37(1)(e) (as applied and modified: see note 5 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(1)(e). There is no provision for certificates as to employment on duty at a poll consequent on a parish or community meeting on a question not involving appointment to office and accordingly the reference to such certificates in head (5) in the text does not apply in such a case. As to certificates of employment on duty on the day of the poll see PARA 623 ante.

11 As to the tendered votes list see PARA 629 ante.

12 As to the list of voters with disabilities assisted by companions see PARA 628 ante.

13 As to the list of votes marked by the presiding officer see PARA 627 ante.

14 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 37(1)(f) (as applied and modified: see note 5 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(1)(f). As to declarations made by the companions of voters with disabilities see PARA 628 ante. At a poll consequent on a parish or community meeting on a question not involving appointment to office, the provision set out in the text applies only to voters with blindness and all references to other physical incapacities must be ignored in relation to such a poll, albeit that the statement of the number of voters whose votes are marked by the presiding officer contains the head 'physical incapacity' rather than 'blindness': see Schedule r 25(1)(f).

15 For the meaning of 'counting officer' see PARA 591 note 2 ante.

16 As to returning officers at polls consequent on a parish or community meeting see PARA 593 ante.

17 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 37(1) (as applied and modified: see note 5 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(1).

18 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 37(2) (as applied and modified: see note 5 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(2). At a poll consequent on a parish or community meeting on a question not involving appointment to office, there is no provision either for voting by proxy (see note 9 supra) or for certificates as to employment on duty (see note 10 supra) and accordingly the provision set out in the text is limited in such a case to requiring that the marked copy of the register of electors must not be in the same packet as the counterfoils of the used ballot papers: Schedule r 25(2).

19 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 37(3) (as applied and modified: see note 5 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(3).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/(C) Votes given by Postal Ballot at a Local Authority Referendum/(a) Issue of Postal Ballot Papers at a Local Authority Referendum/632. Counting officer's duty to issue postal ballot papers, etc at local authority referendum.

(C) VOTES GIVEN BY POSTAL BALLOT AT A LOCAL AUTHORITY REFERENDUM

(a) Issue of Postal Ballot Papers at a Local Authority Referendum

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

632. Counting officer's duty to issue postal ballot papers, etc at local authority referendum.

At a local authority referendum¹, the counting officer² must issue to those entitled to vote by post³ a postal ballot paper and a declaration of identity in the appropriate form or forms to like effect⁴, together with such envelopes for their return (whether free of charge or otherwise) as may be so prescribed⁵.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 For the meaning of 'counting officer' see PARA 591 note 2 ante.

3 As to applications made for absent voting see PARA 597 et seq ante.

4 The form used for the purposes of a local authority referendum is set out in the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 Appendix of Forms (Form of declaration of identity) (amended by SI 1987/261; SI 2004/223; and applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). In relation to a local authority referendum at which voting is by post only (as to which see PARA 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 Appendix of Forms (Form of declaration of identity) (as amended, applied and modified) is further modified: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see PARA 557 ante.

As to the form to be used where the poll at a local authority referendum in England is combined with the poll at another election or referendum see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 66(b), Sch 3 (Form H: declaration of identity for use when postal ballots are combined) (substituted by SI 2004/294; and applied and modified in relation to England by SI 2001/1298); and as to the form to be used where the poll in England is taken together with the poll at another election or referendum but where the proceedings on the issue and receipt of postal ballot papers are not (as to which see PARA 635 et seq post) see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 66(c), Sch 3 (Form J: declaration of identity for use when polls are combined but the postal ballots are not combined) (amended by SI 2004/294; and applied and modified in relation to England by SI 2001/1298).

5 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 19 (substituted by SI 2001/81; and applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the marking of the envelopes and the addresses to be used see PARA 637 post. In relation to a local authority referendum at which voting is by post only (as to which see PARA 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 19 (as substituted, applied and modified) is further substituted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see PARA 557 ante.

There is no equivalent provision for postal voting in relation to a poll consequent on a parish or community meeting: see PARA 586 et seq ante.

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/(C) Votes given by Postal Ballot at a Local Authority Referendum/(a) Issue of Postal Ballot Papers at a Local Authority Referendum/633. Notification of requirement of secrecy at proceedings relating to the issue of postal ballot papers at local authority referendum.

633. Notification of requirement of secrecy at proceedings relating to the issue of postal ballot papers at local authority referendum.

The counting officer¹ at a local authority referendum² must make such arrangements as he thinks fit to ensure that every person attending the proceedings in connection with the issue³ of postal ballot papers⁴ has been given a copy in writing of the statutory provisions relating to the requirement of secrecy that apply to those proceedings⁵.

1 For the meaning of 'counting officer' see PARA 591 note 2 ante.

2 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

3 As to proceedings on the issue of postal ballot papers see PARA 634 et seq post.

4 For the meaning of 'postal ballot paper' see PARA 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 70 (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see PARA 557 ante. The text refers to the requirement of secrecy set out in the Representation of the People Act 1983 s 66(4), (6) (as amended, applied and modified) (see PARA 745 post).

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/(C) Votes given by Postal Ballot at a Local Authority Referendum/(a) Issue of Postal Ballot Papers at a Local Authority Referendum/634. Time of issue of postal ballot papers, etc at local authority referendum.

634. Time of issue of postal ballot papers, etc at local authority referendum.

At a local authority referendum¹, the postal ballot paper² and declaration of identity must be issued by the counting officer³ as soon as practicable after the registration officer⁴ has granted the application to vote by post⁵, except where a person is shown in the records kept of those entitled (for a defined period or for an indefinite period) to an absent vote at referendums⁶ or to vote by post as proxy at referendums⁷, in which two cases no postal ballot paper and declaration of identity may be issued until after 5 pm on the eleventh day before the date of the poll⁸.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 For the meaning of 'postal ballot paper' see PARA 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see PARA 557 ante.

3 For the meaning of 'counting officer' see PARA 591 note 2 ante. As to the counting officer's duty to issue postal ballot papers, etc see PARA 632 ante.

4 For the meaning of 'registration officer' see PARA 154 note 1 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 71(2) (reg 71 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see PARA 557 ante. As to applications to vote by post see PARA 597 et seq ante.

6 Ie the record kept under the Representation of the People Act 2000 Sch 4 para 3(4) (as applied and modified) (see PARA 598 ante).

7 Ie the record kept under ibid Sch 4 para 7(6) (as applied and modified) (see PARA 607 ante).

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 71(1) (as applied and modified: see note 5 supra). As to the computation of time for these purposes see PARA 597 note 7 ante (provisions applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/(C) Votes given by Postal Ballot at a Local Authority Referendum/(a) Issue of Postal Ballot Papers at a Local Authority Referendum/635. Proceedings on the issue of postal ballot papers at local authority referendum.

635. Proceedings on the issue of postal ballot papers at local authority referendum.

At a local authority referendum¹, no person may be present at the proceedings on the issue of postal ballot papers² other than the counting officer³ and his clerks⁴. The following procedure must be followed:

- 557 (1) each postal ballot paper issued must be stamped with the official mark⁵;
- 558 (2) the number of the elector⁶ as stated in the register must be marked on the counterfoil attached to the ballot paper⁷;
- 559 (3) a mark must be placed in the absent voters list⁸ or the list of postal proxies⁹ against the number of the elector to denote that a ballot paper has been issued to the elector or his proxy, but without showing the particular ballot paper issued¹⁰; and
- 560 (4) the number of a postal ballot paper must be marked on the declaration of identity sent with that paper¹¹.

Where the poll at a referendum is taken with the poll at another election or referendum, special provision is made for the issue of postal ballot papers¹².

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 For the meaning of 'postal ballot paper' see PARA 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see PARA 557 ante.

3 For the meaning of 'counting officer' see PARA 591 note 2 ante.

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 67 (reg 67 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see PARA 557 ante.

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 72(1) (reg 72 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the official mark used at a referendum or poll see PARA 612 ante. As to the provisions that are so applied and modified see PARA 557 ante.

6 As to the number of an elector see PARA 160 ante.

7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 72(2) (as applied and modified: see note 5 supra).

8 For the meaning of 'absent voters list' see PARA 414 note 9 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

9 For the meaning of 'list of postal proxies' see PARA 414 note 10 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298,

reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 72(3) (as applied and modified: see note 5 supra).

11 Ibid reg 72(4) (as applied and modified: see note 5 supra).

12 Ibid reg 72(5), (6) (as applied and modified: see note 5 supra).

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/(C) Votes given by Postal Ballot at a Local Authority Referendum/(a) Issue of Postal Ballot Papers at a Local Authority Referendum/636. Refusal to issue more than one postal ballot paper at local authority referendum.

636. Refusal to issue more than one postal ballot paper at local authority referendum.

At a local authority referendum¹, where the counting officer² is satisfied that two or more entries in either the absent voters list³ or the list of postal proxies⁴ or in each of those lists relate to the same elector, he must not issue more than one ballot paper⁵ in respect of the same elector in respect of any one referendum⁶.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 For the meaning of 'counting officer' see PARA 591 note 2 ante.

3 For the meaning of 'absent voters list' see PARA 414 note 9 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see PARA 557 ante.

4 For the meaning of 'list of postal proxies' see PARA 414 note 10 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

5 For the meaning of 'postal ballot paper' see PARA 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 73 (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see PARA 557 ante.

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/(C) Votes given by Postal Ballot at a Local Authority Referendum/(a) Issue of Postal Ballot Papers at a Local Authority Referendum/637. Envelopes issued to postal voter at local authority referendum.

637. Envelopes issued to postal voter at local authority referendum.

At a local authority referendum¹, an envelope marked with the letter 'B' (a 'covering envelope'²) must be issued to a postal voter³ by the counting officer⁴ for the return of the postal ballot paper (or ballot papers, as the case may be)⁵ and the declaration of identity also issued to him⁶. The counting officer must also issue to a postal voter a smaller envelope (a 'ballot paper envelope'⁷) which must be marked with the letter 'A', the words 'ballot paper envelope' and the number of the ballot paper or, as the case may be, ballot papers⁸.

The address to which the postal ballot paper, declaration of identity and the envelopes are to be sent is, in the case of an elector, the address shown in the absent voters list⁹ or, in the case of a proxy, the address shown in the list of postal proxies¹⁰.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 For the meaning of 'covering envelope' see PARA 416 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see PARA 557 ante.

3 For the meaning of 'postal voter' see PARA 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

4 For the meaning of 'counting officer' see PARA 591 note 2 ante.

5 For the meaning of 'postal ballot paper' see PARA 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). There will be more than one ballot paper when the proceedings on the issue and receipt of postal ballot papers at more than one referendum or election have been taken together (as to which see PARA 20 ante); as to special provision made for the marking of the envelopes used where the poll at one referendum or election is taken with the poll at another referendum or election see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 74(4) (reg 74(4) applied and modified in relation to England by SI 2001/1298). As to the provisions that are so applied and modified see PARA 557 ante.

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 74(1), (2) (reg 74 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see PARA 557 ante. The text refers to the ballot paper and the declaration of identity which are issued to a postal voter under the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 19 (as substituted, applied and modified) (see PARA 632 ante).

7 For the meaning of 'ballot paper envelope' see PARA 416 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 74(3) (as applied and modified: see note 6 supra).

9 For the meaning of 'absent voters list' see PARA 414 note 9 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 72(7) (added by SI 2002/1871; amended by SI 2006/752; and applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). For the meaning of 'list of postal proxies' see PARA 414 note 10 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see PARA 557 ante.

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/(C) Votes given by Postal Ballot at a Local Authority Referendum/(a) Issue of Postal Ballot Papers at a Local Authority Referendum/638. Delivery of postal ballot papers at local authority referendum.

638. Delivery of postal ballot papers at local authority referendum.

At a local authority referendum¹, for the purposes of delivering postal ballot papers², the counting officer³ may use: (1) a universal postal service provider⁴; (2) a commercial delivery firm⁵; or (3) clerks appointed by a counting officer to aid a presiding officer⁶. Except where head (3) above applies, postage must be pre-paid on the envelopes addressed to the postal voters⁷; and where the address provided by the postal voter for the receipt of the postal ballot paper is within the United Kingdom⁸, return postage must be pre-paid on all covering envelopes also⁹. Where the services of a universal postal service provider or commercial delivery firm are to be used, envelopes addressed to postal voters must be counted and delivered by the counting officer with such form of receipt to be endorsed by that provider or firm as may be arranged¹⁰.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 For the meaning of 'postal ballot paper' see PARA 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see PARA 557 ante. There will be more than one ballot paper when the proceedings on the issue and receipt of postal ballot papers at more than one referendum or election have been taken together (as to which see PARA 20 ante).

3 For the meaning of 'counting officer' see PARA 591 note 2 ante.

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 76(1)(a) (reg 76 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see PARA 557 ante. For the meaning of 'universal postal service provider' see PARA 417 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 76(1)(b) (as applied and modified: see note 4 supra).

6 Ibid reg 76(1)(c) (as applied and modified: see note 4 supra). As to the appointment of presiding officers and their clerks see PARA 618 ante.

7 Ibid reg 76(3) (as applied and modified: see note 4 supra). For the meaning of 'postal voter' see PARA 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

8 For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 76(4) (as applied and modified: see note 4 supra).

10 Ibid reg 76(2) (as applied and modified: see note 4 supra).

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/(C) Votes given by Postal Ballot at a Local Authority Referendum/(a) Issue of Postal Ballot Papers at a Local Authority Referendum/639. Sealing up of counterfoils and security of special lists at local authority referendum.

639. Sealing up of counterfoils and security of special lists at local authority referendum.

At a local authority referendum¹, as soon as practicable after the issue of each batch of postal ballot papers², the counting officer³ must make up into a packet the counterfoils of those ballot papers which have been issued and he must seal the packet⁴. As soon as practicable after the last batch of postal ballot papers has been issued, the counting officer must make up into a packet the marked copy of the absent voters list⁵ and the list of postal proxies⁶ and he must seal the packet⁷. Until the time when the last batch of postal ballot papers has been issued, the counting officer must take proper precautions for the security of the absent voters list and the list of postal proxies⁸.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 For the meaning of 'postal ballot paper' see PARA 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see PARA 557 ante. There will be more than one ballot paper when the proceedings on the issue and receipt of postal ballot papers at more than one referendum or election have been taken together (as to which see PARA 20 ante).

3 For the meaning of 'counting officer' see PARA 591 note 2 ante.

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 75(1) (reg 75 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see PARA 557 ante.

5 For the meaning of 'absent voters list' see PARA 414 note 9 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

6 For the meaning of 'list of postal proxies' see PARA 414 note 10 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 75(2) (as applied and modified: see note 4 supra).

8 Ibid reg 75(3) (as applied and modified: see note 4 supra).

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/(C) Votes given by Postal Ballot at a Local Authority Referendum/(a) Issue of Postal Ballot Papers at a Local Authority Referendum/640. Instructions for voting by post at local authority referendum.

640. Instructions for voting by post at local authority referendum.

In order to vote at a local authority referendum¹, a postal voter² is instructed³ to:

- 561 (1) sign the declaration of identity in the presence of a person known to him, who then must sign the declaration as a witness, adding his or her name and address;
- 562 (2) record his vote on the ballot paper, according to the instructions given;
- 563 (3) put the ballot paper in the small envelope marked 'A' and seal it, then put the envelope marked 'A', together with the declaration of identity, in the larger envelope marked 'B' and return it without delay, so that it is received by the counting officer not later than the close of the poll⁴.

The voter is reminded that if he receives more than one ballot paper for the same referendum it is illegal to vote more than once (otherwise than as proxy) at the same referendum and that, at the election in question, he cannot vote in person at a polling station, even if he receives an official poll card⁵.

Instructions are also given in the event of a postal voter inadvertently spoiling the ballot paper⁶.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 For the meaning of 'postal voter' see PARA 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see PARA 557 ante.

3 These instructions appear on the form of the declaration of identity (as to which see PARA 632 ante), the precise wording of which may vary according to whether the poll at the referendum is taken together with the poll at another election or referendum or not (as the case may be).

4 See note 3 supra.

5 See note 3 supra.

6 See note 3 supra.

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/(C) Votes given by Postal Ballot at a Local Authority Referendum/(a) Issue of Postal Ballot Papers at a Local Authority Referendum/641. Spoilt postal ballot papers at local authority referendum.

641. Spoilt postal ballot papers at local authority referendum.

At a local authority referendum¹, if a postal voter² has inadvertently dealt with his postal ballot paper³ in such manner that it cannot conveniently be used as a ballot paper or if he has inadvertently dealt with his declaration of identity in such a manner that it cannot be conveniently used as a declaration of identity, he may return the spoilt ballot paper⁴ or, as the case may be, the spoilt declaration of identity either by hand or by post to the counting officer⁵. On receipt of any such documents, the counting officer must issue another postal ballot paper (or, as the case may be, ballot papers) except where those documents are received after 5 pm on the day of the poll⁶, in which case he may only issue another postal ballot paper (or, as the case may be, ballot papers) if the postal voter returned the documents by hand⁷. Any such postal ballot paper or declaration of identity, whether spoilt or not, which has been returned must be immediately cancelled⁸; and, as soon as practicable after cancelling those documents, the counting officer must make up those documents in a separate packet and he must seal the packet⁹. If, on any subsequent occasion, documents are cancelled in this way, the sealed packet must be opened and the additional cancelled documents included in it and the packet must be again made up and sealed¹⁰.

The counting officer must enter in a list kept for the purpose (the 'list of spoilt postal ballot papers'): (1) the name and number of the elector as stated in the register¹¹; (2) the number of the replacement postal ballot paper (or papers) issued¹²; and (3) where the postal voter whose ballot paper is spoilt is a proxy¹³, his name and address¹⁴.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 For the meaning of 'postal voter' see PARA 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see PARA 557 ante.

3 For the meaning of 'postal ballot paper' see PARA 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). There will be more than one ballot paper when the proceedings on the issue and receipt of postal ballot papers at more than one referendum or election have been taken together (as to which see PARA 20 ante); and as to special provision made for spoilt ballot papers when the polls at more than one referendum or election have been taken together see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(2) (reg 77(1), (2) substituted by SI 2006/752; and the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(2) applied and modified in relation to England by SI 2001/1298). As to the provisions that are so applied and modified see PARA 557 ante.

4 For the meaning of 'spoilt ballot paper' see PARA 420 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(1) (reg 77(1) as substituted (see note 3 supra); and reg 77(1), (3)-(8) applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). For the meaning of 'counting officer' see PARA 591 note 2 ante.

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(3) (amended by SI 2006/752; and applied and modified (see note 5 supra)). Certain provisions as to the issue of postal ballot papers, namely the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 72 (as amended, applied and modified) (except reg 72(3) (as applied and modified)) (see PARA 635 ante) and, subject to reg 77(7) (as substituted, applied and modified) (see note 7 infra), regs 74-76 (as applied and modified) (see PARAS 637-639 ante), apply to the issue of replacement postal ballot papers: reg 77(4) (as so applied and modified).

7 Ibid reg 77(3A) (added by SI 2006/752; and applied and modified (see note 5 supra)). The counting officer may hand a replacement postal ballot paper to a postal voter who applies in person by 5 pm on the day before the day of the poll (and he may only hand a replacement postal ballot paper to a postal voter who applies in person after 5 pm on the day before the day of the poll) instead of delivering it in accordance with the statutory scheme (as to which see PARA 638 ante): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(7) (substituted by SI 2006/752; and applied and modified (see note 5 supra)).

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(5) (substituted by SI 2006/752; and applied and modified (see note 5 supra)).

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(6) (as applied and modified: see note 5 supra).

10 Ibid reg 77(6) (as applied and modified: see note 5 supra).

11 Ibid reg 77(8)(a) (as applied and modified: see note 5 supra).

12 Ibid reg 77(8)(b) (as applied and modified: see note 5 supra).

13 As to applications to vote by proxy see PARA 597 et seq ante.

14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(8)(c) (as applied and modified: see note 5 supra).

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/(C) Votes given by Postal Ballot at a Local Authority Referendum/(a) Issue of Postal Ballot Papers at a Local Authority Referendum/642. Lost postal ballot papers at local authority referendum.

642. Lost postal ballot papers at local authority referendum.

At a local authority referendum¹, where a postal voter², by the fourth day before the day of the poll, claims either to have lost or not to have received his postal ballot paper³ or the declaration of identity⁴ or one or more of the envelopes supplied for their return⁵, he may apply (whether or not in person) to the counting officer⁶ for a replacement ballot paper⁷. The voter must include evidence of his identity with any such application⁸.

Where a postal voter exercises his entitlement to a replacement ballot paper, he must return the other documents which he has received and which have not been lost⁹. Any such postal ballot paper or declaration of identity which has been returned must be immediately cancelled¹⁰; and, as soon as practicable after cancelling those documents, the counting officer must make up those documents in a separate packet and he must seal the packet¹¹. If, on any subsequent occasion, documents are cancelled in this way, the sealed packet must be opened and the additional cancelled documents included in it and the packet must be again made up and sealed¹².

Where the application for a replacement ballot paper is received by the counting officer before 5 pm on the day of the poll and the counting officer is satisfied as to the voter's identity and he has no reason to doubt that the postal voter has either lost or has not received the original postal ballot paper (or the declaration of identity or one or more of the envelopes provided for their return), he must issue another postal ballot paper or, as the case may be, postal ballot papers¹³. However where the application is received by the counting officer after 5 pm on the day before the day of the poll, he may only issue another postal ballot paper or, as the case may be, other ballot papers if the postal voter applied in person¹⁴.

The counting officer must enter in a list kept for the purpose (the 'list of lost postal ballot papers'): (1) the name and number of the elector¹⁵ as stated in the register¹⁶; (2) the number of the replacement postal ballot paper issued¹⁷; and (3) where the postal voter whose ballot paper is lost is a proxy¹⁸, his name and address¹⁹.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 For the meaning of 'postal voter' see PARA 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see PARA 557 ante.

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(1)(a) (reg 78(1) substituted by SI 2006/752; and the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see PARA 557 ante. For the meaning of 'postal ballot paper' see PARA 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(1)(b) (as substituted, applied and modified: see note 3 supra).

- 5 Ibid reg 78(1)(c) (as substituted, applied and modified: see note 3 supra). As to the envelopes provided for use in postal voting see PARA 637 ante.
- 6 For the meaning of 'counting officer' see PARA 591 note 2 ante.
- 7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(1) (as substituted, applied and modified: see note 3 supra).
- 8 Ibid reg 78(2) (as applied and modified: see note 3 supra).
- 9 Ibid reg 78(2A)(a) (reg 78(2A)-(2C) added by SI 2006/752; and applied and modified (see note 3 supra)). As to special provision made for lost ballot papers when the polls at more than one referendum or election have been taken together (as to which see PARA 20 ante) see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(2A)(b) (reg 78(2A) as so added, applied and modified). As to the provisions that are so applied and modified see PARA 557 ante.
- 10 Ibid reg 78(2B) (as added, applied and modified: see notes 3, 9 supra).
- 11 Ibid reg 78(2C) (as added, applied and modified: see notes 3, 9 supra).
- 12 Ibid reg 78(2C) (as added, applied and modified: see notes 3, 9 supra).
- 13 Ibid reg 78(3) (amended by SI 2006/752; and applied and modified (see note 3 supra)). There may be more than one ballot paper when the polls at more than one referendum or election have been taken together (as to which see PARA 20 ante). Certain provisions as to the issue of postal ballot papers, namely the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 72 (as amended, applied and modified) (except reg 72(3) (as applied and modified)) (see PARA 635 ante) and, subject to reg 78(6) (as substituted, applied and modified) (see note 14 infra), regs 74-76 (as applied and modified) (see PARAS 637-639 ante), apply to the issue of replacement postal ballot papers: reg 78(5) (as applied and modified).
- 14 Ibid reg 78(3A) (added by SI 2006/752; and applied and modified (see note 3 supra)). Instead of delivering a replacement postal ballot paper in accordance with the statutory scheme (as to which see PARA 638 ante), the counting officer may hand such a replacement to a postal voter who applies in person by 5 pm on the day before the day of the poll (and he may only hand a replacement postal ballot paper to a postal voter who applies in person after 5 pm on the day before the day of the poll): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(6) (substituted by SI 2006/752; and as so applied and modified).
- 15 As to the number of an elector see PARA 160 ante.
- 16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(4)(a) (as applied and modified: see note 3 supra).
- 17 Ibid reg 78(4)(b) (as applied and modified: see note 3 supra).
- 18 As to applications to vote by proxy see PARA 597 et seq ante.
- 19 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(4)(c) (substituted by SI 2006/752; and applied and modified (see note 3 supra)).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/(C) Votes given by Postal Ballot at a Local Authority Referendum/(b) Receipt of Postal Ballot Papers at a Local Authority Referendum/643. Attendance at proceedings on receipt of postal ballot papers at local authority referendum.

(b) Receipt of Postal Ballot Papers at a Local Authority Referendum

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

643. Attendance at proceedings on receipt of postal ballot papers at local authority referendum.

At a local authority referendum¹, no person may be present at the proceedings on the receipt of postal ballot papers² other than: (1) the counting officer³ and his clerks⁴; and (2) persons who are entitled to attend⁵ at the counting of the votes⁶.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 For the meaning of 'postal ballot paper' see PARA 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see PARA 557 ante.

3 For the meaning of 'counting officer' see PARA 591 note 2 ante.

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 68(a) (reg 68 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see PARA 557 ante. As to the appointment of counting officer's clerks for counting purposes see PARA 619 ante.

5 In accordance with the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(5) in relation to England or the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(5) in relation to Wales (see PARA 619 ante).

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 68(b) (as applied and modified: see note 4 supra).

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/(C) Votes given by Postal Ballot at a Local Authority Referendum/(b) Receipt of Postal Ballot Papers at a Local Authority Referendum/644. Notification of requirement of secrecy at proceedings relating to the receipt of postal ballot papers at local authority referendum.

644. Notification of requirement of secrecy at proceedings relating to the receipt of postal ballot papers at local authority referendum.

The counting officer¹ at a local authority referendum² must make such arrangements as he thinks fit to ensure that every person attending the proceedings in connection with the receipt³ of postal ballot papers⁴ has been given a copy in writing of the statutory provisions relating to the requirement of secrecy that apply to those proceedings⁵.

1 For the meaning of 'counting officer' see PARA 591 note 2 ante.

2 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

3 As to proceedings on the receipt of postal ballot papers see PARAS 643 ante, 645 et seq post.

4 For the meaning of 'postal ballot paper' see PARA 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see PARA 557 ante.

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 70 (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see PARA 557 ante. The text refers to the requirement of secrecy set out in the Representation of the People Act 1983 s 66(4), (6) (as amended, applied and modified) (see PARA 745 post).

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/(C) Votes given by Postal Ballot at a Local Authority Referendum/(b) Receipt of Postal Ballot Papers at a Local Authority Referendum/645. Provision of postal ballot boxes and receptacles at local authority referendum.

645. Provision of postal ballot boxes and receptacles at local authority referendum.

The counting officer¹ at a local authority referendum² must provide a separate ballot box for: (1) the reception of the covering envelopes³ when returned by the postal voters⁴ (the 'postal voters' ballot box')⁵; and (2) the reception of postal ballot papers⁶ (the 'postal ballot box')⁷. Each such ballot box must be marked 'postal voters' ballot box' or 'postal ballot box', as the case may be, and with the name of the voting area⁸ for which the referendum or referendums are held⁹. The postal ballot box must be shown to those present on the occasion of opening the first postal voters' ballot box as being empty¹⁰ and must then be locked by the counting officer and sealed with his seal and the seals of such of those present as desire to affix their seals in such manner as to prevent the box being opened without breaking the seal¹¹. The counting officer must also provide: (a) the receptacle for rejected votes¹²; (b) the receptacle for declarations of identity¹³; (c) the receptacle for ballot paper envelopes¹⁴; and (d) the receptacle for rejected ballot paper envelopes¹⁵.

The counting officer must take proper precautions for the safe custody of every such ballot box and receptacle¹⁶.

1 For the meaning of 'counting officer' see PARA 591 note 2 ante.

2 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

3 For the meaning of 'covering envelope' see PARA 416 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see PARA 557 ante.

4 For the meaning of 'postal voter' see PARA 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 64, 81(1)(a) (regs 64, 81 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see PARA 557 ante.

6 For the meaning of 'postal ballot paper' see PARA 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the issue of postal ballot papers see PARA 632 et seq ante.

7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 81(1)(b) (as applied and modified: see note 5 supra).

8 For the meaning of 'voting area' see PARA 582 note 2 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 81(2) (as applied and modified: see note 5 supra). There will be more than one referendum where the polls at more than one referendum in England have been taken together (as to which see PARA 20 ante).

10 Ibid reg 81(3) (as applied and modified: see note 5 supra).

11 Ibid reg 81(4) (as applied and modified: see note 5 supra).

12 Ibid regs 64, 81(5)(a) (as applied and modified: see note 5 supra).

13 Ibid regs 64, 81(5)(b) (as applied and modified: see note 5 supra).

14 Ibid regs 64, 81(5)(c) (as applied and modified: see note 5 supra).

15 Ibid regs 64, 81(5)(d) (as applied and modified: see note 5 supra).

16 Ibid reg 81(6) (as applied and modified: see note 5 supra).

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/(C) Votes given by Postal Ballot at a Local Authority Referendum/(b) Receipt of Postal Ballot Papers at a Local Authority Referendum/646. Return of postal ballot papers, etc to counting officer at local authority referendum.

646. Return of postal ballot papers, etc to counting officer at local authority referendum.

At a local authority referendum¹, the manner in which any postal ballot paper² or declaration of identity may be returned to the counting officer³ is by hand or by post and to a polling station it is by hand⁴. Where a covering envelope⁵ (or an envelope which is stated to include a postal vote) is received by a counting officer (whether by hand or by post) before the close of the poll he must, immediately on receipt, place it unopened in a postal voters' ballot box⁶. Where an envelope, other than a covering envelope issued by the counting officer, has been opened and it contains a ballot paper envelope⁷, declaration of identity or ballot paper, the first-mentioned envelope, together with its contents, must be placed in a postal voters' ballot box⁸.

Where a postal ballot paper or declaration of identity has been returned to a polling station, the presiding officer⁹ of that station must deliver, or cause to be delivered, any such paper or declaration to the counting officer in the same manner and at the same time as he delivers, or causes to be delivered, the packets of ballot papers and other documents which he is required to prepare on the close of poll at a polling station¹⁰. However, the counting officer may collect, or cause to be collected, any postal ballot paper or declaration of identity which the presiding officer of a polling station would otherwise be required in this way to deliver or cause to be delivered to him¹¹; and where the counting officer collects, or causes to be collected, any postal ballot paper or declaration of identity in this way the presiding officer must first make it (or them) up into a packet (or packets) sealed with his own seal and the seals of such of those as are present and desire to affix their seals¹².

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 For the meaning of 'postal ballot paper' see PARA 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see PARA 557 ante. As to the issue of postal ballot papers see PARA 632 et seq ante.

3 For the meaning of 'counting officer' see PARA 591 note 2 ante.

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 79(1) (reg 79 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see PARA 557 ante.

5 For the meaning of 'covering envelope' see PARA 416 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 82(1) (reg 82 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see PARA 557 ante. As to the postal voters' ballot box see PARA 645 ante.

7 For the meaning of 'ballot paper envelope' see PARA 416 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch

3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 82(2) (as applied and modified: see note 6 supra).

9 As to the appointment of presiding officers and their clerks see PARA 618 ante.

10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 79(3) (amended by SI 2006/752; and applied and modified (see note 4 supra)). As to the procedure on the close of poll at a polling station see PARA 631 ante.

11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 79(4) (added by SI 2006/752; and applied and modified (see note 4 supra)). As to the provisions that are so applied and modified see PARA 557 ante.

12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 79(5) (added by SI 2006/752; and applied and modified (see note 4 supra)).

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/(C) Votes given by Postal Ballot at a Local Authority Referendum/(b) Receipt of Postal Ballot Papers at a Local Authority Referendum/647. Notice of opening of postal voters' ballot box and covering envelopes at local authority referendum.

647. Notice of opening of postal voters' ballot box and covering envelopes at local authority referendum.

The counting officer¹ at a local authority referendum² must give to those persons who are entitled to attend³ at the counting of the votes not less than 48 hours' notice in writing of each occasion on which a postal voters' ballot box⁴ and the envelopes contained in it is to be opened⁵. Such a notice must specify the time and place at which such an opening is to take place⁶.

1 For the meaning of 'counting officer' see PARA 591 note 2 ante.

2 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

3 In accordance with the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(5) in relation to England or the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(5) in relation to Wales (see PARA 619 ante).

4 As to the postal voters' ballot box see PARA 645 ante.

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 80(1) (reg 80 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see PARA 557 ante.

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 80(2) (as applied and modified: see note 5 supra).

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/(C) Votes given by Postal Ballot at a Local Authority Referendum/(b) Receipt of Postal Ballot Papers at a Local Authority Referendum/648. Opening of postal voters' ballot box at local authority referendum.

648. Opening of postal voters' ballot box at local authority referendum.

At a local authority referendum¹, each postal voters' ballot box² must be opened by the counting officer³ in the presence of the counting observers⁴, if in attendance⁵. So long as the counting officer ensures that there is at least one sealed postal voters' ballot box for the reception of covering envelopes⁶ up to the time of the close of the poll, the other postal voters' ballot boxes may previously be opened by him⁷. The last postal voters' ballot box and the postal ballot box⁸ must be opened at the counting of the votes⁹.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 As to the postal voters' ballot box see PARA 645 ante.

3 For the meaning of 'counting officer' see PARA 591 note 2 ante.

4 As to the appointment of counting observers see PARA 619 ante.

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 83(1) (reg 83 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see PARA 557 ante.

6 for the meaning of 'covering envelope' see PARA 416 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see PARA 557 ante.

7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 83(2) (as applied and modified: see note 5 supra).

8 As to the postal ballot box see PARA 645 ante.

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 83(3) (as applied and modified: see note 5 supra). As to the counting of votes at a local authority referendum see PARA 652 et seq post.

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/(C) Votes given by Postal Ballot at a Local Authority Referendum/(b) Receipt of Postal Ballot Papers at a Local Authority Referendum/649. Opening of covering envelopes at local authority referendum.

649. Opening of covering envelopes at local authority referendum.

At a local authority referendum¹, when a postal voters' ballot box² is opened, the counting officer³ must count and record the number of covering envelopes⁴ and then open separately each covering envelope (including any other envelope⁵ which has been found to contain a ballot paper envelope⁶, declaration of identity or ballot papers)⁷.

Where the covering envelope does not contain the declaration of identity separately, the counting officer must open the ballot paper envelope to ascertain whether the declaration of identity is inside⁸. Where a covering envelope does not contain both a declaration of identity (whether separately or not) and a ballot paper envelope (or, if there is no ballot paper envelope, a ballot paper or ballot papers), the counting officer must mark the covering envelope 'provisionally rejected', attach its contents (if any) and place it in the receptacle for rejected votes⁹.

However, where a covering envelope (including any other envelope¹⁰ which has been found to contain a ballot paper envelope, declaration of identity or ballot papers) contains both a declaration of identity and a ballot paper envelope (or, if there is no ballot paper envelope, a ballot paper or ballot papers)¹¹, the counting officer must satisfy himself that the declaration of identity is a valid declaration of identity (that is, that it has been duly signed by the voter and authenticated by a witness who has signed the declaration and given his name and address)¹². Where the counting officer is not so satisfied, he must mark the declaration 'rejected', attach to it the ballot paper envelope (or, if there is no such envelope, the ballot paper or ballot papers) and show it to the counting observers¹³ (and, if any of them objects to his decision, he must add the words 'rejection objected to') before placing the declaration in the receptacle for rejected votes¹⁴. The counting officer must then examine the number (or numbers) on the declaration of identity against the number (or numbers) on the ballot paper envelope and, where they are the same, he must place the declaration in the receptacle for declarations of identity¹⁵ and the ballot paper envelope in the receptacle for ballot paper envelopes¹⁶. Where the number (or numbers) on a valid declaration of identity is (or are) not the same as the number (or numbers) on the ballot paper envelope or where that envelope has no number on it (or only one number when the declaration of identity has more than one), the counting officer must open the envelope¹⁷. Where the ballot paper envelope has been opened in this way or where it has been opened¹⁸ in order to ascertain whether the declaration of identity is inside¹⁹, the counting officer must place: (1) in the postal ballot box²⁰, any ballot paper the number on which is the same as the number (or one of the numbers) on the valid declaration of identity²¹; (2) in the receptacle for rejected votes, any other ballot paper, with the valid declaration of identity attached and marked 'provisionally rejected'²²; (3) in the receptacle for rejected votes, any valid declaration of identity marked 'provisionally rejected' where there is no ballot paper or, in the case of a declaration on which the number of more than one ballot paper appears, where there is not a sufficient number of ballot papers and, in such a case, he must mark the declaration to indicate which ballot paper is missing²³; (4) in the receptacle for declarations of identity, any valid declaration not disposed of under head (2) or head (3) above²⁴. Heads (1) to (4) above also apply where there is a valid declaration of identity but no ballot paper envelope²⁵.

- 1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.
- 2 As to the postal voters' ballot box see PARA 645 ante.
- 3 For the meaning of 'counting officer' see PARA 591 note 2 ante.
- 4 For the meaning of 'covering envelope' see PARA 416 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see PARA 557 ante.
- 5 Ie as described in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 82(2) (as applied and modified) (see PARA 646 ante).
- 6 For the meaning of 'ballot paper envelope' see PARA 416 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).
- 7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84(1) (reg 84 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see PARA 557 ante. There may be more than one ballot paper when the polls at more than one referendum or election have been taken together (as to which see PARA 20 ante).
- 8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84(3) (as applied and modified: see note 7 supra).
- 9 Ibid reg 84(4) (as applied and modified: see note 7 supra). As to the receptacle for rejected votes see PARA 645 ante.
- 10 See note 5 supra.
- 11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84(2) (as applied and modified: see note 7 supra).
- 12 Ibid regs 64, 85(1) (regs 64, 85 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see PARA 557 ante.
- 13 As to the appointment of counting observers see PARA 619 ante.
- 14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85(2), (3) (as applied and modified: see note 12 supra).
- 15 As to the receptacle for declarations of identity see PARA 645 ante.
- 16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85(4) (as applied and modified: see note 12 supra). As to the receptacle for ballot paper envelopes see PARA 645 ante.
- 17 Ibid reg 85(5) (reg 85(5)-(7) substituted by SI 2002/1871; and applied and modified (see note 12 supra)). As to the provisions that are so applied and modified see PARA 557 ante.
- 18 Ie under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84(3) (as applied and modified) (see the text and note 8 supra).
- 19 Ibid reg 85(6)(b) (as substituted, applied and modified: see notes 12, 17 supra).
- 20 As to the postal ballot box see PARA 645 ante.
- 21 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85(7)(a) (as substituted, applied and modified: see notes 12, 17 supra).
- 22 Ibid reg 85(7)(b) (as substituted, applied and modified: see notes 12, 17 supra).
- 23 Ibid reg 85(7)(c) (as substituted, applied and modified: see notes 12, 17 supra).
- 24 Ibid reg 85(7)(d) (as substituted, applied and modified: see notes 12, 17 supra).

25 Ibid reg 85(6)(a) (as substituted, applied and modified: see notes 12, 17 supra).

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/(C) Votes given by Postal Ballot at a Local Authority Referendum/(b) Receipt of Postal Ballot Papers at a Local Authority Referendum/650. Opening of ballot paper envelopes at local authority referendum.

650. Opening of ballot paper envelopes at local authority referendum.

The counting officer¹ at a local authority referendum² must open separately each ballot paper envelope³ placed in the receptacle for ballot paper envelopes⁴. He must place: (1) in the postal ballot box⁵, any ballot paper the number on which is the same as the number (or one of the numbers) on the ballot paper envelope⁶; (2) in the receptacle for rejected votes⁷, any other ballot paper which is marked 'provisionally rejected' with the ballot paper envelope attached⁸; and (3) in the receptacle for rejected ballot paper envelopes⁹, any ballot paper envelope which is marked 'provisionally rejected' because it does not contain either a ballot paper or, where more than one number appears on the ballot paper envelope, a sufficient number of ballot papers (and indicating, in such a case, the missing ballot paper)¹⁰.

1 For the meaning of 'counting officer' see PARA 591 note 2 ante.

2 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

3 For the meaning of 'ballot paper envelope' see PARA 416 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see PARA 557 ante.

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 86(1) (reg 86 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see PARA 557 ante. As to the receptacle for ballot paper envelopes see PARA 645 ante.

5 As to the postal ballot box see PARA 645 ante.

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 86(2)(a) (as applied and modified: see note 4 supra). There may be more than one number on a ballot paper envelope when the polls at more than one referendum or election have been taken together (as to which see PARA 20 ante).

7 As to the receptacle for rejected votes see PARA 645 ante.

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 86(2)(b) (as applied and modified: see note 4 supra).

9 As to the receptacle for rejected ballot paper envelopes see PARA 645 ante.

10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 86(2)(c) (as applied and modified: see note 4 supra).

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/D. POLLING/(C) Votes given by Postal Ballot at a Local Authority Referendum/(b) Receipt of Postal Ballot Papers at a Local Authority Referendum/651. Conclusion of postal ballot procedure at local authority referendum.

651. Conclusion of postal ballot procedure at local authority referendum.

In respect of any local authority referendum¹, the counting officer² must keep two separate lists of rejected postal ballot papers³: (1) in the first list, he must record the ballot paper number of any postal ballot paper for which no valid declaration of identity was received with it⁴; (2) in the second list, he must record the ballot paper number of any postal ballot paper which is entered on a valid declaration of identity where that ballot paper is not received with the declaration of identity⁵.

Where the counting officer receives a valid declaration of identity without the postal ballot paper (or papers or, as the case may be, all of the papers) to which it relates, he may, at any time prior to the close of the poll, check the list kept under head (1) above to see whether the number (or numbers) of a postal ballot paper to which the declaration relates is entered in that list⁶. Where the counting officer receives a postal ballot paper without the declaration of identity to which it relates, he may, at any time prior to the close of the poll, check the list kept under head (2) above to see whether the number of that ballot paper is entered in that list⁷. The counting officer must conduct either such check as soon as practicable after the receipt of packets from every polling station in the voting area⁸ in question following the close of poll⁹. Where the ballot paper number in the list matches that number on a valid declaration of identity or, as the case may be, the postal ballot paper, the counting officer must retrieve that declaration or paper¹⁰. As soon as practicable after the completion of this procedure, the counting officer must make up into separate packets the contents of: (a) the receptacle of rejected votes¹¹; (b) the receptacle of declarations of identity¹²; (c) the receptacle of rejected ballot paper envelopes¹³; and (d) the lists of spoilt and lost postal ballot papers¹⁴, and he must seal up the packets¹⁵. Any document in those packets marked 'provisionally rejected' must be deemed to be marked 'rejected'¹⁶.

The counting officer must then take the appropriate steps under the provisions governing the receipt of postal ballot papers¹⁷ as though any document earlier marked 'provisionally rejected' had not been so marked, and he must amend the document accordingly¹⁸.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 For the meaning of 'counting officer' see PARA 591 note 2 ante.

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 87(1) (reg 87 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). For the meaning of 'postal ballot paper' see PARA 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see PARA 557 ante. As to the issue of postal ballot papers see PARA 632 et seq ante; and as to the rejection of postal ballot papers see PARA 649 et seq ante.

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 87(2) (as applied and modified: see note 3 supra).

5 Ibid reg 87(3) (as applied and modified: see note 3 supra).

6 Ibid reg 88(1) (reg 88 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see PARA 557 ante. There may be more than one postal ballot paper and number on a ballot paper envelope when the polls at more than one referendum or election have been taken together (as to which see PARA 20 ante).

7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 88(2) (as applied and modified: see note 6 supra).

8 For the meaning of 'voting area' see PARA 582 note 2 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 88(3) (as applied and modified: see note 6 supra). The text refers to the receipt of packets of ballot papers and other documents which the presiding officer is required to prepare on the close of poll at a polling station: see PARA 631 ante.

10 Ibid reg 88(4) (as applied and modified: see note 6 supra).

11 Ibid reg 89(1)(a) (reg 89 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see PARA 557 ante. As to the receptacle for rejected votes see PARA 645 ante.

12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 89(1)(b) (as applied and modified: see note 11 supra). As to the receptacle of declarations of identity see PARA 645 ante.

13 Ibid reg 89(1)(c) (as applied and modified: see note 11 supra). As to the receptacle for rejected ballot paper envelopes see PARA 645 ante.

14 Ibid reg 89(1)(d) (as applied and modified: see note 11 supra).

15 Ibid reg 89(1) (as applied and modified: see note 11 supra).

16 Ibid reg 89(2) (as applied and modified: see note 11 supra).

17 As to the provisions governing the receipt of postal ballot papers at a local authority referendum see PARA 643 et seq ante.

18 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 88(5) (as applied and modified: see note 6 supra).

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/E. COUNTING OF THE VOTES AT REFERENDUM OR POLL/652. Attendance at counting of votes at a referendum or poll.

E. COUNTING OF THE VOTES AT REFERENDUM OR POLL

652. Attendance at counting of votes at a referendum or poll.

As soon as practicable after the close of the poll, the counting officer¹ (in relation to a local authority referendum²) or to the returning officer³ (in relation to a poll consequent on a parish or community meeting⁴) must make arrangements for counting the votes in the presence of the counting observers (if any)⁵; and he must give notice to them in writing of the time and place at which the count of the votes will begin⁶.

In relation to a local authority referendum, no person may attend the counting of votes for any voting area⁷ unless he is⁸: (1) the counting officer for that area⁹; (2) a person appointed by the counting officer¹⁰; (3) the elected mayor¹¹, if any, of the authority in respect of which the referendum is held¹²; (4) a petition organiser¹³; or (5) permitted by the counting officer for that area to attend the count¹⁴. In relation to a poll consequent on a parish or community meeting, no person other than the returning officer and his clerks¹⁵ and the proposer of the resolution in respect of which the poll is taken¹⁶ may be present at the counting of the votes, unless permitted by the returning officer to attend¹⁷. The counting officer or the returning officer (as the case may be) must make such arrangements as he thinks fit to ensure that every person attending at the counting of the votes (other than any constable on duty at the counting) has been given a copy in writing of the statutory provisions relating to the requirement of secrecy that apply to such attendance¹⁸.

The counting officer or the returning officer (as the case may be) must give the counting observers all such reasonable facilities for overseeing the proceedings, and all such information with respect to them, as he can give them consistently with the orderly conduct of the proceedings and the discharge of his duties in connection with them¹⁹.

1 For the meaning of 'counting officer' see PARA 591 note 2 ante.

2 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

3 As to returning officers at polls consequent on a parish or community meeting see PARA 593 ante.

4 As to how polls consequent on a parish or community meeting come about see PARA 586 ante.

5 As to the appointment of counting observers at a referendum see PARA 619 ante.

6 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 26(1); Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(4); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(4).

7 For the meaning of 'voting area' see PARA 582 note 2 ante.

8 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(5); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(5).

9 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(5)(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(5)(a).

10 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(5)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(5)(b). The reference in the text is to a person appointed by the counting officer, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(1) or, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(1) (see PARA 619 ante).

11 For the meaning of 'elected mayor' see PARA 576 note 2 ante.

12 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(5)(c); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(5)(c). As to the authority referred to in the text see PARA 576 note 3 ante.

13 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(5)(d); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(5)(d). For the meaning of 'petition organiser' for these purposes see PARA 619 note 4 ante.

14 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(5)(e); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(5)(e).

15 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 26(2)(a).

16 Ibid Schedule r 26(2)(c).

17 Ibid Schedule r 26(2). A person not entitled to attend at the counting of the votes may not be permitted to do so by the returning officer unless he is satisfied that the efficient counting of the votes will not be impeded: Schedule r 26(3).

18 See PARAS 611 ante, 742-746 post.

19 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 26(4); Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(6); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(6). In particular, in relation to a poll consequent on a parish or community meeting, where the votes are counted by sorting the ballot papers according to votes for or against the question and then counting the number of ballot papers in each category, the proposer of the resolution is entitled to satisfy himself that the ballot papers are correctly sorted: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 26(5).

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/E. COUNTING OF THE VOTES AT REFERENDUM OR POLL/653. The count at a referendum or poll.

653. The count at a referendum or poll.

The counting officer at a local authority referendum¹ and the returning officer at a poll consequent on a parish or community meeting² must, in the presence of the counting observers³, open each ballot box and count and record the number of ballot papers in it⁴ and verify each ballot paper account⁵. At a referendum, the counting officer must also count such of the postal ballot papers as have been duly returned and record the number counted⁶. The counting officer or the returning officer (as the case may be) must not count the votes given on any ballot papers until: (1) in the case of ballot papers from a ballot box, they have been mixed with the ballot papers from at least one other ballot box⁷; and (2) in the case of postal ballot papers, they have been mixed with the ballot papers from at least one ballot box⁸.

While counting and recording the number of ballot papers and counting the votes, the counting officer or the returning officer (as the case may be) must keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers printed on the back of the papers⁹; and he must not count any tendered ballot paper¹⁰. He must verify the ballot paper account by comparing each ballot paper account with the number of ballot papers recorded by him¹¹, and the unused and spoilt ballot papers¹² in his possession and the tendered votes list¹³ (opening and resealing the packets containing the unused and spoilt ballot papers and the tendered votes list)¹⁴. He must draw up a statement as to the result of the verification, which any counting observer present at the verification may copy¹⁵.

The counting officer or the returning officer (as the case may be) must, so far as practicable, proceed continuously with counting the votes, allowing only time for refreshment, except that he may¹⁶ exclude the hours between seven in the evening and nine on the following morning¹⁷. During the time so excluded, the counting officer or the returning officer (as the case may be) must take proper precautions for the security of the papers and documents¹⁸.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante; and for the meaning of 'counting officer' see PARA 591 note 2 ante.

2 As to how polls consequent on a parish or community meeting come about see PARA 586 ante; and as to returning officers appointed at polls consequent on a parish or community meeting see PARA 593 ante.

3 As to the appointment of counting observers at a referendum see PARA 619 ante.

4 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 39(1)(a) (Sch 2 r 39 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 27(1)(a). In relation to a local authority referendum at which voting is by post only (as to which see PARA 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 39 (as applied and modified) is further modified: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see PARA 557 ante.

5 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 39(1)(b) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(1)(a).

6 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 39(1)(c) (as applied and modified: see note 4 supra). For these purposes, a postal ballot paper is not taken to be duly returned unless it is returned to the counting officer by hand or by post or to a polling station by hand (Sch 2 r 39(3A) (added by SI 2001/81; and

as so applied and modified)) and unless it reaches the counting officer or a polling station in the voting area in question before the close of the poll and with the declaration of identity, duly signed and authenticated, also returned in like manner so that it reaches him or the polling station before that time (Sch 2 r 39(3) (substituted by SI 2001/81; and as so applied and modified)). For the meaning of 'voting area' see PARA 582 note 2 ante. As to the declaration of identity see PARA 632 ante. As to the means by which a postal voter may validly return a postal ballot paper or declaration of identity see further PARA 646 ante. There is no provision for absent voting at a poll consequent on a parish or community meeting and accordingly the provisions as to postal ballots do not apply in that case.

7 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 39(2)(b) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(1)(c). At a poll consequent on a parish or community meeting, where two such polls have been taken together, the returning officer must separate the ballot papers relating to each poll and count and record the number of ballot papers relating to each poll (Schedule r 27(1)(b)); and he must then mix together the whole of the ballot papers relating to the poll or each poll, as the case may be, which were contained in the ballot boxes (Schedule r 27(1)(c)). While separating the ballot papers, the returning officer must keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers printed on the back of the papers: Schedule r 27(3).

8 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 39(2)(a) (as applied and modified: see note 4 supra). There is no provision for absent voting at a poll consequent on a parish or community meeting (see note 6 supra) and accordingly the provision set out in head (2) in the text does not apply in that case.

9 Ibid Sch 2 r 39(5) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(3). As to the number which must be printed on the back of every ballot paper see PARA 612 ante.

10 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 39(4) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(2). As to tendered ballot papers see PARA 629 ante.

11 As to the returning officer's duty to record the number of ballot papers counted and verify the account see the text and notes 1-5 supra.

12 As to spoilt ballot papers see PARA 630 ante.

13 As to the tendered votes list see PARA 629 ante.

14 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 39(6) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(4).

15 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 39(6) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(4).

16 Ie, at a poll consequent on a parish or community meeting, in so far as he thinks necessary: see ibid Schedule r 27(5).

17 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 39(7) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(5).

18 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 39(8) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(6)(b). At a poll consequent on a parish or community meeting, during the time excluded as mentioned in the text, it is provided that the returning officer must place the ballot papers and other documents relating to the poll under his own seal: Schedule r 27(6)(a). However, this provision does not apply in the case of a referendum: see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 3 Table 3; and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 3 Table 3.

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/E. COUNTING OF THE VOTES AT REFERENDUM OR POLL/654. Rejected ballot papers at a referendum or poll.

654. Rejected ballot papers at a referendum or poll.

At a local authority referendum¹ or at a poll consequent on a parish or community meeting², any ballot paper: (1) which does not bear the official mark³; or (2) on which votes are given for more than one answer (at a referendum) or for and against the same question (at a poll)⁴; or (3) on which anything is written or marked by which the voter can be identified except the printed number on the back⁵; or (4) which is unmarked or void for uncertainty⁶, is void and not counted⁷. However, a ballot paper on which a vote is marked elsewhere than in the proper place⁸, or otherwise than by means of a cross⁹, or by more than one mark¹⁰, is not for such reason deemed to be void if an intention that a vote is for one only of the answers (at a referendum) or for and against any question (at a poll) clearly appears, and the way the paper is marked does not itself identify the voter and it is not shown that he can be identified by it¹¹.

The counting officer¹² at a local authority referendum or the returning officer at a poll consequent on a parish or community meeting¹³ (as the case may be) must endorse the word 'rejected' on any ballot paper which is not to be counted and must add to the endorsement the words 'rejection objected to' if an objection is made by a counting observer¹⁴ to his decision¹⁵. The counting officer or the returning officer (as the case may be) must draw up a statement showing the number of ballot papers rejected under the several heads of: (a) want of official mark¹⁶; (b) voting for more than one answer (at a referendum) or for and against the same question (at a poll)¹⁷; (c) writing or mark by which the voter could be identified¹⁸; (d) unmarked or void for uncertainty¹⁹.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 As to how polls consequent on a parish or community meeting come about see PARA 586 ante.

3 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 41(1)(a) (Sch 2 r 41 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 29(1)(a). As to the provisions that are so applied and modified see PARA 557 ante. As to the official mark used at a referendum or poll see PARA 612 ante.

4 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 41(1)(b) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(1)(b).

5 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 41(1)(c) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(1)(c). As to the printing of ballot papers see PARA 612 ante.

6 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 41(1)(d) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(1)(d).

7 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 41(1) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(1). At a poll consequent on a parish or community meeting, it is provided that, where the voter is entitled to vote on more than one question, a ballot paper is not to be deemed to be void for uncertainty as respects any vote as to which no uncertainty arises and that vote is to be counted: Schedule r 29(2). However, this provision does not apply in the case of a referendum: see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 3 Table 3; and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 3 Table 3.

8 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 41(3)(a) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(3)(a).

9 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 41(3)(b) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(3)(b).

10 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 41(3)(c) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(3)(c).

11 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 41(3) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(3).

12 For the meaning of 'counting officer' see PARA 591 note 2 ante.

13 As to returning officers at polls consequent on a parish or community meeting see PARA 593 ante.

14 As to the appointment of counting observers at a referendum see PARA 619 ante.

15 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 41(4) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(4)(a). At a poll consequent on a parish or community meeting, it is provided that, where a ballot paper is void in part but on which any vote is counted (see note 7 supra), the returning officer must endorse the words 'rejected in part' on the ballot paper and indicate which vote or votes have been counted: Schedule r 29(4)(b). However, this provision does not apply in the case of a referendum: see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 3 Table 3; and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 3 Table 3.

16 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 41(5)(a) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(5)(a).

17 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 41(5)(b) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(5)(b).

18 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 41(5)(c) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(5)(c).

19 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 41(5)(d) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(5)(d). In relation to a poll consequent on a parish or community meeting, it is provided that the statement referred to in the text must include the number of ballot papers rejected in part and must record that number: Schedule r 29(5). However, this provision does not apply in the case of a referendum: see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 3 Table 3; and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 3 Table 3.

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/E. COUNTING OF THE VOTES AT REFERENDUM OR POLL/655. Conclusiveness of decision as to ballot papers of counting officer at referendum and returning officer at poll.

655. Conclusiveness of decision as to ballot papers of counting officer at referendum and returning officer at poll.

The decision of the counting officer¹ at a local authority referendum² or the returning officer at a poll consequent on a parish or community meeting³ on any question arising in respect of a ballot paper is final, but is subject to review on a petition⁴.

1 For the meaning of 'counting officer' see PARA 591 note 2 ante.

2 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

3 As to returning officers at polls consequent on a parish or community meeting see PARA 593 ante.

4 Local Elections (Principal Areas) Rules 1986, r 5, SI 1986/2214, Sch 2 r 42 (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 30. As to the provisions that are so applied and modified see PARA 557 ante. As to the application of provisions relating to the questioning of parliamentary and local elections to referendums and polls see PARA 761 et seq post.

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/E. COUNTING OF THE VOTES AT REFERENDUM OR POLL/656. Recount at a referendum or poll.

656. Recount at a referendum or poll.

A petition organiser¹ may, if present when the counting or any recount of the votes at a referendum or poll is completed², require the counting officer³ at a local authority referendum or the returning officer at a poll consequent on a parish or community meeting⁴ (as the case may be) to have the votes recounted or again recounted, but the counting officer or the returning officer (as the case may be) may refuse to do so if in his opinion the request is unreasonable⁵. No step may be taken on the completion of the counting or any recount of votes until such petition organisers⁶ as are present at its completion have been given reasonable opportunity to exercise the right of demanding a recount⁷.

1 le at a local authority referendum. By analogy, it is submitted that the provision set out in the text applies equally to the proposer of the resolution in respect of which a poll consequent on a parish or community meeting is taken. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante; and for the meaning of 'petition organiser' for these purposes see PARA 619 note 4 ante. As to how polls consequent on a parish or community meeting come about see PARA 586 ante.

2 As to the count see PARA 652 et seq ante.

3 For the meaning of 'counting officer' see PARA 591 note 2 ante.

4 As to returning officers at polls consequent on a parish or community meeting see PARA 593 ante.

5 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 40(1) (Sch 2 r 40 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 28(1). As to the provisions that are so applied and modified see PARA 557 ante.

6 See note 1 supra.

7 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 40(2) (as applied and modified: see note 5 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 28(2).

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/E. COUNTING OF THE VOTES AT REFERENDUM OR POLL/657. Equality of votes at a referendum or poll.

657. Equality of votes at a referendum or poll.

Where, after the counting of the votes (including any recount) at a local authority referendum¹ is completed², an equality of 'yes' and 'no' votes is found, the counting officer³ must forthwith decide the referendum by lot⁴.

Where, after the counting of the votes (including any recount) at a poll consequent on a parish or community meeting⁵ is completed⁶, an equality of votes is found to exist for and against any question, and the addition of a vote would decide the question, the returning officer⁷ must forthwith decide that question by lot, and proceed as if the answer in favour of or against the question on which the lot falls had received an additional vote⁸.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 As to the counting of the votes (including any recount) at a local authority referendum see PARA 652 et seq ante.

3 For the meaning of 'counting officer' see PARA 591 note 2 ante.

4 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 43 (Sch 2 r 43 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see PARA 557 ante.

5 As to how polls consequent on a parish or community meeting come about see PARA 586 ante.

6 As to the counting of the votes (including any recount) at a poll consequent on a parish or community meeting see PARA 652 et seq ante.

7 As to returning officers at polls consequent on a parish or community meeting see PARA 593 ante.

8 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 31.

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/F. FINAL PROCEEDINGS FOR THE REFERENDUM OR POLL/(A) Following a Local Authority Referendum/658. Declaration of result at local authority referendum.

F. FINAL PROCEEDINGS FOR THE REFERENDUM OR POLL

(A) FOLLOWING A LOCAL AUTHORITY REFERENDUM

658. Declaration of result at local authority referendum.

The counting officer¹ at a local authority referendum² must forthwith: (1) declare the result of the referendum³; (2) inform the proper officer⁴ of the authority⁵ by or in respect of which the referendum was held of the result of the referendum⁶; and (3) give public notice⁷ of the result of the referendum⁸, the number of ballot papers counted⁹, the total number of votes cast for each answer¹⁰ and the number of rejected ballot papers under each head shown in the statement of rejected ballot papers¹¹.

1 For the meaning of 'counting officer' see PARA 591 note 2 ante.

2 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

3 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 44(a) (Sch 2 r 44 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see PARA 557 ante. Subject to the provisions relating to referendum petitions (as to which see PARA 761 et seq post): (1) if the majority of the votes cast in a referendum other than a further referendum are 'yes' votes, the result of the referendum is, for the purposes of the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 23 (as substituted) (action where referendum proposals approved: see PARA 659 post) and the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 23 (action where referendum proposals approved: see PARA 659 post) or, as the case may be, the comparable provisions of any other regulations or order made under any provision of the Local Government Act 2000 Pt II (ss 10-48) (as amended) (arrangements with respect to executives etc: see LOCAL GOVERNMENT vol 69 (2009) PARA 303 et seq), to approve the proposals that were the subject of the referendum (Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 18(1)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 14(1)); (2) if the majority of the votes cast in a referendum other than a further referendum are 'no' votes, the result of the referendum is, for the purposes of the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 24 (action where referendum proposals rejected: see PARA 660 post) and the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 24 (action where referendum proposals rejected: see PARA 660 post) or, as the case may be, the comparable provisions of any other regulations or order made under any provision of the Local Government Act 2000 Pt II (as amended), to reject the proposals that were the subject of the referendum (Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 18(2)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 14(2)); (3) if the majority of the votes cast in a further referendum are 'yes' votes, the result of the referendum is to approve the continuation of the local authority's existing executive arrangements (Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 18(3); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 14(3)); and (4) if the majority of the votes cast in a further referendum are 'no' votes, the result of the referendum is to reject the continuation of the local authority's existing executive arrangements (Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 18(4); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 14(4)). In relation to England, it is further specified: (a) under head (1) supra, that, if the majority of the votes cast in a referendum other than a further referendum are 'yes' votes, the result of the referendum is, for the purposes of the Local Government Act 2000 s 27(7) (authority's actions following approval of proposals requiring referendum: see LOCAL GOVERNMENT vol 69 (2009) PARA 314), to approve the authority's proposals under s 25 (see LOCAL GOVERNMENT vol 69 (2009) PARA 312) (Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 18(1)(a)); (b) under head (2) supra, that, if the majority of the votes cast in a referendum other than a further referendum are 'no' votes, the result of the referendum is, for the purposes of the Local Government Act 2000 s 27(8) (authority's

actions following rejection of proposals requiring referendum: see LOCAL GOVERNMENT vol 69 (2009) PARA 314), to reject the authority's proposals under s 25 (Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 18(2)(a)); (c) under head (3) supra, that the result of the referendum is to approve the continuation of the authority's existing executive arrangements or, as the case may be, existing alternative arrangements (reg 18(3)); and (d) under head (4) supra, that the result of the referendum is to reject the continuation of the authority's existing executive arrangements or, as the case may be, existing alternative arrangements (reg 18(4)). In a case to which reg 18(4) applies (see heads (4) and (d) supra), the Local Government Act 2000 s 27(8)-(12) (drawing up of detailed fall-back proposals: see LOCAL GOVERNMENT vol 69 (2009) PARA 315) then applies as if the result of the further referendum were the rejection of the authority's proposals under s 25, but subject to modifications affecting references to the outline fall-back proposals: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 18(5). For the meaning of 'further referendum' for these purposes see PARA 576 note 2 ante. For the meaning of 'existing executive arrangements' see PARA 563 note 10 ante. As to alternative arrangements see LOCAL GOVERNMENT vol 69 (2009) PARA 364 et seq.

4 For the meaning of 'proper officer' see PARA 155 note 2 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1); and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 2(1)).

5 For the meaning of 'authority' see PARA 561 note 1 ante.

6 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 44(b) (as applied and modified: see note 3 supra).

7 As to the giving of notice by the counting officer see PARA 591 note 2 ante.

8 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 44(c)(i) (as applied and modified: see note 3 supra).

9 Ibid Sch 2 r 44(c)(ii) (as applied and modified: see note 3 supra). As to the counting of the votes (including any recount) at a local authority referendum see PARA 652 et seq ante.

10 Ibid Sch 2 r 44(c)(iii) (as applied and modified: see note 3 supra).

11 Ibid Sch 2 r 44(c)(iv) (as applied and modified: see note 3 supra). As to the statement of rejected ballot papers see PARA 654 ante.

UPDATE

597-658 Application for absent vote at referendums for a particular period or for an indefinite period ... Declaration of result at local authority referendum

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/F. FINAL PROCEEDINGS FOR THE REFERENDUM OR POLL/(A) Following a Local Authority Referendum/659. Action to be taken where proposals at local authority referendum are approved.

659. Action to be taken where proposals at local authority referendum are approved.

If the result of a referendum held following a petition¹ or in pursuance of a direction² is to approve the proposals that were the subject of the referendum, the authority³ must implement the proposals that were the subject of the referendum in accordance with the timetable included in the proposals⁴.

Where the authority is then operating executive arrangements that take a form that differs from those that were the subject of the referendum, the authority is required to pass a resolution⁵ for the purpose of enabling the authority to operate the executive arrangements that were the subject of the referendum⁶.

1 Ie, in relation to England, under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt II (regs 3-17) (as amended) and, in relation to Wales, under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt II (regs 3-17) (as amended) (see PARA 561 et seq ante).

2 Ie, in relation to England, under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt III (regs 18-22) (as amended) or under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt III (regs 18-22) (as amended) (see PARA 572 et seq ante).

3 For the meaning of 'authority' see PARA 561 note 1 ante.

4 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 23(a) (reg 23 substituted by SI 2001/760); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 23(a). The text refers to the timetable included in the proposals that are drawn up, in relation to England, under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(3) (see PARA 570 ante) or, as the case may be, reg 19(1)(c) (see PARA 573 ante) and, in relation to Wales, under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(3) (see PARA 570 ante) or, as the case may be, reg 19(1)(c) (see PARA 573 ante).

5 Ie the Local Government Act 2000 s 29 (see LOCAL GOVERNMENT vol 69 (2009) PARA 309) applies as it applies for the purpose of enabling an authority to operate executive arrangements in other circumstances as if, for references to the arrangements, there were substituted references to the different executive arrangements that were the subject of the referendum: see, in relation to England, the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 23(b) (as substituted: see note 4 supra); and, in relation to Wales, the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 23(b).

6 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 23(b) (as substituted: see note 4 supra); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 23(b).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/F. FINAL PROCEEDINGS FOR THE REFERENDUM OR POLL/(A) Following a Local Authority Referendum/660. Action where proposals at local authority referendum are rejected.

660. Action where proposals at local authority referendum are rejected.

If the result of a referendum held following a petition¹ or in pursuance of a direction² is to reject the proposals that were the subject of the referendum³: (1) the authority⁴ may not implement those proposals⁵; and (2) if the authority is not then operating alternative arrangements or executive arrangements⁶, it must draw up detailed fall-back proposals which are based on its outline fall-back proposals⁷. Detailed fall-back proposals must comprise the details (if any) specified in a direction⁸ and such other details of the executive arrangements or alternative arrangements to which they relate as the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) may direct⁹ as well as details of any transitional arrangements which are necessary for the implementation of the fall-back proposals¹⁰. In drawing up detailed fall-back proposals, the authority must comply with any directions given by the Secretary of State (in relation to England) or by the National Assembly for Wales (in relation to Wales)¹¹; and, where those proposals involve executive arrangements, the authority must, unless a direction has been given in relation to that matter, decide the extent to which the specified functions¹² are to be the responsibility of the executive¹³. Except to the extent that detailed fall-back proposals involving executive arrangements or alternative arrangements are specified in a direction¹⁴, the authority must: (a) before drawing up proposals in accordance with head (2) above, take reasonable steps to consult the local government electors¹⁵ for, and other interested persons in, the authority's area¹⁶; and (b) in drawing up those proposals, consider the extent to which the proposals, if implemented, are likely to assist in securing continuous improvement in the way in which the authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness¹⁷. Where detailed fall-back proposals are drawn up in accordance with head (2) above, the authority must send a copy of them to the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales)¹⁸.

If, when the referendum results in a rejection of the proposals that were the subject of the referendum, the authority is then operating executive arrangements, it must continue to operate those arrangements until it is authorised or required to operate different executive arrangements or authorised to operate alternative arrangements in place of its existing executive arrangements¹⁹; and, if the authority is then operating alternative arrangements, it must continue to operate those arrangements until it is authorised to operate different alternative arrangements or authorised or required to operate executive arrangements in place of its existing alternative arrangements²⁰.

The authority must implement detailed fall-back proposals in accordance with the timetable²¹.

¹ I.e., in relation to England, under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt II (regs 3-17) (as amended) and, in relation to Wales, under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt II (regs 3-17) (as amended) (see PARA 561 et seq ante).

² I.e., in relation to England, under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt III (regs 18-22) (as amended) or under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt III (regs 18-22) (as amended) (see PARA 572 et seq ante).

3 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 24(1); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 24(1).

4 For the meaning of 'authority' see PARA 561 note 1 ante.

5 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 24(1)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 24(1)(a).

6 As to the operation of executive arrangements see LOCAL GOVERNMENT vol 69 (2009) PARA 303 et seq; and as to the operation of alternative arrangements see LOCAL GOVERNMENT vol 69 (2009) PARA 364 et seq.

7 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 24(1)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 24(1)(b). For the meaning of 'outline fall-back proposals' see PARA 570 note 9 ante.

8 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 24(2)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 24(2)(a). The text refers to the details (if any) specified in a direction, in relation to England, under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(1) (see PARA 572 ante) and, in relation to Wales, under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(1) (see PARA 572 ante).

9 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 24(2)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 24(2)(b).

10 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 24(2)(c); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 24(2)(c).

11 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 24(3)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 24(3)(a).

12 Ie the functions specified in regulations under the Local Government Act 2000 s 13(3)(b) (see LOCAL GOVERNMENT vol 69 (2009) PARA 324).

13 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 24(3)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 24(3)(b).

14 Ie specified in a direction, in relation to England, under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(1) (see PARA 572 ante) and, in relation to Wales, under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(1) (see PARA 572 ante).

15 As to entitlement to vote as a local government elector see PARA 112 et seq ante. For the meaning of 'local government election' see PARA 10 ante; and for the meaning of 'elector' see PARA 110 note 2 ante.

16 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 24(4)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 24(4)(a).

17 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 24(4)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 24(4)(b).

18 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 24(5); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 24(5).

19 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 24(1)(c) (reg 24(1)(c), (d) substituted by SI 2001/760); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 24(1)(c).

20 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 24(1)(d) (as substituted: see note 19 *supra*); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 24(1)(d).

21 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 24(6); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 24(6). The text refers to the timetable included in the proposals, in relation to England, pursuant to the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(7)(a)(ii) (see PARA 570 *ante*) or, as the case may be, reg 20(3)(a)(iii) (see PARA 573 *ante*) and, in relation to Wales, pursuant to the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(7)(a)(ii) (see PARA 570 *ante*) or, as the case may be, reg 20(3)(a)(iii) (see PARA 573 *ante*). Where detailed fall-back proposals are based on proposals approved under the Local Government Act 2000 s 28(1) (approval of outline fall-back proposals: see LOCAL GOVERNMENT vol 69 (2009) PARA 315), the timetable referred to in the text must be extended to the extent that there is any delay in making the necessary regulations under s 11(5) (forms of local authority executive: see LOCAL GOVERNMENT vol 69 (2009) PARA 327) or, as the case may be, under s 32 (alternative arrangements: see LOCAL GOVERNMENT vol 69 (2009) PARA 364).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/F. FINAL PROCEEDINGS FOR THE REFERENDUM OR POLL/(B) Following a Poll consequent on a Parish or Community Meeting/661. Declaration of result of poll consequent on a parish or community meeting.

(B) FOLLOWING A POLL CONSEQUENT ON A PARISH OR COMMUNITY MEETING

661. Declaration of result of poll consequent on a parish or community meeting.

At a poll consequent on a parish or community meeting on any question other than a question of appointment to any office¹, when the result of the poll has been ascertained², the returning officer³ must forthwith: (1) declare the number of votes given for and against the question and whether the proposal to which the question relates has been carried or not⁵; (2) give notice⁵ of the result of the poll to the chairman of the meeting at which the poll was demanded⁶; and (3) give notice of the declaration as to the number of votes under head (1) above, together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers⁷.

1 As to how polls consequent on a parish or community meeting come about see PARA 586 ante.

2 As to the counting of the votes (including any recount) at a poll consequent on a parish or community meeting see PARA 652 et seq ante.

3 As to returning officers at polls consequent on a parish or community meeting see PARA 593 ante.

4 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 32(b)(i).

5 As to the giving of notice by the returning officer at a poll consequent on a parish or community meeting see PARA 593 ante.

6 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 32(b)(ii). As to the constitution of, and procedure at, parish and community meetings see LOCAL GOVERNMENT vol 69 (2009) PARA 635 et seq.

7 Ibid Schedule r 32(b)(iii). As to the statement of rejected ballot papers see PARA 654 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/G. DISPOSAL OF DOCUMENTS FOLLOWING REFERENDUM OR POLL/662. Sealing up of ballot papers at a referendum or poll.

G. DISPOSAL OF DOCUMENTS FOLLOWING REFERENDUM OR POLL

662. Sealing up of ballot papers at a referendum or poll.

At a local authority referendum¹ or at a poll consequent on a parish or community meeting², on the completion of the counting³, the counting officer⁴ (at a referendum) and the returning officer (at a poll)⁵ must seal up in separate packets the counted and rejected ballot papers⁶. The sealed packets of tendered ballot papers⁷ or of counterfoils⁸ or of marked copies of the register of electors⁹ must not be opened by the returning officer or the counting officer (as the case may be)¹⁰.

Special provision is made for the sealing of the contents of receptacles used for the purposes of postal voting at a local authority referendum¹¹.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 As to how polls consequent on a parish or community meeting come about see PARA 586 ante.

3 As to the counting of the votes (including any recount) at a local authority referendum or poll consequent on a parish or community meeting see PARA 652 et seq ante.

4 For the meaning of 'counting officer' see PARA 591 note 2 ante.

5 As to returning officers at polls consequent on a parish or community meeting see PARA 593 ante.

6 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 45(1) (Sch 2 r 45 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 33(1). As to the provisions that are so applied and modified see PARA 557 ante. As to rejected ballot papers see PARA 654 ante. In the case of a poll consequent on a parish or community meeting, the packet of rejected ballot papers must include those rejected in part also: Schedule r 33(1). However, this provision does not apply in the case of a referendum: see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 3 Table 3; and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 3 Table 3.

7 As to tendered ballot papers see PARA 629 ante.

8 And, in the case of a local authority referendum, certificates of employment on duty on the day of the poll (as to which see PARA 623 ante): Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 45(2) (as applied and modified: see note 6 supra). There is no provision for certificates as to employment on duty at a poll consequent on a parish or community meeting and accordingly the reference to such certificates does not apply in that case: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 33(2).

9 And, in the case of a local authority referendum, lists of proxies: Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 45(2) (as applied and modified: see note 6 supra). As to the list of proxies see PARA 601 ante; and as to the procedure for marking copies of voter records see PARA 625 ante. There is no provision for voting by proxy at a poll consequent on a parish or community meeting and accordingly the reference to the list of proxies is omitted in that case: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 33(2).

10 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 45(2) (as applied and modified: see note 6 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 33(2).

11 See PARA 651 ante.

UPDATE

662-667 Sealing up of ballot papers at a referendum or poll ... Evaluation by the Electoral Commission of pilot schemes relating to voting and campaigning at local authority referendums

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/G. DISPOSAL OF DOCUMENTS FOLLOWING REFERENDUM OR POLL/663. Delivery of documents relating to a referendum or poll.

663. Delivery of documents relating to a referendum or poll.

The counting officer at a local authority referendum¹ and the returning officer at a poll consequent on a parish or community meeting², must, after sealing up the ballot papers³, forward to the proper officer of the council⁴ for which the referendum or poll (as the case may be) is held⁵: (1) the packets of ballot papers in his possession⁶; (2) the ballot paper accounts⁷, and the statements of rejected ballot papers⁸ and of the result of the verification of the ballot paper accounts⁹; (3) the tendered votes lists¹⁰, the lists of voters with disabilities assisted by companions¹¹, the lists of votes marked by the presiding officers and the statements relating to them¹², and the declarations made by the companions of voters with disabilities¹³; (4) the packets of counterfoils¹⁴; and (5) the packets containing marked copies of the registers of electors¹⁵, endorsing on each packet a description of its contents, and the name of the voting area¹⁶ (in the case of a referendum) or the name of the parish or community for which the poll was held and the date of the poll to which the documents relate (in the case of a poll)¹⁷.

¹ For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante; and for the meaning of 'counting officer' see PARA 591 note 2 ante.

² As to how polls consequent on a parish or community meeting come about see PARA 586 ante; and as to returning officers appointed at polls consequent on a parish or community meeting see PARA 593 ante.

³ As to the sealing up of ballot papers at a referendum or poll see PARA 662 ante.

⁴ I.e., in the case of a local authority referendum, the proper officer of the county, district or London borough council in England or county or county borough council in Wales for which the referendum is held (Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 46(1) (Sch 2 r 46 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870)) and, in relation to a poll consequent on a parish or community meeting, the proper officer of the council of the district in England in which the parish is situate or, by virtue of the Local Government (Wales) Act 1994 s 17, the county or county borough in Wales in which the community is situate (Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 34). As to the provisions that are so applied and modified see PARA 557 ante. For the meaning of 'proper officer' see PARA 155 note 2 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1); and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 2(1)). For the purposes of a poll consequent on a parish meeting, any reference to a proper officer of a council means any officer appointed for the purpose by that council: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 38(3). For the meanings of 'England' and 'Wales' see PARA 13 note 1 ante. As to counties and districts in England, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 24 et seq; and as to parishes generally see LOCAL GOVERNMENT vol 69 (2009) PARA 27 et seq. As to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq; and as to communities generally see LOCAL GOVERNMENT vol 69 (2009) PARA 41 et seq.

⁵ Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 46(1) (amended by SI 1990/158; SI 2001/81; and applied and modified (see note 4 supra)); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 34. In relation to a local authority referendum at which voting is by post only (as to which see PARA 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 46 (as amended, applied and modified) is further modified: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4.

⁶ Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 46(1)(a) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 34(a).

- 7 As to the ballot paper accounts see PARA 653 et seq ante.
- 8 As to the statement of rejected ballot papers see PARA 654 ante.
- 9 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 46(1)(b) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 34(b).
- 10 As to the tendered votes list see PARA 629 ante.
- 11 As to the list of voters with disabilities assisted by companions see PARA 628 ante.
- 12 As to the list of votes marked by the presiding officer see PARA 627 ante.
- 13 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 46(1)(c) (amended by SI 2001/80; and applied and modified (see note 4 supra)); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 34(c). As to declarations made by the companions of voters with disabilities see PARA 628 ante. In relation to a poll consequent on a parish meeting on a question involving appointment to office, the provision set out in the text applies only to voters with blindness and all references to other disabilities must be ignored in that case: see Schedule r 34(c).
- 14 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 46(1)(d) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 34(d). In the case of a local authority referendum, the certificates as to employment on duty on the day of the poll (as to which see PARA 623 ante) must also be forwarded with the packets of counterfoils: Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 46(1)(d) (as so applied and modified). There is no provision for certificates as to employment on duty at a poll consequent on a parish meeting on a question involving appointment to office and accordingly the reference to such certificates is omitted in that case: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 34(d).
- 15 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 46(1)(e) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 34(e). In the case of a local authority referendum, the marked lists of proxies must also be forwarded with the marked copies of the registers of electors: Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 46(1)(e) (as so applied and modified). As to the list of proxies see PARA 601 ante; and as to the procedure for marking copies of voter records see PARA 625 ante. There is no provision for voting by proxy at a poll consequent on a parish or community meeting and accordingly the reference to the list of proxies is omitted in that case: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 34(e).
- 16 For the meaning of 'voting area' see PARA 582 note 2 ante.
- 17 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 46(1) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 34.

UPDATE

662-667 Sealing up of ballot papers at a referendum or poll ... Evaluation by the Electoral Commission of pilot schemes relating to voting and campaigning at local authority referendums

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/G. DISPOSAL OF DOCUMENTS FOLLOWING REFERENDUM OR POLL/664. Forwarding of documents after postal voting at a local authority referendum.

664. Forwarding of documents after postal voting at a local authority referendum.

The counting officer¹ at a local authority referendum² must, after sealing up the postal ballot papers³, forward to the proper officer of the local authority for which the referendum was held⁴ certain packets⁵ containing documents relating to postal voting⁶. He must endorse on each packet a description of its contents, the date of the referendum to which it relates, and the name of the voting area⁷ for which the referendum was held⁸.

Where any covering envelopes⁹ are received by the counting officer after the close of the poll¹⁰ or where any envelopes addressed to postal voters¹¹ are returned as undelivered too late to be re-addressed, or where any spoilt postal ballot papers¹² are returned too late to enable other postal ballot papers to be issued, the counting officer must put them unopened into a separate packet, seal up the packet and endorse and forward it at a subsequent date in the same manner as the postal voting packets previously forwarded¹³.

Any packet so forwarded is deemed to have been forwarded in pursuance of the referendum rules¹⁴ and is subject to the usual provisions which govern orders for the production of referendum documents and the retention and public inspection of referendum documents¹⁵.

1 For the meaning of 'counting officer' see PARA 591 note 2 ante.

2 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

3 As to the sealing up of postal ballot papers at a referendum see PARA 651 ante.

4 For the meaning of 'proper officer' see PARA 155 note 2 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1); and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 2(1)).

5 The packets referred to in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 75 (as amended, applied and modified) (counterfoils and special lists: see PARA 639 ante), reg 77(6) (as applied and modified) (spoilt postal ballot papers: see PARA 641 ante), reg 78(2C) (as added, applied and modified) (cancelled postal ballot papers: see PARA 642 ante) and reg 89 (as applied and modified) (contents of receptacles: see PARA 651 ante). As to the provisions that are so applied and modified see PARA 557 ante.

6 Ibid reg 91(1)(a), (2) (reg 91(1)(a) amended by SI 2006/752; and the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see PARA 557 ante.

7 For the meaning of 'voting area' see PARA 582 note 2 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91(1)(a) (as amended, applied and modified: see note 6 supra).

9 For the meaning of 'covering envelope' see PARA 416 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch

3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

10 le apart from those delivered by the presiding officer in accordance with the provisions of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 79(3) (as amended, applied and modified) (see PARA 646 ante).

11 For the meaning of 'postal voter' see PARA 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

12 As to spoilt postal ballot papers see PARA 641 ante.

13 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91(3) (as applied and modified: see note 6 supra).

14 le, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8(1)(k), in relation to England, and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8(1)(k), in relation to Wales, the Local Elections (Principal Areas) Rules 1986, SI 1986/2214 (as amended, applied and modified).

15 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91(4) (as applied and modified: see note 6 supra). The text refers to the provisions set out in the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 47 (as applied and modified) (see PARA 849 post) and in Sch 2 r 48 (as applied and modified) (see PARA 665 post).

UPDATE

662-667 Sealing up of ballot papers at a referendum or poll ... Evaluation by the Electoral Commission of pilot schemes relating to voting and campaigning at local authority referendums

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/G. DISPOSAL OF DOCUMENTS FOLLOWING REFERENDUM OR POLL/665. Retention and public inspection of documents relating to a referendum or poll.

665. Retention and public inspection of documents relating to a referendum or poll.

Following a local authority referendum¹ or a poll consequent on a parish or community meeting², the proper officer of the council³ must retain for six months among the records of the council all documents relating to a referendum or poll (as the case may be) which are forwarded to him by a counting officer⁴ (at a referendum) or the returning officer (at a poll)⁵, and then, unless otherwise directed by an order of the county court or election court⁶, must cause them to be destroyed⁷. The documents forwarded to the proper officer (except ballot papers and counterfoils⁸) must be open to public inspection at such time and in such manner as may be determined by the council of which he is an officer⁹. On request, the proper officer must supply copies of or extracts from the documents open to public inspection on payment of such fees, and subject to such conditions, as may be determined by the council of which he is an officer¹⁰.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 As to how polls consequent on a parish or community meeting come about see PARA 586 ante.

3 I.e., in the case of a local authority referendum, the proper officer of the county, district or London borough council in England or county or county borough council in Wales for which the referendum is held (Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 48(1) (Sch 2 r 48 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870)) and, in relation to a poll consequent on a parish or community meeting, the proper officer of the council of the district in which the parish is situate or, by virtue of the Local Government (Wales) Act 1994 s 17, the county or county borough in Wales in which the community is situate (Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 36(1)). As to the provisions that are so applied and modified see PARA 557 ante. For the meaning of 'proper officer' see PARA 155 note 2 ante (definition applied, in relation to a local authority referendum held in England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1); and, in relation to a local authority referendum held in Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 2(1)). For the purposes of a poll consequent on a parish meeting, any reference to a proper officer of a council means any officer appointed for the purpose by that council: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 38(3). For the meanings of 'England' and 'Wales' see PARA 13 note 1 ante. As to counties and districts in England, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 24 et seq; and as to parishes generally see LOCAL GOVERNMENT vol 69 (2009) PARA 27 et seq. As to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq; and as to communities generally see LOCAL GOVERNMENT vol 69 (2009) PARA 41 et seq.

4 For the meaning of 'counting officer' see PARA 591 note 2 ante.

5 As to returning officers at polls consequent on a parish or community meeting see PARA 593 ante.

6 As to the production and inspection of documents by order of the court see PARA 849 post.

7 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 48(1) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 36(1). As to offences which relate to persons who interfere with access to or the control of referendum documents see PARA 748 post. In relation to a local authority referendum at which voting is by post only (as to which see PARA 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 48 (as applied and modified) is further modified: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4.

8 And, in relation to a local authority referendum, certificates as to employment on duty on the day of the poll (as to which see PARA 623 ante): Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 48(2) (as applied and modified: see note 3 supra). There is no provision for certificates as to employment on duty on the day of the poll at a poll consequent on a parish or community meeting and accordingly this provision does not apply in such a case: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 36(2).

9 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 48(2) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 36(2).

10 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 48(3) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 36(3).

UPDATE

662-667 Sealing up of ballot papers at a referendum or poll ... Evaluation by the Electoral Commission of pilot schemes relating to voting and campaigning at local authority referendums

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/H. PILOT SCHEMES REGARDING VOTING AND CAMPAIGNING AT LOCAL AUTHORITY REFERENDUMS/666. Pilot schemes submitted by principal councils regarding the conduct of a local authority referendum.

H. PILOT SCHEMES REGARDING VOTING AND CAMPAIGNING AT LOCAL AUTHORITY REFERENDUMS

666. Pilot schemes submitted by principal councils regarding the conduct of a local authority referendum.

Where a relevant local authority¹ submits to the Secretary of State² proposals for a pilot scheme to apply to particular local authority referendums³ held in the authority's area⁴ and those proposals are approved by the Secretary of State, either without modification or with such modifications as, after consulting the authority, he considers appropriate⁵, the Secretary of State must by order⁶ make such provision for and in connection with the implementation of the scheme in relation to those referendums as he considers appropriate (which may include provision modifying or disapplying any enactment)⁷. Such a scheme may make, in relation to local authority referendums in the area of a relevant local authority, provision differing in any respect from that made under or by virtue of the Local Government Act 2000⁸ as regards one or more of the following, namely: (1) when, where and how voting at the referendums is to take place⁹; (2) how the votes cast at the referendums are to be counted¹⁰; (3) the sending by any campaign organiser¹¹ of referendum communications free of charge for postage¹². Without prejudice to the generality of these provisions, such a scheme may make provision: (a) for voting to take place on more than one day (whether each of those days is designated as a day of the poll or otherwise) and at places other than polling stations¹³; or (b) for postal charges incurred in respect of the sending of campaign organisers' referendum communications as mentioned in head (3) above to be paid by the authority concerned¹⁴.

1 For these purposes, 'relevant local authority' means, as respects England, a county council, a district council or a London borough council and, as respects Wales, a county council or a county borough council: Representation of the People Act 2000 s 10(11) (s 10 applied and modified, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1). As to counties and districts in England, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 24 et seq; as to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 69 (2009) PARA 37 et seq; as to London boroughs, and their councils, see LONDON GOVERNMENT vol 29(2) (Reissue) PARAS 30, 35-39, 59 et seq; and as to the Greater London Authority see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 79 et seq. A county council, a district council or a London borough council in England and a county council or a county borough council in Wales is referred to as a 'principal council': see LOCAL GOVERNMENT vol 69 (2009) PARA 23.

2 As to the Secretary of State see PARA 2 ante.

3 Ie including any such proposals which are submitted by a relevant local authority jointly with the Electoral Commission, in which case references to the authority must be read as references to the authority and the Commission: Representation of the People Act 2000 s 10(1A) (added by the Political Parties, Elections and Referendums Act 2000 s 158(1), Sch 21 para 16(1), (2); and applied and modified (see note 1 supra)). As to the Electoral Commission see PARA 31 et seq ante. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

4 Representation of the People Act 2000 s 10(1)(a) (as applied and modified: see note 1 supra).

5 Ibid s 10(1)(b) (as applied and modified: see note 1 supra).

6 Where the Secretary of State makes any such order he must send a copy of the order to the authority concerned and to the Electoral Commission, and that authority must publish the order in its area in such manner as it thinks fit: *ibid* s 10(5) (amended by the Political Parties, Elections and Referendums Act 2000 Sch 21 para 16(1), (3); and applied and modified (see note 1 *supra*)). In a case where any proposals are not jointly submitted under the Representation of the People Act 2000 s 10(1A) (as added, applied and modified) (see note 3 *supra*), the Secretary of State must consult the Electoral Commission before making any such order: s 10(1A) (as added, applied and modified: see notes 1, 3 *supra*).

7 *Ibid* s 10(1) (as applied and modified: see note 1 *supra*).

8 As to schemes for the conduct of referendums under or by virtue of the Local Government Act 2000 see PARA 557 *et seq ante*.

9 Representation of the People Act 2000 s 10(2)(a) (as applied and modified: see note 1 *supra*).

10 *Ibid* s 10(2)(b) (as applied and modified: see note 1 *supra*).

11 *Ie* within the meaning of, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, regs 6-7 (see PARA 579 note 13 *ante*) or, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, regs 6-7 (see PARA 579 note 13 *ante*).

12 Representation of the People Act 2000 s 10(2)(c) (as applied and modified: see note 1 *supra*).

13 *Ibid* s 10(3)(a) (as applied and modified: see note 1 *supra*).

14 *Ibid* s 10(3)(b) (as applied and modified: see note 1 *supra*). Where a scheme makes provision for postal charges incurred in respect of the sending of campaign organisers' referendum communications to be paid as is mentioned in head (b) in the text, the Secretary of State's order under s 10(1) (as applied and modified) (see the text and notes 1-7 *supra*) may make provision for disapplying, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, regs 6-7 (general restriction on referendum expenses and notional referendum expenses: see PARAS 579-580 *ante*) and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, regs 6-7 (general restriction on referendum expenses and notional referendum expenses: see PARAS 579-580 *ante*) in relation to the payment of such charges by the authority: Representation of the People Act 2000 s 10(3) (as so applied and modified).

UPDATE

662-667 Sealing up of ballot papers at a referendum or poll ... Evaluation by the Electoral Commission of pilot schemes relating to voting and campaigning at local authority referendums

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/6. PROCEDURE FOR CONDUCTING REFERENDUMS/(2) LOCAL REFERENDUMS/(iii) The Referendum/H. PILOT SCHEMES REGARDING VOTING AND CAMPAIGNING AT LOCAL AUTHORITY REFERENDUMS/667. Evaluation by the Electoral Commission of pilot schemes relating to voting and campaigning at local authority referendums.

667. Evaluation by the Electoral Commission of pilot schemes relating to voting and campaigning at local authority referendums.

Once any local authority referendums¹ have taken place in relation to which a pilot scheme order applied², the Electoral Commission³ must prepare a report on the scheme⁴. Such a report must be prepared in consultation with the local authority concerned⁵; and that authority must provide the Commission with such assistance as it may reasonably require in connection with the preparation of the report (and such assistance may, in particular, include the making by the authority of arrangements for ascertaining the views of voters about the operation of the scheme)⁶. The report must, in particular, contain⁷: (1) a description of the scheme and of the respects in which the provision made by it differed from that made by or under the Local Government Act 2000⁸; (2) a copy of the order of the Secretary of State⁹; and (3) an assessment of the scheme's success or otherwise in facilitating voting at the referendums in question¹⁰ and, if it made provision as respects the counting of votes cast at those referendums, the counting of votes, or in encouraging voting at the referendums in question or enabling voters to make informed decisions at those referendums¹¹. If the Secretary of State so requests in writing, the report must also contain an assessment of such other matters relating to the scheme as are specified in his request¹². Once the Commission has prepared the report, it must send a copy of it to the Secretary of State and to the authority concerned, and that authority must publish the report in its area, in such manner as it thinks fit, by the end of the period of three months beginning with the date of the declaration of the result of the referendums in question¹³.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 In relation to which a scheme under the Representation of the People Act 2000 s 10(1) (as applied and modified) applied (see PARA 666 ante).

3 As to the Electoral Commission see PARA 31 et seq ante.

4 Representation of the People Act 2000 s 10(6) (amended by the Political Parties, Elections and Referendums Act 2000 Sch 21 para 16(1), (4); and the Representation of the People Act 2000 s 10 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1).

5 As to the local authorities which may propose such a scheme see PARA 666 note 1 ante.

6 Representation of the People Act 2000 s 10(6A) (added by the Political Parties, Elections and Referendums Act 2000 Sch 21 para 16(1), (5); and applied and modified (see note 4 supra)).

7 Representation of the People Act 2000 s 10(7) (amended by the Political Parties, Elections and Referendums Act 2000 Sch 21 para 16(1), (6); and applied and modified (see note 4 supra)).

8 Representation of the People Act 2000 s 10(7)(a) (as applied and modified: see note 4 supra). As to schemes for the conduct of referendums under or by virtue of the Local Government Act 2000 see PARA 557 et seq ante.

9 Representation of the People Act 2000 s 10(7)(b) (as applied and modified: see note 4 supra). The text refers to the pilot scheme order made under s 10(1) (as applied and modified) (see PARA 666 ante). As to the Secretary of State see PARA 2 ante.

10 An assessment of the scheme's success or otherwise in facilitating voting at the referendums in question must include a statement by the authority concerned as to whether, in its opinion: (1) the turnout of voters was higher than it would have been if the scheme had not applied (ibid s 10(8)(a) (as applied and modified: see note 4 supra)); (2) voters found the procedures provided for their assistance by the scheme easy to use (s 10(8)(b) (as so applied and modified)); (3) the procedures provided for by the scheme led to any increase in personation or other electoral offences or in any other malpractice in connection with referendums (s 10(8)(c) (as so applied and modified)); (4) those procedures led to any increase in expenditure, or to any savings, by the authority (s 10(8)(d) (as so applied and modified)).

11 Ibid s 10(7)(c) (as applied and modified: see note 4 supra).

12 Ibid s 10(9) (as applied and modified: see note 4 supra).

13 Ibid s 10(10) (substituted by the Political Parties, Elections and Referendums Act 2000 Sch 21 para 16(1), (7); and applied and modified (see note 4 supra)). As to the declaration of results at a local authority referendum see PARA 658 ante.

UPDATE

662-667 Sealing up of ballot papers at a referendum or poll ... Evaluation by the Electoral Commission of pilot schemes relating to voting and campaigning at local authority referendums

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(1) INJUNCTIONS AND ORDERS/668. Jurisdiction of court to grant injunction or order.

7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS

(1) INJUNCTIONS AND ORDERS

668. Jurisdiction of court to grant injunction or order.

The High Court has a general jurisdiction to grant an injunction in all cases in which it appears to the court to be just and convenient to do so; and any such order may be made unconditionally or upon such terms and conditions as the court thinks just¹. However, this general power has been exercised rarely when called upon in cases relating to elections. For instance, the court has refused to grant injunctive relief where the administrative authority of a political party has intervened by the deselection of candidates and the imposition of new candidates at an election²; and the court declined to grant an injunction where a candidate broke his agreement with the other candidate not to use polling agents at the election³.

Although jurisdiction is conferred on the High Court to make orders before an election in restraint of false statements made in relation to a candidate⁴, the guiding principle otherwise is that the court should be extremely slow to intervene in the machinery of an election before it has taken place, and should do so only in exceptional circumstances⁵. Nevertheless, where a candidate was alleged to be telling untruths about himself in nomination papers so that he was

in breach of the Representation of the People Act 1983⁶, it was held that the court had jurisdiction to entertain proceedings for an injunction to restrain the breach⁷.

1 See the Supreme Court Act 1981 s 37(1), (2); and CIVIL PROCEDURE vol 11 (2009) PARA 347.

2 *Choudhry v Triesman* [2003] EWHC 1203 (Ch), [2003] 22 LS Gaz R 29, (2003) Times, 2 May (candidates replaced after internal investigation by the Labour Party concluded that the selection procedures in the claimants' wards were 'unsound'; on the facts, the candidates failed to obtain injunctive relief in the form of a mandatory injunction and declaratory relief to the effect that their selections be allowed to stand and to ensure that their names were presented to the returning officer). It is possible that an injunction may be granted restraining a candidate who has not been regularly adopted by a local political association as its official candidate from acting as though he had been officially adopted and campaigning on that basis as the official candidate: see *Noonan v De Pinna* (1953) Times, 18 November, where the judge, after deciding that the meeting at which the candidate had been adopted had been irregularly convened, said that the question whether an injunction should be granted was one of convenience and decided not to grant an injunction.

3 See *Ainsworth v Lord Muncaster* (1885) 2 TLR 108, in which Cave J stated that an injunction ought to be refused if only because the public had an interest in the proper conduct of elections. As to how far the public interest in the conduct of elections allows the court to intervene by way of injunction or order under general powers where allegedly-fraudulent devices are used see the text and notes 6-7 infra; and PARA 726 post.

4 See PARA 669 post.

5 *R (on the application of Begum) v Tower Hamlets London Borough Council* [2006] EWCA Civ 733, [2006] LGR 674; revsg [2006] EWHC 1074 (Admin), [2006] All ER (D) 243 (Apr), [2006] 19 LS Gaz R 26. The principle set out in the text has been stated in the context of the court refusing applications for judicial review of a returning officer's decision to reject nomination papers: *R (on the application of Begum) v Tower Hamlets London Borough Council* supra at [20]-[22]; *R (on the application of De Beer) v Balabanoff* [2002] EWHC 670 (Admin) at [37]-[38], (2002) Times, 25 April at [37]-[38] (per curiam) (although judicial review does lie against a returning officer's decision regarding nomination papers, it is an area in which the courts should be extremely slow to interfere and the returning officer ordinarily should be left to conduct the election process as provided by Parliament).

6 See the Representation of the People Act 1983 s 115(2)(b) (as amended) (use of fraudulent devices: see PARA 726 post).

7 *Spencer v Huggett* [1997] 30 LS Gaz R 30 (it was held that the court had jurisdiction to entertain proceedings for an injunction to restrain the breach, despite the fact that it constituted a crime, on the basis that the public wrong being alleged interfered with the plaintiff candidate's private right to stand at an election untainted by corruption or, alternatively, that the plaintiff would suffer special damage from such interference with that public right; application refused in this case). As to the general rule of procedural exclusivity and the distinction drawn between public law rights and private law rights see *Gouriet v Union of Post Office Workers* [1978] AC 435, [1977] 3 All ER 70, HL; and JUDICIAL REVIEW vol 61 (2010) PARA 661.

UPDATE

668 Jurisdiction of court to grant injunction or order

NOTE 1--Supreme Court Act 1981 now cited as Senior Courts Act 1981: Constitutional Reform Act 2005 Sch 11 para 1 (in force 1 October 2009: SI 2009/1604).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(1) INJUNCTIONS AND ORDERS/669. Interim or perpetual injunctions restraining false statements about candidates before or during election.

669. Interim or perpetual injunctions restraining false statements about candidates before or during election.

A person making or publishing any false statement of fact before or during an election¹ in relation to a candidate's personal character or conduct at an election² may be restrained by interim or perpetual injunction by the High Court or the county court from any repetition of that false statement or of a false statement of a similar character in relation to the candidate³. The false statement of fact may or may not be such as would sustain an action for defamation⁴. For the purpose of granting an interim injunction, prima facie proof of the falsity of the statement is sufficient⁵; but an interim injunction ought not to be granted where justification is pleaded in answer to an action for libel unless the court is satisfied that the defendants have no reasonable prospect of success at the trial⁶.

The public interest which limits the right of organs of central or local government to sue for libel⁷ is sufficiently strong to justify extending the limitation to cover a political party and those putting themselves forward for office or to govern⁸.

1 Before or during a parliamentary, local government, Welsh Assembly or European election. For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante; for the meaning of 'parliamentary election' see PARA 9 ante; and for the meaning of 'local government election' see PARA 10 ante. As to European parliamentary elections see PARA 224 et seq ante.

2 The making or publishing of such a statement is an illegal practice: see PARA 683 post.

3 Representation of the People Act 1983 s 106(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 72(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 71(2). The text refers to 'any false statement of fact as mentioned above' but it is not clear whether the phrase 'as mentioned above' attaches to those words which limit the false statement to having been made or published before or during an election for the purpose of affecting the return of any candidate at the election and/or the words which refer simply to false statements relating to personal character or conduct (illegal practice of making false statements: see PARA 683 post). In *Ellis v National Union of Conservative and Constitutional Associations, Middleton and Southall* (1900) 109 LT Jo 493, it was said that for an injunction to be granted the statement must be made before or during an election and for the purpose of affecting a candidate's return. In *Mills v Drummond* (1934) 78 Sol Jo 192, an injunction was granted restraining the defendants from issuing statements to the effect that the plaintiff was the sort of person to use or had used his position as chairman of a local authority's entertainments committee to further the showing or exploitation of wild animals at circuses of which the defendant strongly disapproved, whether or not the furtherance was for his own personal gain. In *Fairbairn v Scottish National Party* 1979 SC 393, an injunction was granted because the statement complained of was reasonably capable of bearing the innuendo that the candidate, who prior to the election was a member of Parliament, had failed to deal with correspondence and had thereby failed to perform his duties as such.

The Representation of the People Act 1983 s 106(3) is notable for conferring an explicit power to take out an injunction while an election campaign is in progress; in practice, the court's general jurisdiction to grant an injunction has been exercised sparingly whilst an election campaign has been ongoing (see PARA 668 ante).

4 *Louth Northern Division Case* (1911) 6 O'M & H 103 at 165. A statement, though false or unjustifiable or derogatory, is not prohibited by the Representation of the People Act 1983 s 106(1) (false statements as to candidates as an illegal practice: see PARA 683 post) if it simply deals with the political position or reputation of a candidate, and does not relate to his personal character or conduct; accordingly, a statement that a candidate is a communist was held not to be within the corresponding provision relating to municipal elections (*Burns v Associated Newspapers Ltd* (1925) 89 JP 205).

5 Representation of the People Act 1983 s 106(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 72(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 71(2). See eg *Bayley v Edmunds, Byron and Marshall* (1895) 11 TLR 537, CA.

6 *Burns v Associated Newspapers Ltd* (1925) 89 JP 205. As to whether statute bars a plea of qualified privilege as respects defamatory statements by or on behalf of a candidate at an election see the Defamation Act 1952 s 10 (prospectively amended); and PARA 335 ante.

7 See *Derbyshire County Council v Times Newspapers Ltd* [1993] AC 534, [1993] 1 All ER 1011, HL (it would place an undesirable fetter on freedom of speech and be contrary to the public interest if organs of central or local government were favoured with the right to sue for libel).

8 *Goldsmith v Bhoyrul* [1998] QB 459, [1997] 4 All ER 268 (a political party, even when set up as a corporation, has no right at common law to maintain an action for defamation).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(i) Validity of and Irregularities at Elections/670. Effect of breaches of election rules by returning officer.

(2) IRREGULARITIES AND OFFENCES

(i) Validity of and Irregularities at Elections

670. Effect of breaches of election rules by returning officer.

No election¹ is to be declared invalid by reason of any act or omission by the returning officer² or any other person in breach of his official duty in connection with the election or otherwise of the appropriate elections rules³ if it appears to the tribunal having cognisance of the question that the election was so conducted as to be substantially in accordance with the law as to elections, and that the act or omission did not affect its result⁴. The function of the court in exercising this jurisdiction is not assisted by consideration of a standard of proof but, having regard to the consequences of declaring an election void, there must be a preponderance of evidence supporting any conclusion that the result was affected⁵. Where breaches of the elections rules, although trivial, have affected the result, that by itself is enough to compel the court to declare the election void even though it has been conducted substantially in accordance with the law as to elections⁶. Conversely, if the election was conducted so badly that it was not substantially in accordance with the law as to elections, the election is vitiated, irrespective of whether the result was affected or not⁷.

If, owing to a mistake in the notice of election, some candidates are misled into delivering their nomination papers too late and they are rejected by the returning officer for being late, the election will be avoided⁸. On the other hand, failure to comply with the timetable as respects the publication of the notice of the election⁹ does not render the election void if the result of the election has not been affected by it¹⁰. The wrongful rejection of the nomination of a candidate will avoid an election¹¹. The inclusion on a ballot paper of the name of a candidate who has withdrawn will avoid an election if the number of votes given to that candidate might affect the result¹¹. The marking of the faces of a number of ballot papers with the electors' numbers in the register before delivering them to the voters will not, if the result is unaffected, avoid the election¹³; but the marking in this way of all the ballot papers would avoid the election¹⁴. Failure to open or close the poll at a polling station at the correct time¹⁵ will not avoid an election provided that it can be shown that the result was not affected¹⁶. Failure to count or record the number of ballot papers in each box or mix the whole of the ballot papers before counting¹⁷, or failure to comply strictly with the provisions as to forwarding documents after the close of the poll¹⁸, is not sufficient to avoid the election. The exposure of a few ballot papers by the voters themselves would not invalidate an election in the absence of a conspiracy to nullify the law relating to elections¹⁹.

1 I.e. a parliamentary, local government, Welsh Assembly or European election or other election under the Local Government Act 1972. For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante; for the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'local government election' see PARA 10 ante; and for the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante. As to European parliamentary elections see PARA 224 et seq ante.

2 As to returning officers for parliamentary elections see PARA 355 et seq ante; as to returning officers for local government elections see PARA 359 et seq ante; as to the returning officer at elections for the return of members of the National Assembly for Wales see PARA 362 ante; and as to returning officers for European parliamentary elections see PARA 365 et seq ante.

3 As to the elections rules see PARA 388 ante. See further *Akhtar v Jahan, Iqbal v Islam* [2005] All ER (D) 15 (Apr) at [536]-[548]; revsd in part, but not on this point, sub nom *R (on the application of Afzal) v Election Court* [2005] EWCA Civ 647, [2005] LGR 823.

4 Representation of the People Act 1983 ss 23(3), 48(1), 187(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(5). Where votes were wrongly rejected and the inclusion of such votes would have resulted in a tie (which is then determined by the returning officer by lot: see PARA 441 et seq ante), such a tie is a 'result' for these purposes: *Ruffle v Rogers* [1982] QB 1220, [1982] 2 All ER 157, CA. The 'result' means the success of one candidate over another and not merely an alteration in the number of votes given to each candidate: *Clare, Eastern Division Case* (1892) 4 O'M & H 162 at 164; *Islington, West Division Case* (1901) 5 O'M & H 120.

5 *Edgell v Glover* [2003] EWHC 2566 (QB), [2003] All ER (D) 44 (Nov) (threshold was not so high as to exclude the court from concluding that the result was affected when there was evidence before the court that the result was affected, but where there was also evidence that if further enquiries were carried out there was a remote possibility the conclusion would be shown to be wrong). See also *Re Kensington North Parliamentary Election* [1960] 2 All ER 150 at 153, [1960] 1 WLR 762 at 766 per Streatfield J (it is for the court to make up its mind on the evidence as a whole whether there was a substantial compliance with the law as to elections or whether the act or omission affected the result), distinguishing *Islington, West Division Case* (1901) 5 O'M & H 120 at 130 (approving *Gribbin v Kirker* (1873) IR 7 CL 30), where it was stated that the onus rests on the respondent of proving that the result of the election was not affected by the transgression; and see *Levers v Morris* [1972] 1 QB 221, [1971] 3 All ER 1300, DC.

6 *Morgan v Simpson* [1975] QB 151, [1974] 3 All ER 722, CA (44 ballot papers not stamped with official mark; result affected); and see *Gunn v Sharpe* [1974] QB 808, [1974] 2 All ER 1058, DC (102 unstamped ballot papers; result affected); *Considine v Didrichsen* [2004] EWHC 2711 (QB), [2004] All ER (D) 365 (Nov) (unascertained number of electors failed to receive proper ballot papers at an all-postal ballot; result presumed to be affected where winning margin was only seven votes). Cf *Woodward v Sarsons* (1875) LR 10 CP 733, explained in *Morgan v Simpson* supra (an election conducted substantially in accordance with the law as to elections is not vitiated by breaches of the elections rules or mistake at the polls provided that the result of the election not affected); *Islington, West Division Case* (1901) 5 O'M & H 120 (14 ballot papers issued after 8 pm; result of election not affected).

7 *Morgan v Simpson* [1975] QB 151 at 164, [1974] 3 All ER 722 at 728, CA, per Lord Denning MR, applying *Hackney Case* (1874) 2 O'M & H 77 (two polling stations closed all day; approximately 5,000 voters unable to vote). Intimidation that prevents free voting also avoids an election: *Dudley Case* (1874) 2 O'M & H 115 (riot in town). In *Akhtar v Jahan, Iqbal v Islam* [2005] All ER (D) 15 (Apr) (revsd in part, but not on this point, sub nom *R (on the application of Afzal) v Election Court* [2005] EWCA Civ 647, [2005] LGR 823) (cited in PARA 893 post), it was held that charges against the returning officer were not made out but it was observed that shortcomings in the conduct of the election invited the kind of abuses that led to the election being avoided due to extensive postal voting fraud.

8 *Howes v Turner* (1876) 1 CPD 670; *R v Glover* (1866) 15 LT 289.

9 As to publication of the notice of the election see PARA 203 et seq ante.

10 *Clare, Eastern Division Case* (1892) 4 O'M & H 162 at 164-166.

11 *Haverfordwest Case, Davies v Lord Kensington* (1874) LR 9 CP 720; *Mayo Case* (1874) 2 O'M & H 191.

12 *Wilson v Ingham* (1895) 64 LJQB 775, DC.

13 *Woodward v Sarsons* (1875) LR 10 CP 733, explained in *Morgan v Simpson* [1975] QB 151, [1974] 3 All ER 722, CA. Cf *Gunn v Sharpe* [1974] QB 808, [1974] 2 All ER 1058, DC (issue of 102 ballot papers not stamped with official mark affected result of election). See also the text and notes 6, 7 supra.

14 *Deans v Stevenson* 1882 9 R (Ct of Sess) 1077 at 1088. As to the effect of the failure to mark the counterfoils of the ballot papers with the numbers in the register see *Pickering v Startin* (1873) 28 LT 111.

15 *Clare, Eastern Division Case* (1892) 4 O'M & H 162; *East Kerry Case* (1911) 6 O'M & H 58 at 85; *Drogheda Borough Case* (1874) 2 O'M & H 201; *Worcester Borough Case* (1880) 3 O'M & H 184.

16 *Islington, West Division Case* (1901) 5 O'M & H 120 at 130; *Latham v Glasgow Corpn* 1921 SC 694 at 706; *Gribbin v Kirker* (1873) IR 7 CL 30; *Hackney Case* (1874) 31 LT 69.

17 *Re Pembroke Election Petition* [1908] 2 IR 433.

18 *Horsham Second Case* (1848) 1 Pow R & D 240 (packets not duly sealed); *Kidderminster Borough Case* (1850) 1 Pow R & D 260 at 262 (packets not duly endorsed); *Barnstaple Borough Case* (1853) 2 Pow R & D 206 (covering letter from the returning officer to the Clerk of the Crown not duly sent).

19 *Louth, Northern Division Case* (1911) 6 O'M & H 103 at 139.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(i) Validity of and Irregularities at Elections/671. Defect in title of returning officer.

671. Defect in title of returning officer.

An election¹ is not liable to be questioned by reason of a defect in the title, or want of title, of the person presiding at or conducting the election, if that person was then in actual possession of, or acting in, the office giving the right to preside at or conduct the election².

1 I.e. a parliamentary, local government, Welsh Assembly or European election. For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante; for the meaning of 'parliamentary election' see PARA 9 ante; and for the meaning of 'local government election' see PARA 10 ante. As to European parliamentary elections see PARA 224 et seq ante.

2 Representation of the People Act 1983 ss 24(2), 35(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 20(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 14. As to returning officers for parliamentary elections see PARA 355 et seq ante; as to returning officers for local government elections see PARA 359 et seq ante; as to the returning officer at elections for the return of members of the National Assembly for Wales see PARA 362 ante; and as to returning officers for European parliamentary elections see PARA 365 et seq ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(i) Validity of and Irregularities at Elections/672. Validity of local government elections.

672. Validity of local government elections.

A local government election or other election under the Local Government Act 1972¹, unless questioned by election petition within the period fixed by law for those proceedings, is deemed to have been to all intents a good and valid election².

¹ For the meaning of 'local government election' see PARA 10 ante; and for the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

² Representation of the People Act 1983 ss 48(2), 187(2). As to petitions questioning local elections see PARA 760 et seq post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(i) Validity of and Irregularities at Elections/673. Effect of failure to hold London borough election.

673. Effect of failure to hold London borough election.

If a municipal election in a London borough¹ is not held on the appointed day or within the appointed time, or becomes void, the municipal corporation is not thereby dissolved or disabled from acting².

1 As to the London boroughs see LONDON GOVERNMENT vol 29(2) (Reissue) PARA 30 et seq.

2 Representation of the People Act 1983 s 39(9).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(ii) Illegal Practices/A. IN GENERAL/674. Practices which are illegal.

(ii) Illegal Practices

A. IN GENERAL

674. Practices which are illegal.

Certain acts or omissions (mainly but not exclusively made by the candidate or election agent) which contravene controls placed on the election campaign constitute illegal practices; these include: (1) meeting election expenses by accepting donations not provided to the candidate or election agent¹; (2) knowingly incurring an expense in excess of the maximum amount of election expenses²; (3) paying election expenses otherwise than through the election agent³; (4) paying statute-barred claims for election expenses⁴; (5) paying election expenses out of time⁵; (6) failing to make the return or declaration as to election expenses⁶; (7) making an inaccurate return as to election expenses⁷; (8) failing to deliver or send the required returns or declarations of expenses authorised by the election agent⁸; (9) disturbing a meeting⁹; (10) making a false statement concerning the personal character or conduct of a candidate for the purpose of affecting the return of any candidate¹⁰; (11) knowingly publishing a false statement as to the withdrawal of a candidate for the purpose of promoting or procuring the election of another candidate¹¹; (12) consenting to multiple nominations for candidacy at a European parliamentary election¹².

Some illegal practices arise also from the commission of an offence¹³; and a candidate or election agent who is personally guilty of making an illegal payment or employment is guilty also of an illegal practice¹⁴.

1 See PARA 675 post.

2 See PARA 676 post. As to knowingly incurring expenses at elections under the Local Government Act 1972 where election agents are not required see PARA 681 post.

3 See PARA 677 post. As to paying expenses at elections under the Local Government Act 1972 where election agents are not required see PARA 681 post.

4 See PARA 678 post.

5 See PARA 678 post.

6 See PARA 679 post.

7 See PARA 679 post.

8 See PARA 680 post.

9 See PARA 682 post.

10 See PARA 683 post.

11 See PARA 683 post.

12 See PARA 684 post.

13 As to offences which also constitute illegal practices see PARA 702 et seq post.

14 See PARA 685 et seq post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(ii) Illegal Practices/A. IN GENERAL/675. Meeting election expenses by accepting donations not provided to candidate or election agent.

675. Meeting election expenses by accepting donations not provided to candidate or election agent.

In the case of any candidate¹ at an election², any money or other property³ provided (whether as a gift or loan) by any person other than the candidate or his election agent⁴ and for the purpose of meeting election expenses⁵ incurred by or on behalf of the candidate, must be provided to the candidate or his election agent⁶; and any person who provides any money or other property in contravention of this restriction is guilty of an illegal practice⁷.

1 For the meaning of 'candidate' generally see PARA 237 ante. The reference in the text is to an 'individual candidate' for the purposes of: (1) a regional election for the return of members of the National Assembly for Wales (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(1)); or (2) European parliamentary elections (European Parliamentary Elections Regulations 2004, SI 2004/293, reg 42(1)). For the meaning of 'individual candidate' in relation to a Welsh Assembly regional election see PARA 237 note 23 ante; and for the meaning of 'individual candidate' in relation to a European parliamentary election see PARA 237 note 32 ante.

2 In the case of a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'Authority election' see PARA 10 ante; and for the meaning of 'election under the local government Act' see PARA 10 note 2 ante. However, the Representation of the People Act 1983 s 71A (as added) does not apply at an election under the local government Act which is not a local government election (see the Representation of the People Act 1983 s 90(2) (as amended); and PARA 681 post); and, in relation to an election of parish councillors in England or of community councillors in Wales, the provisions of s 90(1), Sch 4 (both as amended) apply instead: see s 90(1) (b) (as amended); and PARA 678 post. For the meaning of 'local government election' see PARA 10 ante. As to elections in the City of London see PARA 30 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante. As to elections to the National Assembly for Wales generally see PARA 220 et seq ante; and as to European parliamentary elections see PARA 224 et seq ante.

3 As to the meaning of 'property' for these purposes see PARA 291 note 3 ante.

4 As to the appointment of an election agent for parliamentary and local government elections see PARA 238 ante; as to the appointment of an election agent for elections to the National Assembly for Wales see PARA 242 ante; and as to the appointment of the election agent of a registered party or for an individual candidate at a European parliamentary election see PARA 246 ante.

5 For the meaning of 'election expenses' see PARA 274 ante.

6 See, in relation to a parliamentary or local government election, the Representation of the People Act 1983 s 71A(1) (as added), in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(1) and, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 42(1); and PARA 291 ante.

7 Representation of the People Act 1983 s 71A(3) (s 71A added by the Political Parties, Elections and Referendums Act 2000 s 130(1), (2), (4)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 42(3). As to excuses and the right to apply for relief see PARA 693 et seq post; and as to the consequences of illegal practices see PARA 886 et seq post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(ii) Illegal Practices/A. IN GENERAL/676. Election expenses knowingly incurred by candidate or election agent in excess of financial limits.

676. Election expenses knowingly incurred by candidate or election agent in excess of financial limits.

Where any election expenses¹ are incurred in excess of any maximum amount specified under the provisions which limit such expenses², any candidate³ or election agent⁴ who incurred, or authorised the incurring of, the election expenses and knew or ought reasonably to have known⁵ that the expenses would be incurred in excess of that maximum amount is guilty of an illegal practice⁶.

The provisions which establish this offence as an illegal practice⁷ have been applied with modifications for the purposes of local authority mayoral elections⁸.

1 For the meaning of 'election expenses' see PARA 274 ante.

2 See, in relation to a parliamentary or local government election, the Representation of the People Act 1983 s 76(2) (as amended) and s 76(2A) (as added), in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 45(3), or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 47(4); and see PARA 278 ante.

3 For the meaning of 'candidate' generally see PARA 237 ante. At a Welsh Assembly election, the reference in the text is to a constituency candidate (at a constituency election) or to an individual candidate (at a regional election): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 45(1). For the meanings of 'Assembly election', 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante; and for the meaning of 'individual candidate' in relation to a Welsh Assembly regional election see PARA 237 note 23 ante. At a European parliamentary election, the reference is to an 'individual candidate': see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 47(1). For the meaning of 'individual candidate' in relation to a European parliamentary election see PARA 237 note 32 ante.

4 As to the appointment of an election agent for parliamentary and local government elections see PARA 238 ante; as to the appointment of an election agent for elections to the National Assembly for Wales see PARA 242 ante; and as to the appointment of an election agent of a registered party or for an individual candidate at a European parliamentary election see PARA 246 ante.

5 In previous enactments of the provision set out in the text, the word 'knowingly' was used and it was held that the word meant knowing at the time payment was made, or the expense incurred, that it was an election expense; and if, when the total of those expenses was added up, the total was in excess of the maximum, then the offence was complete; it was not necessary to prove that when a particular payment was made or expense incurred the candidate or election agent was aware that the maximum amount had been exceeded: *Northumberland, Berwick-upon-Tweed Division Case* (1923) 7 O'M & H 1 at 19-20; *Oxford Borough Case* (1924) 7 O'M & H 49 at 67.

6 Representation of the People Act 1983 s 76(1B) (added by the Political Parties, Elections and Referendums Act 2000 s 132(1), (4), (6); and amended by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 71); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 45(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 47(3). As to excuses and the right to apply for relief see PARA 693 et seq post; and as to the consequences of illegal practices see PARA 886 et seq post.

The Representation of the People Act 1983 s 76(1B) (as added) does not apply at an election under the local government Act which is not a local government election: see the Representation of the People Act 1983 s 90(2) (as amended); and PARA 681 post. For the meaning of 'local government election' see PARA 10 ante. In relation to an election of parish councillors in England or of community councillors in Wales, where election agents are not required, s 76(1B) (as added) has effect as if for the references to an election agent there were substituted references to any agent of the candidate: s 90(1)(a) (amended by the Political Parties, Elections and

Referendums Act 2000 s 138(1), Sch 18 paras 1, 11(a)). As to the election of parish and community councillors see PARA 207 et seq ante. For the meanings of 'England' and 'Wales' see PARA 13 note 1 ante. As to elections in the City of London see PARA 30 ante.

7 lie under the Representation of the People Act 1983 s 76 (as amended) (see the text and notes 1-6 supra).

8 See the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(2), Sch 2 Table 1.

UPDATE

676 Election expenses knowingly incurred by candidate or election agent in excess of financial limits

TEXT AND NOTES 7, 8--SI 2002/185 reg 3(2), Sch 2 Table 1 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(2)-(5), Sch 2 Table 1.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(ii) Illegal Practices/A. IN GENERAL/677. Payment of election expenses otherwise than by or through candidate's election agent.

677. Payment of election expenses otherwise than by or through candidate's election agent.

No payment¹, of whatever nature, may be made² either by a candidate³ at an election⁴ or by any other person, in respect of election expenses incurred by or on behalf of the candidate⁵ unless it is made by or through the candidate's election agent⁶; and a person who makes any payment in contravention of this prohibition is guilty of an illegal practice⁷.

1 As to the meaning of 'payment' see PARA 275 note 2 ante.

2 In subject to exceptions set out, in relation to a parliamentary or local government election, in the Representation of the People Act 1983 s 73(5) (as substituted and amended), in relation to a Welsh Assembly election, in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 41(4) or, in relation to a European parliamentary election, in the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 43(5) (see PARA 275 ante).

3 For the meaning of 'candidate' generally see PARA 237 ante. The reference in the text is to an 'individual candidate' for the purposes of: (1) a regional election for the return of members of the National Assembly for Wales (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 41(1)); or (2) European parliamentary elections (European Parliamentary Elections Regulations 2004, SI 2004/293, reg 43(1)). For the meaning of 'individual candidate' in relation to a Welsh Assembly regional election see PARA 237 note 23 ante; and for the meaning of 'individual candidate' in relation to a European parliamentary election see PARA 237 note 32 ante.

4 In a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'Authority election' see PARA 10 ante; and for the meaning of 'election under the local government Act' see PARA 10 note 2 ante. However, the Representation of the People Act 1983 s 73 (as amended) does not apply at an election under the local government Act which is not a local government election (see the Representation of the People Act 1983 s 90(2) (as amended); and PARA 681 post); and, in relation to an election of parish councillors in England or of community councillors in Wales, the provisions of s 90(1), Sch 4 (both as amended) apply instead: see s 90(1) (b) (as amended); and PARA 678 post. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante; and for the meaning of 'local government election' see PARA 10 ante. As to elections in the City of London see PARA 30 ante; as to elections to the National Assembly for Wales generally see PARA 220 et seq ante; and as to European parliamentary elections see PARA 224 et seq ante.

5 For the meaning of 'election expenses incurred by or on behalf of a candidate' see PARA 274 note 15 ante.

6 See, in relation to a parliamentary or local government election, the Representation of the People Act 1983 s 73(1) (as substituted), in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 41(1), or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 43(1); and see PARA 275 ante. As to the appointment of an election agent for parliamentary and local government elections see PARA 238 ante; as to the appointment of an election agent for elections to the National Assembly for Wales see PARA 242 ante; and as to the appointment of the election agent of a registered party or for an individual candidate at a European parliamentary election see PARA 246 ante. As to the nomination of a sub-agent at certain parliamentary and local government elections see PARA 240 ante; in relation to elections to the National Assembly for Wales see PARA 244 ante; and in relation to European parliamentary elections see PARA 248 ante.

7 Representation of the People Act 1983 s 73(6) (amended by the Political Parties, Elections and Referendums Act 2000 ss 138, 158(2), (3)(a), Sch 18 paras 1, 3(1), (6), Sch 22); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 41(5); European Parliamentary Elections

Regulations 2004, SI 2004/293, reg 43(6). The making of such a payment as is mentioned in the text remains an illegal practice even if the money is repaid (*York County, East Riding, Buckrose Division Case* (1886) 4 O'M & H 110 at 116), but where a payment was made through a person other than the election agent by mistake and the money was returned and the transaction was genuine and honest, it was held that no offence had been committed (*Monmouth Boroughs Case* (1901) 5 O'M & H 166 at 170). As to excuses and the right to apply for relief see PARA 693 et seq post; and as to the consequences of illegal practices see PARA 886 et seq post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(ii) Illegal Practices/A. IN GENERAL/678. Payment of statute-barred claims for election expenses or of claims out of time.

678. Payment of statute-barred claims for election expenses or of claims out of time.

An election agent¹ who pays a claim for election expenses² which is submitted to him later than 21 days after the day on which the result of the election is declared³ or who makes a payment after the expiry of the 28 days limit⁴ is guilty of an illegal practice⁵. However, except in the case of a European parliamentary election, if the election court reports that it has been proved to the court by the candidate that any payment was made by an election agent without the candidate's sanction or connivance⁶, the candidate's election is not void, nor is he subject to any incapacity by reason only of that payment having been made in contravention of the prohibition on the payment of a claim that is statute-barred or out of time⁷.

At an election of parish councillors in England or of community councillors in Wales⁸, if any person makes a payment⁹ in contravention of the provision which bars any claim against any person in respect of any election expenses incurred by or on behalf of a candidate which is not sent in¹⁰ within 14 days after the day of election or the provision which bars the payment of any election expenses so incurred 21 days after the day of election¹¹, he is guilty of an illegal practice, but a candidate is not liable nor is his election void for any such illegal practice committed without his consent or connivance¹².

1 As to the appointment of an election agent for parliamentary and local government elections see PARA 238 ante; as to the appointment of an election agent for elections to the National Assembly for Wales see PARA 242 ante; and as to the appointment of the election agent of a registered party or for an individual candidate at a European parliamentary election see PARA 246 ante. In the case of a Welsh Assembly election, the reference is to a candidate or his election agent at a constituency election, or an individual candidate or his election agent at a regional election: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 47(1). For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante; and for the meaning of 'individual candidate' in relation to a Welsh Assembly regional election see PARA 237 note 23 ante. As to elections to the National Assembly for Wales generally see PARA 220 et seq ante. In the case of a European parliamentary election, the reference is to an individual candidate: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 48(1). For the meaning of 'individual candidate' in relation to a European parliamentary election see PARA 237 note 32 ante. As to European parliamentary elections see PARA 224 et seq ante.

2 For the meaning of 'election expenses' see PARA 274 ante.

3 I.e. in contravention of, in relation to a parliamentary or local government election, the Representation of the People Act 1983 s 78(1) (as amended), in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 47(1) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 48(1) (see PARA 280 ante).

4 I.e., in relation to a parliamentary or local government election, under the Representation of the People Act 1983 s 78(2) (as amended), in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 47(2) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 48(2) (see PARA 280 ante).

5 Representation of the People Act 1983 s 78(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 47(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 48(4). As to excuses and the right to apply for relief see PARA 693 et seq post; and as to the consequences of illegal practices see PARA 886 et seq post. The Representation of the People Act 1983 s 78 (as amended) does not apply at an election under the local government Act which is not a local government election: see the Representation of the People Act 1983 s 90(2) (as amended); and PARA 681 post.

6 In the case of a Welsh Assembly election, the reference is to the sanction or connivance of a candidate at a constituency election or of an individual candidate at a regional election: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 47(4).

7 Representation of the People Act 1983 s 78(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 47(4).

8 In the case where election agents are not required. As to the election of parish and community councillors see PARA 207 et seq ante. For the meanings of 'England' and 'Wales' see PARA 13 note 1 ante.

9 As to the meaning of 'payment' see PARA 275 note 2 ante.

10 It is not clear whether the claim must be in the possession of the person within the 14 days or merely have been dispatched within that time. However, to the extent that 'send' is synonymous with 'transmit', the latter construction is the correct one: see *Mackinnon v Clark* [1898] 2 QB 251 at 257, CA, per A L Smith LJ.

11 See the Representation of the People Act 1983 s 90(1)(b) (as amended), Sch 4 para 1(1); and PARA 299 ante.

12 Ibid Sch 4 para 1(2).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(ii) Illegal Practices/A. IN GENERAL/679. Failure to make required financial returns or declarations as to election expenses.

679. Failure to make required financial returns or declarations as to election expenses.

If a candidate¹ or election agent² fails to comply with the requirements of the provisions governing returns as to election expenses³ or declarations as to election expenses⁴, he is guilty of an illegal practice⁵. A return which is defective, in that it omits certain election expenses or gives erroneous figures, also constitutes an illegal practice⁶. However, the delivery of the return and election agent's declaration separately and at different times but both within the prescribed period is apparently not an offence⁷.

At an election of parish councillors in England or of community councillors in Wales⁸, if the candidate fails to make the required return and declaration as to election expenses⁹, he is guilty of an illegal practice¹⁰.

1 For the meaning of 'candidate' generally see PARA 237 ante. In the case of a Welsh Assembly election, the reference is to a candidate at a constituency election or an individual candidate at a regional election. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante; and for the meaning of 'individual candidate' in relation to a Welsh Assembly election see PARA 237 note 23 ante. In the case of a European parliamentary election, the reference is to an individual candidate. For the meaning of 'individual candidate' in relation to a European parliamentary election see PARA 237 note 32 ante.

2 As to the appointment of an election agent for parliamentary and local government elections see PARA 238 ante; as to the appointment of an election agent for elections to the National Assembly for Wales see PARA 242 ante; and as to the appointment of the election agent of a registered party or for an individual candidate at a European parliamentary election see PARA 246 ante.

3 I.e., in relation to a parliamentary or local government election, under the Representation of the People Act 1983 s 81 (as amended), in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 50 or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 51 (see PARA 285 ante). For the meaning of 'return as to election expenses' see PARA 286 note 1 ante.

4 I.e., in relation to a parliamentary or local government election, under the Representation of the People Act 1983 s 82 (as amended), in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 51 or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 52 (see PARA 286 ante). For the meaning of 'declaration as to election expenses' see PARA 287 note 2 ante.

5 Representation of the People Act 1983 s 84; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 54; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 54. As to excuses and the right to apply for relief see PARA 693 et seq post; and as to the consequences of illegal practices see PARA 886 et seq post. The Representation of the People Act 1983 s 84 does not apply at an election under the local government Act which is not a local government election (see the Representation of the People Act 1983 s 90(2) (as amended); and PARA 681 post).

6 *Cheltenham Case*, *Smythies and Claridge v Mathias*, *Davies' Case* (1911) 6 O'M & H 194; *Cork, Eastern Division Case* (1911) 6 O'M & H 318; *Northumberland, Berwick-upon-Tweed Division Case* (1923) 7 O'M & H 1; *Oxford Borough Case* (1924) 7 O'M & H 49.

7 *Re Ramsgate Town Council, ex p Hobbs* (1889) 5 TLR 272, DC.

8 I.e. where election agents are not required. As to the election of parish and community councillors see PARA 207 et seq ante. For the meanings of 'England' and 'Wales' see PARA 13 note 1 ante.

9 See the Representation of the People Act 1983 s 90(1)(b) (as amended), Sch 4 para 3 (as amended); and PARA 300 ante.

10 Ibid Sch 4 para 5.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(ii) Illegal Practices/A. IN GENERAL/680. Failure to deliver or send returns or declarations of expenses authorised by election agent.

680. Failure to deliver or send returns or declarations of expenses authorised by election agent.

If a person fails to deliver or send any declaration or return or a copy of it as required by the provisions which prohibit the incurring of election expenses¹ by any person other than the candidate², his election agent³ and persons authorised in writing by the election agent⁴, he is guilty of an illegal practice⁵.

The provisions which establish this failure as an illegal practice⁶ have been applied with modifications for the purposes of local authority mayoral elections⁷.

1 For the meaning of 'election expenses' see PARA 274 ante. For the meaning of 'return as to election expenses' see PARA 286 note 1 ante; and for the meaning of 'declaration as to election expenses' see PARA 287 note 2 ante.

2 For the meaning of 'candidate' generally see PARA 237 ante. At a Welsh Assembly election, the reference in the text is to a constituency candidate (at a constituency election) or to an individual candidate (at a regional election): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(1). For the meanings of 'Assembly election', 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante; and for the meaning of 'individual candidate' in relation to a Welsh Assembly election see PARA 237 note 23 ante. At a European parliamentary election, the reference is to an 'individual candidate': see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(1). For the meaning of 'individual candidate' in relation to a European parliamentary election see PARA 237 note 32 ante.

3 As to the appointment of an election agent for parliamentary and local government elections see PARA 238 ante; as to the appointment of an election agent for elections to the National Assembly for Wales see PARA 242 ante; and as to the appointment of the election agent of a registered party or for an individual candidate at a European parliamentary election see PARA 246 ante. In relation to a European parliamentary election, references to an election agent include a sub-agent: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(7). As to the appointment of a sub-agent at a European parliamentary election see PARA 248 et seq ante.

4 See, in relation to a parliamentary or local government election, the Representation of the People Act 1983 s 75(1) (as amended), in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(1), or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(1); and see PARA 277 ante.

5 Representation of the People Act 1983 s 75(5) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 24); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(6); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(5). As to the liability of officers of associations or bodies which are guilty of an offence, the court's power to mitigate or remit any incapacity and the limitation of the liability of a candidate for an offence by an agent see PARA 690 et seq post; and as to the consequences of illegal practices see PARA 886 et seq post.

The Representation of the People Act 1983 s 75 (as amended) does not apply at an election under the local government Act which is not a local government election (see the Representation of the People Act 1983 s 90(2) (as amended); and PARA 681 post); and, in relation to an election of parish councillors in England or of community councillors in Wales, the provisions of s 90(1), Sch 4 (both as amended) apply instead: see s 90(1) (b) (as amended); and PARA 678 ante. For the meaning of 'local government election' see PARA 10 ante. As to elections in the City of London see PARA 30 ante.

6 *Ie* under *ibid* s 75 (as amended) (see the text and notes 1-5 *supra*).

7 See the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(2), Sch 2 Table 1.

UPDATE

680 Failure to deliver or send returns or declarations of expenses authorised by election agent

TEXT AND NOTES 6, 7--SI 2002/185 replaced: Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024. 1983 Act s 75 no longer applies to local authority mayoral elections.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(ii) Illegal Practices/A. IN GENERAL/681. Paying or incurring expenses at elections under the Local Government Act 1972 where election agent not required.

681. Paying or incurring expenses at elections under the Local Government Act 1972 where election agent not required.

At an election under the Local Government Act 1972¹ which is not a local government election², the general statutory provisions relating to election expenses³ have no application⁴. If a candidate at such an election or any person on his behalf knowingly pays any sum or incurs any expense, whether before, during or after that election, on account of or in respect of the conduct or management of the election, he is guilty of an illegal practice⁵.

1 See PARA 10 note 2 ante. In the application of the Representation of the People Act 1983 Pt II (ss 67-119) (as amended) to a poll consequent on a parish or community meeting, 'election under the local government Act' is deemed to include a reference to a poll consequent on a parish or community meeting (as to which see PARA 207 et seq ante): Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(g).

2 For the meaning of 'local government election' see PARA 10 ante.

3 In the Representation of the People Act 1983 ss 71A-89 (as amended) (see PARA 274 et seq ante).

4 See *ibid* s 90(2) (as amended); and PARA 302 ante.

5 *Ibid* s 90(2). As to the consequences of an illegal practice see PARA 886 et seq post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(ii) Illegal Practices/A. IN GENERAL/682. Disturbing election or referendum meetings.

682. Disturbing election or referendum meetings.

Any person who at certain lawful public meetings¹ acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together is guilty of an illegal practice². If a constable reasonably suspects any person of committing an offence under this provision, he may, if requested so to do by the chairman of the meeting, require that person to declare to him immediately his name and address³. If that person refuses or fails so to declare his name and address or gives a false name and address, he is liable on summary conviction to a fine⁴.

The provisions which establish this illegal practices⁵ have been applied with modifications for the purposes of local authority referendums in England and in Wales⁶ and for the purposes of local authority mayoral elections⁷.

1 In certain political meetings held, in relation to a parliamentary election, in a parliamentary constituency or, in relation to a local government election, in the electoral area for that election or, in relation to a Welsh Assembly constituency election, in the Assembly constituency for which the election is held or, in relation to a Welsh Assembly regional election, in the Assembly electoral region for which the election is held or, in relation to a European Parliamentary election, in a European Parliamentary electoral region: see PARA 343 ante.

2 Representation of the People Act 1983 s 97(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 69(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 68(1). As to the punishment and consequences of illegal practices see PARA 886 et seq post.

3 Representation of the People Act 1983 s 97(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 69(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 68(3).

4 Representation of the People Act 1983 s 97(3) (amended by the Police and Criminal Evidence Act 1984 ss 26(1), 119, Sch 7 Pt I); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 69(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 68(3). The penalty is a fine not exceeding level 1 on the standard scale: see the Representation of the People Act 1983 s 97(3) (as so amended); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 69(3); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 68(3). As to the standard scale see PARA 736 note 3 post.

5 In under the Representation of the People Act 1983 s 97 (as amended) (see the text and notes 1-4 supra).

6 See, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2.

7 See the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(2), Sch 2 Table 1.

UPDATE

682 Disturbing election or referendum meetings

TEXT AND NOTES 5-7--SI 2002/185 reg 3(2), Sch 2 Table 1 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(2)-(5), Sch 2 Table 1.

NOTE 6--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(ii) Illegal Practices/A. IN GENERAL/683. False statements as to candidates.

683. False statements as to candidates.

A person¹ who, before or during an election², for the purpose of affecting the return of any candidate³ at the election, makes or publishes any false statement⁴ of fact in relation to the candidate's personal character or conduct is guilty of an illegal practice, unless he can show that he had reasonable grounds for believing, and did believe⁵, the statement to be true⁶. The false statement of fact need not be defamatory at common law⁷, so long as it is a statement which is calculated to influence the electors, as, for instance, a statement made in a hunting county that the candidate has shot a fox or a statement made to promoters of total abstinence that the candidate has taken a glass of wine⁸; but it is essential that it should relate to the personal rather than the political character or conduct of the candidate⁹. It is irrelevant whether the statement complained of has or has not been provoked by a statement of a similar character made on the part of an opponent¹⁰. The words of the statement will be interpreted according to their real and true meaning, and not necessarily according to their literal sense¹¹. However, a candidate at an election (other than a European parliamentary election) is not liable, nor is his election to be avoided, for any illegal practice relating to such false statements committed by his agent other than his election agent¹², unless: (1) it can be shown that the candidate or his election agent has authorised or consented to the committing of the illegal practice by the other agent or has paid for the circulation of the false statement constituting the illegal practice¹³, or (2) an election court finds and reports that the candidate's election was procured or materially assisted in consequence of the making or publishing of such a false statement¹⁴.

Any person who before or during an election (other than a European parliamentary election) knowingly publishes a false statement of the withdrawal of a candidate¹⁵ at the election for the purpose of promoting or procuring the election of another candidate is guilty of an illegal practice¹⁶; but the candidate is not liable, nor may his election be avoided, for any such illegal practice committed by his agent other than his election agent¹⁷.

1 Ie including any director of any body or association corporate.

2 Ie a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or (except for the provisions set out in the text and notes 12-17 infra) a European parliamentary election. For the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'Authority election' see PARA 10 ante; and for the meaning of 'election under the local government Act' see PARA 10 note 2 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante; and for the meaning of 'local government election' see PARA 10 ante. As to elections in the City of London see PARA 30 ante; as to elections to the National Assembly for Wales generally see PARA 220 et seq ante; and as to European parliamentary elections see PARA 224 et seq ante.

3 For the meaning of 'candidate' generally see PARA 237 ante. At a Welsh Assembly election, the reference in the text is to a constituency candidate (at a constituency election) or to an individual candidate or any or all of a group of party list candidates (at a regional election): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 72(1). For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante; and for the meaning of references to a group of party list candidates and for the meaning of 'individual candidate' for these purposes see PARA 237 note 23 ante. At a European parliamentary election, the reference is to any registered party or individual candidate: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 71(1). For the meaning of 'individual candidate' in relation to a European parliamentary election see PARA 237 note 32 ante.

4 The statement may be oral or written: *Cumberland, Cockermouth Division Case* (1901) 5 O'M & H 155.

5 The belief must in each case depend on the character and nature of the information given: *Sunderland Borough Case, Storey v Doxford* (1896) 5 O'M & H 53 at 65.

6 Representation of the People Act 1983 s 106(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 72(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 71(1). As to remedy by way of interim or perpetual injunction to restrain a person from any repetition of a false statement or of a false statement of a similar character in relation to the candidate see PARA 669 ante. As to whether statute bars a plea of qualified privilege as respects defamatory statements by or on behalf of a candidate at an election see the Defamation Act 1952 s 10 (prospectively amended); and PARA 335 ante.

7 In some senses the words of the provision are narrower and in some senses wider than is consistent with the law of libel: *St George's Division, Tower Hamlets, Case* (1895) 5 O'M & H 89 at 101, 103-104.

8 *Sunderland Borough Case, Storey v Doxford* (1896) 5 O'M & H 53 at 62 per Pollock B. This is not of course a decision that such words could not in any circumstances bear a defamatory meaning at common law, but that it is not necessary to give them such a defamatory meaning in order to bring them within the provision.

9 *Cumberland, Cockermouth Division Case* (1901) 5 O'M & H 155 at 164; *Sheffield, Attercliffe Division Case* (1906) 5 O'M & H 218; *Fairbairn v Scottish National Party* 1979 SC 393. Cf *Anon* (1897) reported in Jelf's *Corrupt and Illegal Practices Prevention Acts* (3rd Edn) 215; but see also *Bayley v Edmunds, Byron and Marshall* (1895) 11 TLR 537, CA, where a charge that the candidate 'hypocritically feeling in his conscience that he was doing wrong for the purpose of making large profits for himself, locked out his workmen for a certain length of time, and that then, some time afterwards, he found that his conscience reproved him, and resolved he would starve them no longer', was held to be within the provision. A statement that a candidate would not pay his hotel bill or debts is within the provision: *Davies v Ward* (1910) Times, 18 January. On the other hand a statement that a candidate is a communist is not within the provision: *Burns v Associated Newspapers Ltd* (1925) 89 JP 205. The words 'radical traitors' were held to be not within the provisions, as being a statement of opinion rather than of fact: *Ellis v National Union of Conservative and Constitutional Associations, Middleton and Southall* (1900) 44 Sol Jo 750. See also *Sunderland Borough Case* (1896) 5 O'M & H 53 at 62, where it was said that a mere argumentative statement of the conduct of a public man, even though in respect of his private life, is not always, and in many cases certainly would not be, within this provision; and *DPP v Edwards* [2002] EWHC 636 (Admin), [2002] All ER (D) 314 (Mar), where it was found that the statement '[K] whilst sitting as chairman of housing hands his son-in-law's company a £125,000 building contract' did relate to the personal conduct of K because it clearly attributed personal and private motives to the decision to allocate the contract to the company and a distinction is made between an act of the authority through the committee assigning contracts, which was a public act, and the role that K might have had in the decision-making process that led to the allocation of the contract, which was not.

10 *Monmouth Boroughs Case* (1901) 5 O'M & H 166 at 173.

11 *Silver v Benn* (1896) 12 TLR 199 at 200, DC (where Kay LJ speaks of 'what the passage meant to convey'). The question to be determined is what in the circumstances is the true meaning which the reader would place upon the statements: *Louth, Northern Division Case* (1911) 6 O'M & H 103 at 154-157. The true meaning will depend on the occasion of the publication, the persons publishing, the person attacked and the readers intended to be addressed: *Louth, Northern Division Case* supra at 158; and see *Sheffield, Attercliffe Division Case* (1906) 5 O'M & H 218 at 223. This is inconsistent, however, with dicta in *Ellis v National Union of Conservative and Constitutional Associations, Middleton and Southall* (1900) 44 Sol Jo 750, where the published statement was construed literally and the question of innuendo was disregarded. But in *Fairbairn v Scottish National Party* 1979 SC 393 the court took account of the innuendo that the words were reasonably capable of bearing.

12 As to the appointment of an election agent for parliamentary and local government elections see PARA 238 ante; and as to the appointment of an election agent for elections to the National Assembly for Wales see PARA 242 ante. In the application of the provision set out in the text to an election where the candidate is not required to have an election agent (as to which see PARA 238 note 3 ante), the reference to an illegal practice committed by an agent of the candidate is to be taken as a reference to an illegal practice committed without the candidate's knowledge and consent and the reference to the election agent is omitted: Representation of the People Act 1983 s 106(7). In the case of a Welsh Assembly election, the reference is to, in the case of an individual candidate, his agent other than his election agent but, in the case of a party list candidate, the agent of any or all of the candidates on the list other than their election agent: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 72(2).

13 Representation of the People Act 1983 s 106(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 72(2)(i).

14 Representation of the People Act 1983 s 106(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 72(2)(ii).

15 Ie, at a Welsh Assembly election, the withdrawal of an individual candidate or of any or all of a group of party list candidates: *ibid* art 72(4).

16 Representation of the People Act 1983 s 106(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 72(4).

17 Representation of the People Act 1983 s 106(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 72(5). In the application of this provision to an election where a candidate is not required to have an election agent (as to which see *PARA 238* note 3 *ante*), the reference to an illegal practice committed by an agent of the candidate is to be taken as a reference to an illegal practice committed without the candidate's knowledge and consent and the reference to the election agent is omitted: Representation of the People Act 1983 s 106(7). At a Welsh Assembly election, the reference is, in the case of an individual candidate, his agent other than his election agent but, in the case of a party list candidate, the agent of any or all of the candidates on the list other than their election agent: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 72(5).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(ii) Illegal Practices/A. IN GENERAL/684. Illegal practices connected with candidature at European parliamentary general election.

684. Illegal practices connected with candidature at European parliamentary general election.

A person who, at a general election of members of the European Parliament ('MEPs')¹: (1) consents to nomination as an individual candidate² in more than one electoral region³; (2) consents to nomination as an individual candidate in an electoral region and consents to being nominated in a list submitted by a registered party⁴, whether in that region or some other⁵; (3) consents to being nominated in the list submitted by more than one registered party in the same region⁶; or (4) consents to being nominated in the lists submitted by a registered party or parties for more than one region⁷, is guilty of an illegal practice⁸.

If a person, on any occasion when⁹ elections to the European Parliament are held in all member states, stands as a candidate at such an election in the United Kingdom and in any other member state, he is guilty of an offence¹⁰; and such an offence is an illegal practice¹¹.

1 As to European parliamentary general elections see PARA 224 ante.

2 As to the requirement for a candidate to consent to nomination see PARA 265 ante. For the meaning of 'individual candidate' in the context of a European parliamentary election see PARA 237 note 32 ante.

3 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 28(2)(a). As to the establishment of electoral regions for the purpose of elections to the European Parliament see PARA 76 ante.

4 For the meanings of 'list' and 'registered party' in relation to European parliamentary elections see PARA 237 note 30 ante.

5 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 28(2)(b).

6 Ibid reg 28(2)(c).

7 Ibid reg 28(2)(d).

8 Ibid reg 28(2). As to the consequences of illegal practices see PARA 886 et seq post.

9 Ie under the 1976 Act concerning the election of the representatives of the European Parliament by direct universal suffrage (OJ L278, 08.10.76, p 5) (the '1976 Act') art 10 (amended and renumbered by EC and Euratom Decision 2002/772 (OJ L283, 21.10.2002, p 1)), annexed to ECSC, EEC and Euratom Decision 76/787 (OJ L278, 08.10.76, p 1) (see PARA 6 ante).

10 European Parliamentary Elections (Changes to the Franchise and Qualification of Representatives) Regulations 1994, SI 1994/342, reg 4(1) (amended by the European Parliamentary Elections (Common Electoral Principles) Regulations 2004, SI 2004/1374, reg 4).

11 European Parliamentary Elections (Changes to the Franchise and Qualification of Representatives) Regulations 1994, SI 1994/342, reg 4(2). The text refers to an illegal practice within the meaning of the Representation of the People Act 1983, and the provisions of that Act which relate to illegal practices, as applied by regulations under the European Parliamentary Elections Act 2002, accordingly have effect in relation to any such offence: European Parliamentary Elections (Changes to the Franchise and Qualification of Representatives) Regulations 1994, SI 1994/342, reg 4(2).

UPDATE

684 Illegal practices connected with candidature at European parliamentary general election

NOTE 9--As from 24 July 2002, by virtue of art 97, the ECSC Treaty has expired.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(ii) Illegal Practices/B. ILLEGAL PAYMENT, EMPLOYMENT OR HIRING/685. Illegal payment or employment by candidate or election agent.

B. ILLEGAL PAYMENT, EMPLOYMENT OR HIRING

685. Illegal payment or employment by candidate or election agent.

The following are illegal payments or employments: (1) payment to induce the corrupt withdrawal of a candidate¹; (2) payment to an elector or proxy for the exhibition of election notices²; (3) the employment of a paid canvasser³; (4) the provision of money for any prohibited payment⁴; (5) the provision of money in excess of the maximum allowed for election expenses⁵.

A person guilty of an offence of illegal payment or employment is liable, on summary conviction, to a fine⁶; but a candidate⁷ or election agent⁸ who is personally guilty of an offence of illegal payment or employment is guilty of an illegal practice⁹.

1 See PARA 686 post.

2 See PARA 687 post.

3 See PARA 688 post.

4 See PARA 689 post.

5 See PARA 689 post.

6 See PARA 887 post. The penalty is a fine not exceeding level 5 on the standard scale: see PARA 887 post. As to the standard scale see PARA 736 note 3 post.

7 For the meaning of 'candidate' generally see PARA 237 ante.

8 As to the appointment of an election agent for parliamentary and local government elections see PARA 238 ante; as to the appointment of an election agent for elections to the National Assembly for Wales see PARA 242 ante; and as to the appointment of the election agent of a registered party or for an individual candidate at a European parliamentary election see PARA 246 ante.

9 Representation of the People Act 1983 s 175(2) (amended by the Political Parties, Elections and Referendums Act 2000 s 158(1), Sch 21 para 6(1), (6)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 126(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 113(2). If an offence of illegal payment or employment is committed with the candidate's knowledge and consent at an election where candidates are not required to have election agents (as to which see PARA 238 note 3 ante), the candidate is guilty of an illegal practice: Representation of the People Act 1983 s 175(2) (as so amended). As to the circumstances in which relief is available see PARA 690 et seq post; and as to the consequences of illegal payment or employment see PARA 887 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(ii) Illegal Practices/B. ILLEGAL PAYMENT, EMPLOYMENT OR HIRING/686. Inducing or procuring corrupt withdrawal of candidate by illegal payment.

686. Inducing or procuring corrupt withdrawal of candidate by illegal payment.

Any person who corruptly induces or procures another person to withdraw from being a candidate¹ at an election² in consideration of a payment or promise of payment, and any person withdrawing in pursuance of the inducement or procurement, is guilty of an illegal payment³.

1 For the meaning of 'candidate' generally see PARA 237 ante. At a European parliamentary election, the reference is to an individual candidate: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 72. For the meaning of 'individual candidate' in relation to a European parliamentary election see PARA 237 note 32 ante.

2 I.e. a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'Authority election' see PARA 10 ante; and for the meaning of 'election under the local government Act' see PARA 10 note 2 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante. As to elections in the City of London see PARA 30 ante; as to elections to the National Assembly for Wales generally see PARA 220 et seq ante; and as to European parliamentary elections see PARA 224 et seq ante.

3 Representation of the People Act 1983 s 107; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 73; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 72. A candidate or election agent who is personally guilty of the offence is guilty of an illegal practice: see PARA 685 ante. As to the circumstances in which relief is available see PARA 690 et seq post; and as to the consequences of illegal payment or employment see PARA 887 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(ii) Illegal Practices/B. ILLEGAL PAYMENT, EMPLOYMENT OR HIRING/687. Illegal payments for exhibition of election notices.

687. Illegal payments for exhibition of election notices.

For the purposes of promoting or procuring the election of a candidate¹ at an election², no payment or contract for payment may be made to an elector or proxy for an elector on account of the exhibition of, or the use of any house, land, building or premises for the exhibition of, any address³, bill⁴ or notice, unless it is the ordinary business of the elector or proxy as an advertising agent⁵ to exhibit for payment bills and advertisements and the payment or contract is made in the ordinary course of that business⁶. If any payment or contract for payment is knowingly made in contravention of this provision either before, during or after an election, the person making the payment or contract, and if he knew it to be in contravention of this provision, any person receiving the payment or being a party to the contract, is guilty of an illegal practice⁷.

The provisions which establish this illegal practice⁸ have been applied with modifications for the purposes of local authority referendums in England and in Wales⁹.

1 For the meaning of 'candidate' generally see PARA 237 ante. At a European parliamentary election, the reference is to a registered party or an individual candidate: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 73(1). For the meaning of 'individual candidate' in relation to a European parliamentary election see PARA 237 note 32 ante.

2 I.e. a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'Authority election' see PARA 10 ante; and for the meaning of 'election under the local government Act' see PARA 10 note 2 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante. As to elections in the City of London see PARA 30 ante; as to elections to the National Assembly for Wales generally see PARA 220 et seq ante; and as to European parliamentary elections see PARA 224 et seq ante. For the meaning of references to promoting or procuring a candidate's election at an election see PARA 274 note 4 ante.

3 An address appears to cover anything which is in the nature of an appeal to a voter to vote for a particular candidate: *Exeter Case* (1911) 6 O'M & H 228 at 249. A special election edition of a local newspaper, designed to promote the election of a particular candidate and authorised by the candidate, was held to be an address: *Oxford Borough Case* (1924) 7 O'M & H 49 at 83. See also *Barrow-in-Furness Case* (1886) 4 O'M & H 76; *Stepney Division, Tower Hamlets Case* (1886) 4 O'M & H 34, 37.

4 As to what may constitute a bill see PARA 751 note 29 post.

5 See *Exeter Case* (1911) 6 O'M & H 228 at 242.

6 Representation of the People Act 1983 s 109(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 74(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 73(1).

7 Representation of the People Act 1983 s 109(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 74(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 73(2). A candidate or election agent who is personally guilty of the offence is guilty of an illegal practice: see PARA 685 ante. As to the liability of officers of associations or bodies which are guilty of an offence, the court's power to mitigate or remit any incapacity and the limitation of the liability of a candidate for an offence by an agent see PARA 690 et seq post; and as to the consequences of illegal practices see PARA 886 et seq post.

8 I.e. under the Representation of the People Act 1983 s 109 (see the text and notes 1-7 supra).

9 See, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For these purposes, the provisions of the Representation of the People Act 1983 Pt II (ss 67-119) (as amended, applied and modified) (see PARA 238 et seq ante), prohibiting payments and contracts for payments, do not affect the right of any creditor, who, when the contract was made or the expense was incurred, was ignorant of that contract or expense being in contravention of those provisions: s 116 (applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2).

UPDATE

687-689 Illegal payments for exhibition of election notices ... Providing money for prohibited payment or for expenses incurred in excess of the maximum amount

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(ii) Illegal Practices/B. ILLEGAL PAYMENT, EMPLOYMENT OR HIRING/688. Illegal employment of paid canvassers.

688. Illegal employment of paid canvassers.

If, for the purpose of promoting or procuring a candidate's election or promoting or procuring electoral success for a party¹, a person is, either before, during or after an election², engaged or employed for payment or promise of payment as a canvasser, the person so engaging or employing him and the person so engaged or employed are guilty of illegal employment³.

A person who is lawfully engaged or employed for payment for some lawful purpose is not, however, deprived of the ordinary right of a citizen to canvass, and he may therefore canvass so long as it is not for his canvassing that he is paid⁴. Although the payment of canvassers is illegal, there is nothing illegal in the payment of the expenses of a canvass⁵.

The provisions which establish this illegal practice⁶ have been applied with modifications for the purposes of local authority referendums in England and in Wales⁷.

1 For the meaning of 'candidate' generally see PARA 237 ante. At a European parliamentary election, the reference is to a registered party or an individual candidate: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 75. For the meaning of 'individual candidate' in relation to a European parliamentary election see PARA 237 note 32 ante.

2 I.e. a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'Authority election' see PARA 10 ante; and for the meaning of 'election under the local government Act' see PARA 10 note 2 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante. As to elections in the City of London see PARA 30 ante; as to elections to the National Assembly for Wales generally see PARA 220 et seq ante; and as to European parliamentary elections see PARA 224 et seq ante. For the meaning of references to promoting or procuring a candidate's election at an election or to promoting or procuring electoral success for a party see PARA 274 note 4 ante.

3 Representation of the People Act 1983 s 111; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 76; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 75. A candidate or election agent who is personally guilty of the offence is guilty of an illegal practice: see PARA 685 ante. As to the circumstances in which relief is available see PARA 690 et seq post; and as to the consequences of illegal payment or employment see PARA 887 post.

4 *Stafford County, Lichfield Division Case* (1895) 5 O'M & H 27 at 28-29; cf *Elgin and Nairn Case* (1895) 5 O'M & H 1 at 13.

5 *Ipswich Case, Packard v Collings and West* (1886) 54 LT 619 at 625.

6 I.e. under the Representation of the People Act 1983 s 111 (see the text and notes 1-3 supra).

7 See, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2). For these purposes, the provisions of the Representation of the People Act 1983 Pt II (ss 67-119) (as amended, applied and modified) (see PARA 238 et seq ante), prohibiting payments and contracts for payments, do not affect the right of any creditor, who, when the contract was made or the expense was incurred, was ignorant of that contract or expense being in contravention of those provisions: s 116 (applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2).

UPDATE

687-689 Illegal payments for exhibition of election notices ... Providing money for prohibited payment or for expenses incurred in excess of the maximum amount

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(ii) Illegal Practices/B. ILLEGAL PAYMENT, EMPLOYMENT OR HIRING/689. Providing money for prohibited payment or for expenses incurred in excess of the maximum amount.

689. Providing money for prohibited payment or for expenses incurred in excess of the maximum amount.

It is an illegal payment if any person knowingly provides money for any payment which is contrary to the provisions governing elections¹, or for any expenses incurred in excess of the maximum amount so allowed², or for replacing any money expended in any such payment or expenses, except where the payment or the incurring of the expenses may have been previously allowed³ to be an exception⁴.

The provisions which establish such activity as an illegal practice⁵ have been applied with modifications for the purposes of local authority referendums in England and in Wales⁶.

1 Ie, in relation to a parliamentary or local government election, the Representation of the People Act 1983, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended) and, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293 (see PARA 388 ante). It is thought that the prohibition in the Representation of the People Act 1983 s 75 (as amended) (expenses incurred by outsiders in publicising a candidate or in promoting political debate at an election: see PARA 277 ante) is not a prohibition on a payment of money.

2 As to that maximum amount see PARA 278 ante.

3 Ie under mitigation (see PARA 693 et seq post).

4 Representation of the People Act 1983 s 112; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 77; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 76. A candidate or election agent who is personally guilty of the offence is guilty of an illegal practice: see PARA 685 ante. As to the circumstances in which relief is available see PARA 690 et seq post; and as to the consequences of illegal payment or employment see PARA 887 post.

5 Ie under the Representation of the People Act 1983 s 112 (see the text and notes 1-4 supra).

6 See, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2). For these purposes, the provisions of the Representation of the People Act 1983 Pt II (ss 67-119) (as amended, applied and modified) (see PARA 238 et seq ante), prohibiting payments and contracts for payments, do not affect the right of any creditor, who, when the contract was made or the expense was incurred, was ignorant of that contract or expense being in contravention of those provisions: s 116 (applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2).

UPDATE

687-689 Illegal payments for exhibition of election notices ... Providing money for prohibited payment or for expenses incurred in excess of the maximum amount

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(ii) Illegal Practices/C. RELIEF/690. Relief in respect of failure to deliver or send returns or declarations of expenses authorised by election agent.

C. RELIEF

690. Relief in respect of failure to deliver or send returns or declarations of expenses authorised by election agent.

If a person fails to deliver or send any declaration or return as to election expenses¹ or a copy of it as required, he is guilty of an illegal practice².

The court before which a person is convicted may, however, if it thinks it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of the conviction³.

A candidate at a parliamentary⁴ or local government⁵ or Welsh Assembly election⁶ is not liable, nor is his election avoided, for such an illegal practice committed by an agent without his consent or connivance⁷. Where any act or omission of an association or body of persons, corporate or unincorporate, is an offence declared to be an illegal practice by this provision, any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or who was purporting to act in any such capacity, is to be deemed to be guilty of that offence, unless he proves that the act or omission took place without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances⁸.

The provisions which establish this illegal practice⁹ have been applied with modifications for the purposes of local authority mayoral elections¹⁰.

1 For the meaning of 'election expenses' see PARA 274 ante. For the meaning of 'return as to election expenses' see PARA 286 note 1 ante; and for the meaning of 'declaration as to election expenses' see PARA 287 note 2 ante.

2 Representation of the People Act 1983 s 75(5) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 24); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(6); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(5); and see PARA 284 ante. As to the punishment of illegal practices see PARA 886 post; as to the other consequences of illegal practices see PARA 904 et seq post.

3 Representation of the People Act 1983 s 75(5)(i); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(6)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(5). As to such incapacity see PARA 904 post.

4 For the meaning of 'parliamentary election' see PARA 9 ante.

5 For the meaning of 'local government election' see PARA 10 ante.

6 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

7 Representation of the People Act 1983s 75(5)(ii); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(6)(ii). As to the avoidance of elections see PARAS 892-894 post.

8 Representation of the People Act 1983 s 75(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(7); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(6).

9 lie under the Representation of the People Act 1983 s 75 (as amended) (see the text and notes 1-8 supra).

10 See the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(2), Sch 2 Table 1.

UPDATE

690 Relief in respect of failure to deliver or send returns or declarations of expenses authorised by election agent

TEXT AND NOTES 9, 10--SI 2002/185 replaced: Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024. 1983 Act s 75 no longer applies to local authority mayoral elections.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(ii) Illegal Practices/C. RELIEF/691. Relief in respect of returns or declarations as to election expenses.

691. Relief in respect of returns or declarations as to election expenses.

In respect of contraventions of the statutory requirements¹ regarding returns or declarations as to election expenses², a candidate³ at an election⁴ or his election agent⁵ may apply for relief to the High Court, an election court or a county court⁶. Where a person makes such an application he must notify the Director of Public Prosecutions of it, who may attend the hearing of it and make representations at the hearing in respect of it⁷. Relief may be granted to a candidate in respect of any failure to deliver the return and declarations as to election expenses, or any part of them, or in respect of any error or false statement in them⁸. Relief may be granted to an election agent in respect of the failure to deliver the return and declarations which he was required to deliver, or any part of them, or in respect of any error or false statement in them⁹. The candidate may apply for relief on the ground that the failure, error or false statement arose by reason of his illness¹⁰, or of the absence, death, illness¹¹ or misconduct of his election agent or sub-agent or of any clerk or officer of that agent¹², or by reason of inadvertence or any reasonable cause of a like nature¹³, and not by reason of any want of good faith on the part of the applicant¹⁴. The election agent may apply for relief on the ground that the failure, error or false statement arose by reason of his illness¹⁵ or of the death or illness of any prior election agent of the candidate or of the absence, death, illness or misconduct of any sub-agent, clerk or officer of an election agent of a candidate¹⁶ or by reason of inadvertence, or any reasonable cause of a like nature¹⁷, and not by reason of any want of good faith on the part of the applicant¹⁸.

After such notice of an application in the parliamentary constituency¹⁹ or local government area²⁰ or the Welsh Assembly constituency or Assembly electoral region²¹ or the European parliamentary electoral region²² (as the case may be) as the court considers fit, and on production of such evidence of the grounds stated in the application and of the good faith of the application, and otherwise, as it considers fit, the court may make such order for allowing an authorised excuse for the failure, error or false statement as it considers just²³. Where, on such an application, it appears to the court that any person who is or has been an election agent or sub-agent²⁴ has refused or failed to make such return or to supply such particulars as will enable the candidate and his election agent respectively²⁵ to comply with the statutory provisions as to returns or declarations as to election expenses²⁶, the court, before making an order allowing an authorised excuse, must order that person to attend before it²⁷. On the attendance of that person, the court must, unless he shows cause to the contrary, order him to make the return and declaration or to deliver a statement of the particulars required to be contained in the return as it considers just, within such time, to such person and in such manner as it may direct, or may order him to be examined with respect to the particulars²⁸. If a person fails to comply with any order of the court, it may order him to pay a fine²⁹.

An order allowing an authorised excuse may make the allowance conditional upon the making of the return and declaration in a modified form or within an extended time, and upon the compliance with such other terms as to the court seem best calculated for carrying into effect the objects of the statutory provisions relating to the matter³⁰. Such an order relieves the applicant for the order from any liability or consequences under the provisions governing elections³¹ in respect of the matter excused by the order³². Where it is proved to the court by the candidate at a parliamentary or local government or Welsh Assembly election that any act or omission of the election agent in relation to the return and declarations was without the candidate's sanction or connivance, and that the candidate took all reasonable means for

preventing the act or omission, the court must relieve the candidate from the consequences of his election agent's act or omission³³. The date of the order, or, if conditions and terms are to be complied with, the date at which the applicant fully complies with them, is called, for the purpose of a parliamentary or local government or Welsh Assembly election, 'the date of the allowance of the excuse'³⁴.

1 As to the requirement to prepare and send returns and declarations as to election expenses where the expenses are authorised by an election agent see PARA 284 et seq ante; and as to the requirement to prepare and send returns and declarations as to election expenses in relation to an election of parish or community councillors, at which an election agent is not required, see PARA 300 ante. As to a failure to meet the requirements for such financial returns or declarations see PARA 679 ante; and as to a failure to deliver or send such returns or declarations see PARA 680 ante.

2 For the meaning of 'election expenses' see PARA 274 ante. For the meaning of 'return as to election expenses' see PARA 286 note 1 ante; and for the meaning of 'declaration as to election expenses' see PARA 287 note 2 ante.

3 For the meaning of 'candidate' generally see PARA 237 ante. At a Welsh Assembly election, the reference in the text is to a constituency candidate (at a constituency election) or an individual candidate (at a regional election): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(1). For the meanings of 'Assembly election', 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante; and for the meaning of 'individual candidate' in relation to a Welsh Assembly election see PARA 237 note 23 ante. At a European parliamentary election, the reference is to an individual candidate: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(1). For the meaning of 'individual candidate' in relation to a European parliamentary election see PARA 237 note 32 ante.

4 In a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'Authority election' see PARA 10 ante; and for the meaning of 'election under the local government Act' see PARA 10 note 2 ante. As to elections in the City of London see PARA 30 ante; as to elections to the National Assembly for Wales generally see PARA 220 et seq ante; and as to European parliamentary elections see PARA 224 et seq ante.

5 As to the appointment of an election agent for parliamentary and local government elections see PARA 238 ante; as to the appointment of an election agent for elections to the National Assembly for Wales see PARA 242 ante; and as to the appointment of the election agent of a registered party or for an individual candidate at a European parliamentary election see PARA 246 ante.

6 Representation of the People Act 1983 s 86(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(1).

7 Representation of the People Act 1983 s 86(1A) (added by the Representation of the People Act 1985 s 24, Sch 4 para 30(a)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(2). In place of the Director of Public Prosecutions, his assistant or any barrister or solicitor duly appointed as the Director's representative may attend the hearing and make representations: Representation of the People Act 1983 s 86(1A) (as so added); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(2). As to applications made in relation to a European parliamentary election held in the combined region (as to which see PARA 76 ante) see reg 55(8), (9).

8 Representation of the People Act 1983 s 86(2)(a) (s 86(2) amended by the Representation of the People Act 1985 Sch 4 para 30); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(3)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(3)(a).

9 Representation of the People Act 1983 s 86(2)(b) (as amended: see note 8 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(3)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(3)(b).

10 Representation of the People Act 1983 s 86(3)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(4)(a). For an instance see *Re Lloyd George's Application* (1932) 76 Sol Jo 166.

11 For instances of illness of an election agent see *Ipswich Case* (1887) 3 TLR 397, DC; *Re Walworth Election* (1911) Times, 9 February.

12 Representation of the People Act 1983 s 86(3)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(4)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(4)(b). As to the nomination of a sub-agent at certain parliamentary and local government elections see PARA 240 ante; in relation to elections to the National Assembly for Wales see PARA 244 ante; and in relation to European parliamentary elections see PARA 248 ante.

13 Representation of the People Act 1983 s 86(3)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(4)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(4)(d). For consideration of the meaning of 'inadvertence' and 'reasonable cause of a like nature' see PARAS 694-695 post. For cases relating to returns and declarations in which relief has been granted see PARA 696 post.

14 Representation of the People Act 1983 s 86(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(4).

15 Representation of the People Act 1983 s 86(3)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(4)(a).

16 Representation of the People Act 1983 s 86(3)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(4)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(4)(c).

17 Representation of the People Act 1983 s 86(3)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(4)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(4)(d). See also note 13 supra.

18 Representation of the People Act 1983 s 86(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(4).

19 For the meaning of 'parliamentary constituency' see PARA 9 ante.

20 For the meaning of 'local government area' see PARA 18 note 2 ante.

21 For the meanings of 'Assembly constituency' and 'Assembly electoral region' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

22 As to the establishment of electoral regions for the purpose of elections to the European Parliament see PARA 76 ante.

23 Representation of the People Act 1983 s 86(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(5); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(5).

24 For the purposes of a European parliamentary election, references to the election agent or sub-agent include a person authorised in writing by the election agent or any sub-agent to incur election expenses: *ibid* reg 56(4).

25 For the purposes of a Welsh Assembly election, the reference is to a candidate and his election agent at a constituency election or to an individual candidate and his election agent at a regional election: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 57(1).

26 See note 2 supra.

27 Representation of the People Act 1983 s 87(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 57(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 56(1).

28 Representation of the People Act 1983 s 87(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 57(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 56(2).

29 Representation of the People Act 1983 s 87(3) (amended by the Representation of the People Act 1985 Sch 4 para 31); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 57(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 56(3). The penalty is a fine not exceeding the amount of the maximum fine to which he would be liable if at the time the order is made he were convicted of a summary offence on conviction of which he was liable to a fine of level 5 on the standard scale: see the Representation of the People Act 1983 s 87(3) (as so amended); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 57(3); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 56(3). As to the standard scale see PARA 736 note 3 post.

30 Representation of the People Act 1983 s 86(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(7); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(6). The text refers to the objects of, in relation to a parliamentary or local government election, the Representation of the People Act 1983 Pt II (ss 67-119) (as amended) or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Pt III (arts 35-84) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, Pt 2 (regs 31-81) (as amended).

31 Ie, in relation to a parliamentary or local government election, the Representation of the People Act 1983, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 and, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293 (see PARA 388 ante).

32 Representation of the People Act 1983 s 86(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(8); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(7).

33 Representation of the People Act 1983 s 86(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(6). As to what those consequences might otherwise be see PARA 899 et seq post.

34 Representation of the People Act 1983 s 86(8); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(9).

UPDATE

691 Relief in respect of returns or declarations as to election expenses

NOTE 7--Reference to solicitor now to solicitor or authorised person: Representation of the People Act 1983 s 86(1A) (amended by Legal Services Act 2007 Sch 21 para 49(a)). 'Authorised person' means a person (other than a solicitor) who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience (within the meaning of that Act) (see LEGAL PROFESSIONS vol 65 (2008) PARA 512 NOTE 3): Representation of the People Act 1983 s 86(1B) (added by Legal Services Act 2007 Sch 21 para 49(b)).

NOTE 13--See *Finch v Richardson* [2008] EWHC 3067 (QB), [2009] 1 WLR 1338, [2008] All ER (D) 01 (Jan) (commission of illegal practices had been inadvertent).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(ii) Illegal Practices/C. RELIEF/692. Relief in respect of returns or declarations as to election expenses at parish or community council elections.

692. Relief in respect of returns or declarations as to election expenses at parish or community council elections.

If the candidate at an election of parish or community councillors¹ applies to the High Court, an election court or the county court² and shows that any failure to make the required return and declaration as to election expenses³ or either of them, or any error or false statement in them, has arisen by reason of his illness⁴ or absence⁵, or the absence, death, illness or misconduct of any agent, clerk or officer⁶, or inadvertence or any reasonable cause of a like nature⁷ and not by reason of any want of good faith on his part⁸, then, after such notice of the application as the court considers fit⁹ and on production of such evidence of the grounds stated in the application and of the good faith of the applicant and otherwise as it considers fit¹⁰, the court may make such order allowing the authorised excuse for the failure, error or false statement as it considers just¹¹. An appeal lies to the High Court from any such order made by a county court¹².

1 As to the election of parish or community councillors see PARA 207 et seq ante. As to elections in the City of London see PARA 30 ante.

2 The jurisdiction vested in the county court may be exercised otherwise than in open court: Representation of the People Act 1983 s 90(1)(b) (as amended), Sch 4 para 9(a).

3 As to the duty to make such return and declaration see PARA 300 ante.

4 See also PARA 691 ante.

5 Representation of the People Act 1983 Sch 4 para 7(1)(a).

6 Ibid Sch 4 para 7(1)(b).

7 Ibid Sch 4 para 7(1)(c). For consideration of the meaning of 'inadvertence' and 'reasonable cause of a like nature' see PARAS 694-695 post. For cases relating to returns and declarations in which relief has been granted see PARA 696 post.

8 Ibid Sch 4 para 7(1).

9 Ibid Sch 4 para 7(1)(i).

10 Ibid Sch 4 para 7(1)(ii).

11 Ibid Sch 4 para 7(1). The order may make the allowance conditional on compliance with such terms as to the court seem best calculated for carrying into effect the objects of Sch 4 (as amended) (see PARA 299 ante), and the order relieves the applicant from any liability or consequence under the Representation of the People Act 1983 in respect of the matters excused by the order: Sch 4 para 7(2). The date of the order, or if conditions and terms are to be complied with, the date on which the applicant fully complies with them, is called for this purpose 'the date of the allowance of the excuse': Sch 4 para 7(3).

12 Ibid Sch 4 para 9(b). As to appeals to the High Court generally see CIVIL PROCEDURE vol 12 (2009) PARA 1657.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(ii) Illegal Practices/C. RELIEF/693. Relief in respect of illegal practice, payment, employment or hiring.

693. Relief in respect of illegal practice, payment, employment or hiring.

If any act or omission of any person is likely to constitute an illegal practice, payment, employment or hiring¹, an application for relief may be made in all cases to an election court or to the High Court², although an application for relief in respect of payment of a claim for election expenses sent in late, or the payment of such expenses after time³, may be made to a county court⁴.

Where a person makes such an application he must notify the Director of Public Prosecutions of it and the Director or his assistant or representative may attend at the hearing and make representations at the hearing in respect of it⁵. If under the circumstances it seems to the court to be just that either the offender or any other person should not be subject to any of the consequences of the act or omission constituting the offence, the court may make an order allowing the act or omission to be an exception from the statutory provisions making it an illegal practice, payment, employment or hiring, and thereupon no person is subject to any of the consequences of the act or omission⁶. An applicant for such relief must show to the court by such evidence as to the court seems sufficient⁷: (1) that any act or omission of any person would be, but for the provisions allowing relief, by reason of being in contravention of the provisions governing elections⁸, an illegal practice, payment, employment or hiring⁹; (2) that the act or omission arose from inadvertence¹⁰, or from accidental miscalculation or from some other reasonable cause¹¹ of a like nature, and in any case did not arise from any want of good faith¹²; and (3) that such notice of the application has been given in the parliamentary constituency¹³ or area of the authority¹⁴ or the Welsh Assembly constituency or Assembly electoral region¹⁵ or the European parliamentary electoral region¹⁶ or the voting area¹⁷ (as the case may be) for which the election or referendum was held, as to the court seems fit¹⁸.

1 There is no relief under this provision in respect of any corrupt practice: *Norwich Case*, *Birbeck v Bullard* (1886) 4 O'M & H 84, 54 LT 625; *Cheltenham Case*, *Smythies and Claridge v Mathias*, *Davies' Case* (1911) 6 O'M & H 194 at 223. As to special provision for relief in the case of failure to make proper returns and declarations as to election expenses see PARA 691 ante.

2 Representation of the People Act 1983 s 167(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 118(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 108(1). The Representation of the People Act 1983 s 167 (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

3 In payments made in contravention of, in relation to a parliamentary or local government election, the Representation of the People Act 1983 s 78(1), (2) (as amended) or, in relation to a parish or community council election, s 90, Sch 4 para 1 (s 90 as amended) or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 47(1)-(3) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 48(1), (2) (see PARA 280 ante).

4 Representation of the People Act 1983 s 167(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 118(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 108(1); and see note 2 supra. As to the procedure on the application see PARAS 699-701 post.

5 Representation of the People Act 1983 s 167(1A) (added by the Representation of the People Act 1985 s 24, Sch 4 para 56); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 118(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 108(2); and see note 2 supra.

6 Representation of the People Act 1983 s 167(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 118(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 108(3); and see note 2 supra. See also *Northumberland, Hexham Division Case, Hudspeth and Lyal v Clayton* (1892) 4 O'M & H 143 at 144.

7 Mere assertions are insufficient; evidence must be forthcoming: *Ex p Perry* (1884) 48 JP 824, DC; and see *Ex p Haseldine* (1895) 59 JP 71, DC.

8 Ie, in relation to a parliamentary or local government election, the Representation of the People Act 1983, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended) and, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293 (see PARA 388 ante).

9 Representation of the People Act 1983 s 167(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 118(3)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 108(3)(a); and see note 2 supra. An application must not be made hypothetically in respect of certain matters if found by the court to be illegal: *Walsall Case* (1892) as cited in Day 76.

10 For the meaning of 'inadvertence' see PARA 694 post.

11 For an example of what may constitute reasonable cause see PARA 695 post.

12 Representation of the People Act 1983 s 167(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 118(3)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 108(3)(b); and see note 2 supra. For an example of an application for relief under the Representation of the People Act 1983 s 167 (as amended) that was granted see *Re Terry* [2003] All ER (D) 404 (Jul) (although the applicant had made disclosure of all of his breaches only under pressure, relief was granted because the failures had been inadvertent and the court had noted the view of the Director of Public Prosecutions that the breaches had not resulted from any want of good faith).

13 For the meaning of 'parliamentary constituency' see PARA 9 ante.

14 As to the area of the authority for which a local government election is held see PARA 10 ante.

15 For the meanings of 'Assembly constituency' and 'Assembly electoral region' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

16 As to the establishment of electoral regions for the purpose of elections to the European Parliament see PARA 76 ante.

17 For the meaning of 'voting area' see PARA 582 note 2 ante.

18 Representation of the People Act 1983 s 167(2)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 118(3)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 108(3)(c); and see note 2 supra. As to the notice of application for relief see further PARA 699 post.

UPDATE

693 Relief in respect of illegal practice, payment, employment or hiring

NOTE 2--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(ii) Illegal Practices/C. RELIEF/694. Inadvertence as ground for relief in respect of illegal practice, etc.

694. Inadvertence as ground for relief in respect of illegal practice, etc.

'Inadvertence' means negligence or carelessness where the circumstances show an absence of bad faith¹. Inadvertence may proceed from the applicant not knowing what was done or not knowing that it was wrong².

Ignorance of the law may in certain circumstances amount to inadvertence³. If a non-qualified person consults a legally qualified person and receives bad advice, he is not to be penalised on that account, but if he acts on the advice of non-qualified persons in the hope that his action is legal and it is not, he is liable to be refused relief for taking the risk⁴. Similarly, relief will be granted if a person is misled by a textbook on election law⁵. If any person, after reading the text of a statute or regulations, fails to understand an obscure or difficult point, he may be relieved, but not if the matter is set out clearly⁶; relief in such cases may be more readily granted where the legislation is new⁷. On the other hand relief granted to a candidate or other person on the ground of ignorance might be refused to an election agent on the ground that it was his duty to acquaint himself with the law⁸. Relief has been granted to an applicant who claimed that he had been misled by his parliamentary experience and had not appreciated that a difference existed between parliamentary and local government election law⁹.

The fact that the election contest was severe is not a ground for allowing payments of expenses in excess of the maximum¹⁰. However, where inadvertence on the part of an election agent was caused mainly by the stressful and unpleasant media attention directed towards her as a result of allegations made against the candidate, relief was granted for a failure on the part of the agent to return a properly-witnessed declaration¹¹.

1 *Re County Councillors' Elections, De Wette's Case* (1889) 5 TLR 173, DC; *Re County Council Elections, ex p Lenanton, ex p Pierce* (1889) 53 JP 263, DC; *Re Bedwellty Constituency Parliamentary Election, ex p Finch* (1965) 109 Sol Jo 514, 63 LGR 406 (carelessness will not prevent relief being granted provided it does not approach recklessness). See *Clark v Butcher* [2001] All ER (D) 396 (Nov), QBD (although it was not desirable simply to rely on a returning officer's circular as to the maximum expenses, and the applicants' approach to calculating the maximum expenses and apportionment had been somewhat lacking, the applicants' conduct amounted to nothing more than inadvertence and the respondents had failed to show that there had been a lack of good faith).

2 *Stepney Borough Case, Rushmere v Isaacson* (1892) as reported in 4 O'M & H 178 at 182, Day 116 at 120 per Cave J.

3 *Nichol v Fearby* [1923] 1 KB 480, a decision relating to a failure to make a return of election expenses (as to which see PARA 680 ante). In *Nichol v Fearby* supra at 498, McCardie J expressed the view that dicta must be deemed overruled which did not allow for ignorance of the law to fall within the word 'inadvertence' (he had earlier cited dicta to such effect in *Walsall Borough Case* (1892) 4 O'M & H 123 at 128 per Pollock B and at 129 per Hawkins J and in *West Bromwich Case* (1911) 6 O'M & H 256 at 289 per Bucknill J). In *Nichol v Fearby* supra at 498-499, McCardie J found support for the preferred view that ignorance of the law may amount to inadvertence in *Stepney Borough Case, Rushmere v Isaacson* (1892) as reported in 4 O'M & H 178 at 182, Day 116 at 120 per Cave J; *Southampton Borough Case* (1895) 5 O'M & H 17 at 26 per Bruce J; *West Bromwich Case* supra at 287 per Ridley J; and *Ex p Caine* (1922) 39 TLR 100, DC. See also *Worcester City Case, ex p Williamson* (1906) 51 Sol Jo 14; *Worcester Borough Case, ex p Caldicote* (1907) 51 Sol Jo 593; *Munro and M'Mullen v Mackintosh* 1920 SC 218; *Smith and Sloan v Mackenzie* 1919 SC 546.

4 *Re School Board Election, ex p Montefiore* (1888) 5 TLR 78, DC; *Re County Councils' Elections, Layton and Woodbridge's Case* (1889) 5 TLR 198, DC; *Re County Councillors Elections, Meason's Case* (1889) 5 TLR 220 at 221, DC; *Rotherhithe Divisional Case, ex p Payne* (1894) Times, 2 November; *Re Widnes Borough and Lancaster County Council Elections, Collins' Application* (1952) 96 Sol Jo 514, 50 LGR 655, DC. In *Re Berry* (1978) Times,

11 February, DC, a candidate at a local government election who had previously been an election agent at two parliamentary elections and had previously been a candidate at a local government election was refused relief for failing to include the name and address of the printer and publisher on election leaflets, but his election agent, who was not so experienced, was granted relief.

5 *Re County Councillors' Elections, Birley's Case* (1889) 5 TLR 220, DC; *Re Preston, Fishwick Ward Councillor, Re Hubberstey* (1899) 43 Sol Jo 826, DC.

6 *Re the Local Government Act 1888, Re the Municipal Elections (Corrupt and Illegal Practices) Act 1884, ex p Walker* (1889) 22 QBD 384, CA.

7 *Stepney Division, Tower Hamlets Case* (1886) 4 O'M & H 34, 37 at 53. See also *Ex p Matthews* (1886) 2 TLR 548, DC (failure to make return of election expenses: see PARAS 659, 666 ante); and see *Shipston-on-Stour RDC Election* (1953) Times, 9 June, DC.

8 *Ex p Polson* (1923) 39 TLR 231; *Re Pole and Scanlon* 1921 SC 98 (cases relating to failure to make a return of election expenses: see PARAS 659, 666 ante). On the other hand it has been stated that it is the candidate's duty to familiarise himself to some extent with election law and not to shut his eyes to it: *Cork, Eastern Division Case* (1911) 6 O'M & H 318 at 360.

9 *Cambridge Borough Case, ex p Hawkins and French* (1899) 44 Sol Jo 102, DC.

10 *Ex p Ayrton* (1885) 2 TLR 214, DC.

11 *Curran v Lord Advocate* 1999 SLT 332, OH.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(ii) Illegal Practices/C. RELIEF/695. Other reasonable cause as ground for relief in respect of illegal practice, etc.

695. Other reasonable cause as ground for relief in respect of illegal practice, etc.

A candidate whose express instructions had been disregarded by his election agent has been excused in respect of an excessive expenditure beyond the authorised maximum¹. Special statutory provision is made by which, in certain cases where there are joint candidates at a local government election, excess election expenses are to be deemed to have arisen from a reasonable cause².

1 *Ex p Stopes, Southwark Division Case* (1889) Times, 5 March.

2 See PARA 279 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(ii) Illegal Practices/C. RELIEF/696. Applications for relief in respect of illegal practice, etc which have been granted.

696. Applications for relief in respect of illegal practice, etc which have been granted.

Relief has been granted in respect of:

- 1 (1) paid canvassers¹;
- 2 (2) election documents not bearing the name and address of the printer and publisher²;
- 3 (3) the hiring of committee rooms in premises which are prohibited for the purpose³; and
- 4 (4) certain other illegal payments⁴.

Relief has also been granted in respect of election expenses incurred in excess of the authorised maximum⁵, or paid otherwise than by or through the election agent⁶; in respect of failure to make returns and declarations as to election expenses⁷ within the prescribed time⁸; in respect of returns of election expenses which were inaccurate or insufficient⁹; and in respect of failure to send documents required to accompany the return of election expenses¹⁰.

1 *Re County Councillors' Elections, Birley's Case* (1889) 5 TLR 220, DC. Cf *Re County Council Elections, ex p Thomas* (1889) 5 TLR 198, DC; revsd on appeal (1889) 60 LT 728, 5 TLR 234, CA, but on grounds which would no longer apply.

2 *Re Liverpool, Toxteth Division, Election* (1950) Times, 8 March (where the omission of the publisher's name was said to be a venial offence for which relief was granted); *Re Shipston-on-Stour RDC Election* (1953) Times, 9 June; *Re Hambleton RDC Election* (1960) Times, 20 January, DC; *Re Liverpool City Council Election* (1964) Times, 16 May, DC. See also *Re Huntingdon Borough Municipal Election, ex p Clark* (1885) 52 LT 260, DC; *Re County Councillors Elections, Vickerman's Case* (1889) 5 TLR 220, DC; *Re North Camberwell Election* (1910) Times, 15 January; *Cumberland, Cockermouth Division Case* (1901) 5 O'M & H 155; *Re Farringdon Ward Election* (1912) Times, 30 January; *Re County Councillor Elections, Byrch's Case* (1889) 5 TLR 195, DC; *Re County Councillors' Elections, Earl Manvers' Case* (1889) 5 TLR 220, DC; *Re Hailsham Division of Norfolk Election of County Councillors, ex p Ives* (1888) 5 TLR 136, DC; *Ex p Jessel* (1910) Times, 21 January; *Bettesworth v Allingham* (1885) 16 QBD 44, DC. Relief can only be granted to the candidate or election agent and not to the printer or publisher: *Re County Councillors' Elections, De Wette's Case* (1889) 5 TLR 173, DC; *Re County Council Elections, ex p Lenanton, ex p Pierce* (1889) 53 JP 263, DC; but cf *Re Huntingdon Borough Municipal Election, ex p Clark* supra; *Re Hailsham Division of Norfolk Election of County Councillors, ex p Ives* supra; and see *Re Terry* [2003] All ER (D) 404 (Jul) (candidate in a local election published a leaflet which did not display the name and address of the printer or publisher, claiming that the omission had been inadvertent and as a result of his photocopying machine breaking down).

3 *Re Hart* (1885) 2 TLR 24, DC; *Re Terry and Wharton* (1884) 1 TLR 183, DC; *Kesteven, Lincolnshire, Bennington Division Case, ex p Hutchinson* (1888) 5 TLR 136, DC; *Re Whitechapel Election* (1906) Times, 15 February; *Re County Council Elections, ex p Lenanton, ex p Pierce* (1889) 53 JP 263, DC; *Re County Councillors' Elections* (1889) 5 TLR 195, DC; *Ex p Kyd* (1887) 14 TLR 64, DC; *Ex p Hughes* (1900) 45 Sol Jo 79, DC. Relief was refused, however, in *Re School Board Election, ex p Montefiore* (1888) 5 TLR 78, DC; *West Bromwich Case* (1911) 6 O'M & H 256 at 286.

4 *Ex p Caine* (1922) 39 TLR 100; *Ex p Polson* (1923) 39 TLR 231.

5 *Re Wakefield Constituency Parliamentary Election, ex p Harrison* (1966) 110 Sol Jo 708, 64 LGR 383 (young voters not entitled to vote not excluded in computing maximum expenses; see now, however, PARA 278 ante); *Re Bodmin Constituency Parliamentary Election, ex p Bessell* (1966) Times, 7 July (young voters and non-residents not excluded); *Re Bedwellty Constituency Parliamentary Election, ex p Finch* (1965) 109 Sol Jo 514 (number of electors miscalculated); *Re Bristol South East Constituency Parliamentary Election* (1964) Times, 11

December (maximum calculated on basis that it was a county constituency whereas it was in fact a borough constituency). See also *Ex p Ayrton* (1885) 2 TLR 214, DC; *Ex p De Lafontaine* (1914) 78 JP Jo 352, DC; *Ex p Touche* (1915) Times, 28 July, DC; *Ex p Hughes* (1897) 42 Sol Jo 163, DC; and see *Cheltenham Case, Smythies and Claridge v Mathias, Davies' Case* (1911) 6 O'M & H 194 at 199, 223.

6 *Worcester City Case, ex p Williamson* (1906) 51 Sol Jo 14; *Worcester Borough Case, ex p Caldicote* (1907) 51 Sol Jo 593.

7 As to special statutory provisions relating to the granting of relief in the case of such returns and declarations and for the conditions which may be imposed see PARAS 691-692 ante.

8 *Wigan Case* (1885) 2 TLR 159, DC; *Ex p Matthews* (1886) 2 TLR 548, DC; *Ipswich Case* (1887) 3 TLR 397, DC; *Ex p Oake* (1904) Times, 10 August, DC; *Smith v Sloan and Mackenzie* 1919 SC 546; *Munro and M'Mullen v Mackintosh* 1920 SC 218; *Re Pole and Scanlon* 1921 SC 98; *Ex p Polson* (1923) 39 TLR 231 (but see PARA 694 ante); *Nichol v Fearby* [1923] 1 KB 480. See also *Ex p Robson* (1886) 18 QBD 336; *Ex p Pennington* (1898) 46 WR 415, DC (cases where no expenses had been incurred and the candidate had omitted to make a nil return; in *Ex p Robson* supra, a return and declaration were ordered to be made as a condition of relief).

9 *Plymouth, Drake Division Case* (1929) 7 O'M & H 101 at 110, 129; *York County East Riding, Buckrose Division Case* (1886) 4 O'M & H 110 at 117-119; *Stepney Division, Tower Hamlets Case* (1886) 4 O'M & H 34, 37 at 53; *Norwich Case, Birbeck v Bullard* (1886) 4 O'M & H 84, 54 LT 625.

10 *Clark v Sutherland* 1897 24 R (Ct of Sess) 821, 34 Sc LR 555.

UPDATE

696 Applications for relief in respect of illegal practice, etc which have been granted

NOTE 4--See *Finch v Richardson* [2008] EWHC 3067 (QB), [2009] 1 WLR 1338, [2008] All ER (D) 01 (Jan); and PARA 691 NOTE 13.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(ii) Illegal Practices/C. RELIEF/697. Applications for relief in respect of illegal practice, etc which have been refused.

697. Applications for relief in respect of illegal practice, etc which have been refused.

Relief has been refused in respect of the payment of a voter's railway fare to enable him to go and vote¹; in respect of a libellous placard containing an unjustifiable attack on the candidate's opponent²; and where the offence was conducted on a considerable scale or was likely to influence the election³. It is doubtful if relief would be refused merely because the applicant had committed more than one offence⁴.

Relief has been refused where the applicant failed to convince the court that he and his agents had taken all reasonable steps to ensure a proper election campaign and to prevent the commission of illegal practices⁵; where there was a wholesale disregard of election law⁶; and where the evidence on the affidavits was conflicting⁷.

1 *Southampton Borough Case* (1895) 5 O'M & H 17 at 25.

2 *Re County Councillors' Elections, De Wette's Case* (1889) 5 TLR 173, DC; and cf *Re County Councillors' Elections, Fenwick's Case* (1889) 5 TLR 220, DC (where a letter was alleged to be scurrilous but was found not to be so by the court and relief was granted).

3 *Re Warwick County, Dunchurch Division, ex p Darlington* (1889) 53 JP 71, DC; *Re Droitwich Elective Auditors' Case, ex p Tolley, ex p Slater* (1907) 71 JP 236, DC.

4 Relief was refused in *Re Ramsgate Town Council, ex p Hobbs* (1889) 5 TLR 272, DC (although this was not the only ground of refusal: see note 7 infra); but relief was allowed in *Stepney Borough Case, Rushmere v Isaacson* (1892) 4 O'M & H 178 at 181 and in *Ex p Polson* (1923) 39 TLR 231. See *West Ham, North Division Case* (1911) 6 O'M & H 392 at 394 per Ridley J ('An irregularity in an account--the court would probably relieve for it. Let it be two and they may relieve for them. But this is a case in which in almost every particular which has been given some error has been committed while other things have never been recognised or thought of at all').

5 *Rochester Borough Case* (1892) 4 O'M & H 156 at 160; *Southampton Borough Case* (1895) 5 O'M & H 17 at 22.

6 *Cork, Eastern Division Case* (1911) 6 O'M & H 318 at 360.

7 *Re Ramsgate Town Council, ex p Hobbs* (1889) 5 TLR 272, DC; *Re Hambleton* (1953) 103 L Jo 703, county court (where the Director of Public Prosecutions stated that there was no reported case of relief being granted if the evidence was contradictory).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(ii) Illegal Practices/C. RELIEF/698. Time of application for relief in respect of illegal practice, etc.

698. Time of application for relief in respect of illegal practice, etc.

An application for relief in respect of an illegal practice may be made at any time¹. It may be made before the poll², or after the withdrawal of an election petition³, or when an election petition is threatened⁴, or after the issue of a writ claiming penalties⁵. The application must be made promptly after the discovery of the act or omission or it may be refused on the ground of delay⁶. If an election petition has been presented, the court will usually decline to adjudicate upon an application for relief by the successful candidate whose election is questioned by the petition, and the court may either refuse the application or adjourn the hearing until the petition has been heard⁷. In some cases, however, especially where the act complained of is trivial and not likely in itself to have affected the result of the election, the court will be prepared to adjudicate even though the result is that the grant of relief puts an end to the petition⁸.

1 As to such applications see PARA 693 et seq ante.

2 *Ex p Kyd* (1897) 14 TLR 64, DC.

3 *Lichfield Case* (1892) as cited in Day 76.

4 *Re County Councillors' Elections, Stephens' Case* (1889) 5 TLR 203, DC.

5 *Nichol v Fearby* [1923] 1 KB 480.

6 *Re Pembroke County Council Case* (1889) 5 TLR 272, DC; on appeal sub nom *Re Local Government Act 1888, ex p Birtwhistle* (1889) 5 TLR 321, CA.

7 *Ex p Wilks* (1885) 16 QBD 114, DC; *Re County Councils' Elections, Evans' Case* (1889) 5 TLR 206 at 207, DC; *Re County Councillors' Elections, Hempson's Case* (1889) 5 TLR 220, DC.

8 *Ex p Forster* (1903) 89 LT 18, DC.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(ii) Illegal Practices/C. RELIEF/699. Notice of application for relief.

699. Notice of application for relief.

A court may make an order granting relief only after such notice of the application is given as the court considers fit¹. As well as notice being given to the Director of Public Prosecutions², notice should be given to each of the candidates and to the returning officer and there should be public advertisement in newspapers circulating in the area for which the election is held³. It is not necessary to give notice by posters⁴ but the notice must be given a sufficient time before the application is intended to be made⁵. The notice must give sufficient information as to the relief sought⁶. Less notice is required when relief is asked during the trial of an election petition⁷.

1 As to relief with reference to returns and declarations as to election expenses see PARAS 691-692 ante; and as to relief in respect of illegal practice, payment, employment or hiring see PARA 693 ante.

2 See PARA 693 ante.

3 *Salop, Southern or Ludlow Division Case* (1886) 54 LT 129, DC; *Re County Councillors' Elections, De Wette's Case* (1889) 5 TLR 173, DC; *Re County Council Elections, ex p Lenanton, ex p Pierce* (1889) 53 JP 263, DC.

4 *Ex p Kyd* (1897) 14 TLR 154, DC; but see *Ex p Perry* (1884) 48 JP 824, DC.

5 *Re County Councillors' Elections* (1889) 5 TLR 195, DC.

6 *Ex p Graveson (Re Elections of County Councillors)* (1889) Times, 31 January. Where the notice of application given in an advertisement differed from the application itself, it was held that the difference did not matter and relief was allowed: *Re Wakefield Constituency Parliamentary Election, ex p Harrison* (1966) 110 Sol Jo 708, 64 LGR 383.

7 *Plymouth, Drake Division Case* (1929) 7 O'M & H 101 at 110; *Norwich Case, Birbeck v Bullard* (1886) 54 LT 625, 4 O'M & H 84; and see *Hexham Case* (1892) as cited in Day 76; *Dorsetshire, Eastern Division Case* (1911) 6 O'M & H 22 at 23, 28.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(ii) Illegal Practices/C. RELIEF/700. Supporting affidavits in respect of application for relief for illegal practice, etc.

700. Supporting affidavits in respect of application for relief for illegal practice, etc.

Unless an application for relief¹ is made to an election court, it must be supported by affidavit². If there is more than one applicant, there should be a joint affidavit by all the applicants³. The evidence must bring the case clearly within the statutory provisions⁴. The court will not act on an unsworn medical certificate that a candidate is too ill to swear an affidavit⁵. A corroborative affidavit in support of the applicant should also be obtained⁶.

1 As to such applications see PARA 693 et seq ante.

2 *Re County Councillors' Elections, Macdona's Case* (1889) 5 TLR 220, DC. Where an affidavit contained errors, a corrected affidavit was required: *Re Wakefield Constituency Parliamentary Election, ex p Harrison* (1966) 110 Sol Jo 708, 64 LGR 383.

3 *Re Andrews, Re Streatham Vestry Election* (1899) 68 LJQB 683, DC.

4 *Re Huntingdon Borough Municipal Elections, ex p Clark* (1885) 52 LT 260, 1 TLR 243, DC.

5 *Re County Councillors' Elections, Lord Dinevor's Case* (1889) 5 TLR 220 at 221, DC (where the application was adjourned).

6 *Ex p Haseldine* (1895) 59 JP 71, DC.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(ii) Illegal Practices/C. RELIEF/701. Parties and costs in respect of application for relief for illegal practice, etc.

701. Parties and costs in respect of application for relief for illegal practice, etc.

On an application for relief¹, a candidate², the returning officer³, an elector⁴ or a committee of electors⁵ may appear to consent or oppose. If the opposition is founded on facts not appearing on evidence filed in support of the application, the parties opposing should be prepared with affidavits of such facts⁶.

The applicant will in general have to bear the cost of his application⁷. The applicant may also be ordered to pay the costs of the opposition⁸. A returning officer will not be awarded his costs if he appears unnecessarily⁹.

1 As to such applications see PARA 693 et seq ante.

2 *Ex p Wilks* (1885) 16 QBD 114, DC.

3 *Essex, South Western Division Case* (1886) 2 TLR 388, DC; *Wigan Case* (1885) 2 TLR 159, DC.

4 *Wigan Case* (1885) 2 TLR 159, DC; *Kesteven, Lincolnshire, Bennington Division Case, ex p Hutchinson* (1888) 5 TLR 136, DC.

5 *Re Ramsgate Town Council, ex p Hobbs* (1889) 5 TLR 272, DC.

6 *Ex p Wilks* (1885) 16 QBD 114, DC.

7 *Stepney Borough Case, Rushmere v Isaacson* (1892) 4 O'M & H 178 at 183. If the respondent to an election petition charging illegal practices delays notice of his application for relief until the charges have been established before the court, he may have to bear the costs of the trial of the charges even though he obtains relief: *Stepney Borough Case, Rushmere v Isaacson* supra at 183-184. For a case where an applicant was granted relief by the Court of Appeal on the terms of paying the costs of the application to the Divisional Court and the appeal see *Ex p Walker* (1889) 22 QBD 384, CA.

As to costs see further PARA 868 et seq post.

8 Costs were ordered where the application was unduly wide (*Re County Councillors' Elections, ex p Keatinge and Wynn's Case* (1889) 5 TLR 195, DC), or where the opposition was in the public interest (*Ex p Kyd* (1897) 14 TLR 154, DC; *Re Ramsgate Town Council, ex p Hobbs* (1889) 5 TLR 272, DC). See also *Re County Councillors' Elections, Fenwick's Case* (1889) 5 TLR 220, DC; *Re County Councillors' Elections, Gregory and Frost's Case* (1889) 5 TLR 220 at 221, DC; *Kesteven, Lincolnshire, Bennington Division Case, ex p Hutchinson* (1889) 5 TLR 136, DC (where costs were allowed); *Re Local Government Act 1888, ex p Birtwhistle* (1889) 5 TLR 321, CA (where costs were not allowed). Where at the time an application first came before the court it was opposed on the ground that proper notice had not been given but such notice was afterwards given, the court at a subsequent hearing allowed the application and granted costs to the party who had opposed the application at the earlier hearing and had subsequently withdrawn, but it made no other order for costs: *Re Warwick County, Dunchurch Division, ex p Darlington* (1889) 53 JP 71, DC. See also *Ex p Oake* (1904) Times, 10 August, DC (application for relief in proceedings for penalty); cf para 758 post.

9 *Ex p Stephens* (1889) Times, 2 February.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(iii) Offences which are also Illegal Practices/702. Offences which also constitute illegal practices.

(iii) Offences which are also Illegal Practices

702. Offences which also constitute illegal practices.

The following offences are also deemed to be illegal practices: (1) certain voting offences¹; (2) broadcasting from outside the United Kingdom with intent to influence a parliamentary, Welsh Assembly or European Parliamentary election²; (3) publishing imitation poll cards at certain elections³; (4) failure of a candidate or election agent to display relevant details on election publications⁴.

1 See PARA 703 post.

2 See PARA 704 post.

3 See PARA 705 post.

4 See PARA 706 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(iii) Offences which are also Illegal Practices/703. Voting offences which are illegal practices.

703. Voting offences which are illegal practices.

A person is guilty of an offence constituting an illegal practice¹:

- 5 (1) if he votes² in person or by post, whether as an elector or as proxy, or applies to vote by proxy or by post as elector, at a parliamentary³ or local government election⁴, or at parliamentary or local government elections, or at a Welsh Assembly election or at Welsh Assembly elections, or at a European parliamentary election⁵, knowing that he is subject to a legal incapacity⁶ to vote at the election or, as the case may be, at elections of that kind⁷;
- 6 (2) if he applies for the appointment of a proxy to vote for him at any parliamentary or local government election, or at parliamentary or local government elections, or at a Welsh Assembly election or at Welsh Assembly elections, or at a European parliamentary election, knowing that he or the person to be appointed is subject to a legal incapacity to vote at the election or, as the case may be, at elections of that kind⁸;
- 7 (3) if he votes, whether in person or by post, as proxy for some other person at a parliamentary or local government election or at a Welsh Assembly election or at a European parliamentary election, knowing that that person is subject to a legal incapacity to vote⁹;
- 8 (4) if he votes as elector otherwise than by proxy: (a) more than once in the same constituency at any parliamentary election or more than once in the same electoral area¹⁰ at any local government election or more than once in the same Assembly constituency at any Welsh Assembly election or more than once in the same electoral region¹¹ at any European Parliamentary election¹²; (b) in more than one constituency at a general election or in more than one electoral area at an ordinary election of councillors for a local government area¹³ which is not a single electoral area or in more than one Assembly constituency at an ordinary Welsh Assembly election or in more than one electoral region at a European parliamentary election¹⁴; or (c) in any constituency at a general election or in any electoral area at an ordinary election of councillors for a local government area which is not a single electoral area or in any Assembly constituency at a Welsh Assembly election or in any electoral region at a European parliamentary election, when there is in force an appointment of a person to vote as his proxy at the election in some other such constituency or electoral area¹⁵;
- 9 (5) if he votes as elector in person either: (a) at a parliamentary or local government election or Welsh Assembly election or European parliamentary election at which he is entitled to vote by post¹⁶; or (b) at a parliamentary or local government election or Welsh Assembly election or European parliamentary election, knowing that a person appointed to vote as his proxy at the election either has already voted in person or is entitled to vote by post at that election¹⁷;
- 10 (6) if he applies for a person to be appointed as his proxy to vote for him at parliamentary elections in any constituency or at Assembly elections in any Assembly constituency or at European parliamentary elections in any electoral region without applying for the cancellation of a previous appointment of a third person then in force in respect of that or another constituency or that or another electoral region or without withdrawing a pending application for such an

- appointment in respect of that or another constituency or that or another electoral region¹⁸;
- 11 (7) if he votes as proxy for the same elector either: (a) more than once in the same constituency at any parliamentary election or more than once in the same electoral area at any local government election or more than once in the same Assembly constituency at any Welsh Assembly election or more than once in the same electoral region at any European parliamentary election¹⁹; or (b) in more than one constituency at a parliamentary general election or in more than one electoral area at an ordinary election of councillors for a local government area which is not a single electoral area or in more than one Assembly constituency at an ordinary Welsh Assembly election or in more than one electoral region at a European parliamentary election²⁰;
 - 12 (8) if he votes in person as proxy for an elector at a parliamentary or local government or Welsh Assembly or European parliamentary election at which he is entitled to vote by post as proxy for that elector²¹;
 - 13 (9) if he votes in person as proxy for an elector at a parliamentary or local government or Welsh Assembly or European parliamentary election knowing that the elector has already voted in person at the election²²;
 - 14 (10) if he votes²³ at a parliamentary election in any constituency or at a local government election in any electoral area or at a Welsh Assembly election²⁴ or at a European parliamentary election in any electoral region as proxy for more than two persons of whom he is not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild²⁵;
 - 15 (11) if he knowingly induces or procures some other person to do an act which is, or but for that other person's want of knowledge would be, one of the foregoing offences²⁶.

The court before which a person is convicted of one of these offences may, however, if it thinks it just in the special circumstances of the case, mitigate or entirely remit any incapacity for voting²⁷. A candidate at a parliamentary, local government or Welsh Assembly election is not liable, nor is his election avoided, for any such illegal practice of any agent of his other than an offence of knowingly inducing or procuring some other person to do an act which is, or but for that other person's want of knowledge would be, such an illegal practice²⁸.

If any person votes, or induces or procures any person to vote, at an election under the local government Act²⁹ which is not a local government election³⁰, knowing that he or that person is prohibited by any enactment from voting at that election, he is guilty of an illegal practice³¹. A candidate is not, however, liable nor is his election avoided for any such illegal practice committed without his knowledge or consent³².

The provisions which establish these voting offences as illegal practices have been applied and modified in relation to extending the rights of citizens and nationals of accession states to register and be registered as local government electors and European parliamentary electors³³, for the purposes of local authority referendums in England³⁴ and in Wales³⁵ and for the purposes of local authority mayoral elections³⁶.

1 Representation of the People Act 1983 s 61(1), (7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(2), (8); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(1), (8). As to the punishment of illegal practices see PARA 886 post.

2 For these purposes, a person who has applied for a ballot paper for the purpose of voting in person, or who has marked, whether validly or not, and returned a ballot paper issued for the purpose of voting by post, is deemed to have voted: Representation of the People Act 1983 s 61(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(7). In relation to an ordinary Welsh Assembly election, where a person is entitled to give two votes in an Assembly constituency (whether in person as elector or by proxy, or by post as

elector or by proxy) he votes once in relation to each Assembly election for which his votes are given: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(9). For the meanings of 'Assembly constituency' and 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante. As to ordinary general elections for the National Assembly for Wales see PARA 220 et seq ante.

3 For the meaning of 'parliamentary election' see PARA 9 ante.

4 For the meaning of 'local government election' see PARA 10 ante. As to elections in the City of London see PARA 30 ante.

5 As to European parliamentary elections see PARA 224 et seq ante.

6 For these purposes, references to a person being subject to a legal incapacity to vote do not, in relation to things done before polling day at the election or first election for which they are done, include his being below voting age if he will be of voting age on that day: Representation of the People Act 1983 s 61(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(1). For this purpose, references to legal incapacity to vote at a European parliamentary election include incapacity to vote at the kind of election from which the entitlement to vote at a European parliamentary election derives: reg 24(2).

7 Representation of the People Act 1983 s 61(1)(a) (s 61(1)-(4) amended by the Representation of the People Act 1985 s 11, Sch 2 para 2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(1)(a).

8 Representation of the People Act 1983 s 61(1)(b) (as amended: see note 7 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(1)(b).

9 Representation of the People Act 1983 s 61(1)(c) (as amended: see note 7 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(2)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(1)(c).

10 For the meaning of 'electoral area' see PARA 10 ante.

11 As to the establishment of electoral regions for the purpose of elections to the European Parliament see PARA 76 ante.

12 Representation of the People Act 1983 s 61(2)(a)(i); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(4)(a)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(3)(a)(i). In the case of Authority elections, head (4) in the text does not have effect; but a person is guilty of an offence if he votes as an elector otherwise than by proxy: (1) more than once at the same election of the Mayor of London (Representation of the People Act 1983 s 61(2A)(a) (s 61(2A) added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 10(1), (2))); (2) more than once at the same election of the London members of the London Assembly at an ordinary election (Representation of the People Act 1983 s 61(2A)(b) (as so added)); (3) more than once in the same Assembly constituency at the same election of a constituency member of the London Assembly (s 61(2A)(c) (as so added)); (4) in more than one Assembly constituency at the same ordinary election (s 61(2A)(d) (as so added)); or (5) in any Assembly constituency at an ordinary election, or an election of the Mayor of London held under the Greater London Authority Act 1999 s 16 (filling a vacancy in the office of London Mayor: see PARA 211 ante), when there is in force an appointment of a person to vote as his proxy at the election in some other Assembly constituency (Representation of the People Act 1983 s 61(2A)(e) (as so added)). For the meaning of 'Authority election' see PARA 10 ante. A person is guilty of an offence if, on any occasion when elections to the European Parliament are held in all the member states under the 1976 Act concerning the election of the representatives of the European Parliament by direct universal suffrage (OJ L278, 08.10.76, p 5) (the '1976 Act') art 10 (amended and renumbered by EC and Euratom Decision 2002/772 (OJ L283, 21.10.2002, p 1)), annexed to ECSC, EEC and Euratom Decision 76/787 (OJ L278, 08.10.76, p 1) (as to which see PARA 6 ante), he votes as an elector more than once in those elections, whether in the United Kingdom or elsewhere: European Parliamentary Elections Act 2002 s 9(1) (amended by the European Parliamentary Elections (Common Electoral Principles) Regulations 2004, SI 2004/1374, reg 2(1), (2)). This provision is expressed to be without prejudice to any enactment relating to voting offences, as applied by regulations under the European Parliamentary Elections Act 2002, to elections of members of the European Parliament ('MEPs') held in the United Kingdom and Gibraltar: s 9(2) (amended by the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, art 3(1), (4)). Provisions of the Representation of the People Act 1983, as applied by regulations under the European Parliamentary Elections Act 2002, have effect in relation to an offence under s 9 (as amended) as they have effect in relation to an offence under the Representation of the People Act 1983 s 61(2); in particular, s 61(7) (see the text and notes 27-28 infra) and s 178 (as substituted) (prosecution of offences committed outside the United Kingdom: see PARA 883 post) apply: European Parliamentary Elections Act 2002 s 9(3), (4).

13 For the meaning of 'local government area' see PARA 18 note 2 ante.

14 Representation of the People Act 1983 s 61(2)(a)(ii); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(4)(a)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(3)(a)(ii). In the case of Authority elections see note 12 supra.

15 Representation of the People Act 1983 s 61(2)(a)(iii); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(4)(a)(iii); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(3)(a)(iii). In relation to European parliamentary elections, the reference in the text is to an appointment of a person to vote as his proxy at the election in respect of an address other than the address by virtue of which he votes as elector: reg 24(3)(a)(iii). In the case of Authority elections see note 12 supra.

16 Representation of the People Act 1983 s 61(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(4)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(3)(b).

In relation to a parliamentary or local government election, a person is not guilty of an offence under the Representation of the People Act 1983 s 61(2)(b) only by reason of his having marked a tendered ballot paper in pursuance of s 23(1), Sch 1 r 40(1ZC), (1ZE) (as added) (see PARA 408 ante): s 61(6A) (added by the Electoral Administration Act 2006 s 38(3)). Any amendment effected by the Electoral Administration Act 2006 s 38 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

17 Representation of the People Act 1983 s 61(2)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(4)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(3)(c).

18 Representation of the People Act 1983 s 61(2)(d) (as amended: see note 7 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(4)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(3)(d).

19 Representation of the People Act 1983 s 61(3)(a)(i); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(5)(a)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(4)(a)(i). In the case of Authority elections, head (7) in the text does not have effect; but a person is guilty of an offence if he votes as proxy for the same elector: (1) more than once at the same election of the Mayor of London (Representation of the People Act 1983 s 61(3A)(a) (s 61(3A) added by the Greater London Authority Act 1999 Sch 3 paras 1, 10(1), (3))); (2) more than once at the same election of the London members of the London Assembly at an ordinary election (Representation of the People Act 1983 s 61(3A)(b) (as so added)); (3) more than once in the same Assembly constituency at the same election of a constituency member of the London Assembly (s 61(3A)(c) (as so added)); or (4) in more than one Assembly constituency at the same ordinary election (s 61(3A)(d) (as so added)).

20 Representation of the People Act 1983 s 61(3)(a)(ii); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(5)(a)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(4)(a)(ii). In the case of Authority elections see note 19 supra.

21 Representation of the People Act 1983 s 61(3)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(5)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(4)(b).

In relation to a parliamentary or local government election, a person is not guilty of an offence under the Representation of the People Act 1983 s 61(3)(b) only by reason of his having marked a tendered ballot paper in pursuance of Sch 1 r 40(1ZC), (1ZE) (as added) (see PARA 408 ante): s 61(6A) (as added: see note 16 supra). As to the commencement of this provision see note 16 supra.

22 Ibid s 61(3)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(5)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(4)(c).

23 For the purposes of this offence, a previous application made in circumstances which entitle the applicant only to mark a tendered ballot paper must, if he does not exercise that right, be disregarded: Representation of the People Act 1983 s 61(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(7). As to the marking of tendered ballot papers see PARA 408 ante.

24 I.e., in the case of an ordinary Welsh Assembly election, at constituency elections in Assembly constituencies in an Assembly electoral region (or in one such election) or, in the case of a constituency election other than at an ordinary election, at a constituency election, or at a regional election (whether or not at an

ordinary election): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(6). For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

25 Representation of the People Act 1983 s 61(4) (as amended (see note 7 supra); and further amended by the Civil Partnership Act 2004 s 261(1), Sch 27 para 83); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(6) (amended by SI 2005/2114); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(5) (amended by SI 2005/2114).

26 Representation of the People Act 1983 s 61(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(7); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(6).

27 Representation of the People Act 1983 s 61(7)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(8)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(8). As to the incapacities imposed as mentioned in the text see PARAS 904-906 post; and as to mitigation and remission of incapacities so imposed see PARA 907 post.

28 Representation of the People Act 1983 s 61(7)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(8)(b). The text refers to an offence under head (11) in the text.

29 For the meaning of 'election under the local government Act' see PARA 10 note 2 ante.

30 An election under the local government Act which is not a local government election will include eg the election of the chairman of a county or district council. For this purpose it also includes a poll consequent on a parish or community meeting; Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(a). See also PARA 11 ante.

31 Representation of the People Act 1983 s 189(1).

32 Ibid s 189(2).

33 See the Local and European Parliamentary Elections (Registration of Citizens of Accession States) Regulations 2003, SI 2003/1557, reg 2(1), (5).

34 In relation to the application of the Representation of the People Act 1983 s 61(2)-(4) (as amended) (see the text and notes 10-25 supra), with modifications, see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 (amended by SI 2005/2114).

35 In relation to the application of the Representation of the People Act 1983 s 61(2)-(4) (as amended) (see the text and notes 10-25 supra), with modifications, see the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2 (amended by SI 2005/3302).

36 See the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(2), Sch 2 Table 1.

UPDATE

703 Voting offences which are illegal practices

NOTE 7--As from 24 July 2002, by virtue of art 97, the ECSC Treaty has now expired.

NOTES 16, 21--SI 2004/293 reg 24(7A) added: SI 2009/186.

TEXT AND NOTES 34-36--SI 2002/185 reg 3(2), Sch 2 Table now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(2)-(5), Sch 2 Table.

NOTE 34--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089.

NOTE 35--SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(iii) Offences which are also Illegal Practices/704. Contravention of prohibition on broadcasting from outside United Kingdom with intent to influence certain elections.

704. Contravention of prohibition on broadcasting from outside United Kingdom with intent to influence certain elections.

An offence under the provisions which prohibit broadcasting from outside the United Kingdom with intent to influence elections¹ is an illegal practice². The court before which a person is convicted of such an offence may, however, if it thinks it just in the special circumstances of the case, mitigate or entirely remit any incapacity which may be imposed by virtue of it being an illegal practice³.

Where any act or omission of an association or body of persons, corporate or unincorporate, is an illegal practice under these provisions, any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or was purporting to act in any such capacity, is deemed to be guilty of the illegal practice unless he proves that the act or omission took place without his consent or connivance and that he exercised all such diligence to prevent the commission of the illegal practice as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances⁴.

The provisions which establish this offence as an illegal practice have been applied and modified for the purposes of local authority referendums in England and in Wales⁵.

1 le, in relation to a parliamentary election, under the Representation of the People Act 1983 s 92(1) (as substituted) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 65(1) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 64(1) (see PARA 336 ante). As to elections in the City of London see PARA 30 ante. For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

2 Representation of the People Act 1983 s 92(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 65(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 64(2). As to the punishment of illegal practices see PARA 886 post.

3 Representation of the People Act 1983 s 92(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 65(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 64(2). As to the incapacities which may be imposed see PARA 899 et seq post. As to the court's general power to mitigate or remit incapacities see PARA 907 post.

4 Representation of the People Act 1983 s 92(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 65(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 64(3).

5 See the Representation of the People Act 1983 s 92(2), (3) (applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2); and see PARA 583 ante.

UPDATE

704 Contravention of prohibition on broadcasting from outside United Kingdom with intent to influence certain elections

NOTE 5--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(iii) Offences which are also Illegal Practices/705. Contravention of prohibition on issuing imitation poll cards at certain elections.

705. Contravention of prohibition on issuing imitation poll cards at certain elections.

No person, for the purpose of promoting or procuring the election of any candidate¹ at a parliamentary² or European parliamentary³ or Welsh Assembly election⁴ or at certain local government elections⁵, may issue any poll card or document so closely resembling an official poll card as to be calculated to deceive⁶; and an offence under this provision is an illegal practice⁷. The court before which a person is convicted of such an offence may, if it thinks it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of its being an illegal practice⁸.

Where any act or omission of an association or body of persons, corporate or unincorporate, is an illegal practice under these provisions, any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or was purporting to act in any such capacity, is deemed to be guilty of an illegal practice, unless he proves that the act or omission took place without his consent or connivance and that he exercised all such diligence to prevent the commission of the illegal practice as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances⁹.

The provisions which establish this offence as an illegal practice¹⁰ have been applied and modified for the purposes of local authority referendums in England and in Wales¹¹ and for the purposes of local authority mayoral elections¹².

1 For the meaning of 'candidate' for this purpose see PARA 237 ante.

2 For the meaning of 'parliamentary election' see PARA 9 ante.

3 As to European parliamentary elections see PARA 224 et seq ante.

4 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

5 This provision applies to any local government election in relation to which rules made under the Representation of the People Act 1983 s 36 (as amended) (see PARA 388 ante) require an official poll card to be sent to electors in a form prescribed by the rules: s 94(2) (added by the Representation of the People Act 1985 s 24, Sch 4 para 36(2)). As to the issue of official poll cards for these purposes see PARA 394 ante. For the meaning of 'local government election' generally see PARA 10 ante. As to elections in the City of London see PARA 30 ante.

6 Representation of the People Act 1983 s 94(1) (renumbered and amended by the Representation of the People Act 1985 Sch 4 para 36); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 67; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 66.

7 Representation of the People Act 1983 s 92(2) (applied by s 94(1) (as renumbered and amended: see note 6 supra)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 65(2) (applied by art 67); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 64(2) (applied by reg 66). As to the consequences of illegal practices see PARA 886 et seq post.

8 Representation of the People Act 1983 s 92(2) (applied by s 94(1) (as renumbered and amended: see note 6 supra)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 65(2) (applied by art 67); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 64(2) (applied by reg

66). As to those incapacities see PARA 899 et seq post. As to the courts' power to mitigate or remit incapacities see PARA 907 post.

9 Representation of the People Act 1983 s 92(3) (applied by s 94(1) (as renumbered and amended: see note 6 supra)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 65(3) (applied by art 67); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 64(3) (applied by reg 66).

10 le under the Representation of the People Act 1983 ss 92, 94 (as amended) (see the text and notes 1-9 supra).

11 See, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2). As to the issue of official poll cards at a local authority referendum see PARA 614 ante.

12 See the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(2), Sch 2 Table 1.

UPDATE

705 Contravention of prohibition on issuing imitation poll cards at certain elections

TEXT AND NOTES 10-12--SI 2002/185 reg 3(2), Sch 2 Table 1 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(2)-(5), Sch 2 Table 1.

NOTE 11--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(iii) Offences which are also Illegal Practices/706. Failure of candidate or election agent to comply with requirements in relation to election publications.

706. Failure of candidate or election agent to comply with requirements in relation to election publications.

In relation to a parliamentary or local government election¹, where any material which can reasonably be regarded as intended to promote or procure² the election of a candidate³ (whether or not it can be so regarded as intended to achieve any other purpose as well) is published in contravention of the requirements which apply to such material⁴, a candidate or his election agent⁵ who would otherwise be guilty of an offence⁶ is guilty of an illegal practice⁷.

Where a candidate or his election agent at a Welsh Assembly constituency or regional election⁸ or at a European parliamentary election⁹ contravenes the provisions which require relevant details to be included in published election material¹⁰, he is guilty of an illegal practice¹¹.

1 Ie a parliamentary election, an Authority election or an election under the local government Act: see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante. For the meaning of 'parliamentary election' see PARA 9 ante. For the meaning of 'Authority election' see PARA 10 ante; and for the meaning of 'election under the local government Act' see PARA 10 note 2 ante.

2 As to the meaning of the words 'promoting or procuring' see PARA 277 note 2 ante.

3 For the meaning of 'candidate' generally see PARA 237 ante.

4 Ie in contravention of the restrictions contained in the Representation of the People Act 1983 s 110(2) (as substituted) (see PARA 751 post).

5 As to the appointment of an election agent for parliamentary and local government elections see PARA 238 ante.

6 Ie who, apart from the Representation of the People Act 1983 s 110(12) (as substituted), would be guilty of an offence under s 110(9) (as substituted) as the promoter of the material, the person by whom the material is published or the printer of the material or under s 110(10) (as substituted) as the promoter of the material or the person by whom the material is published (see PARA 751 post).

7 Ibid s 110(12) (substituted by the Political Parties, Elections and Referendums Act 2000 s 138, Sch 18 paras 1, 14). As to the effect of this provision see PARA 751 note 4 post. As to the consequences of illegal practices see PARA 886 et seq post.

8 For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante. At a Welsh Assembly election, the reference in the text is to a candidate or his election agent is to any individual candidate or his election agent or to any or all of a group of party list candidates or their election agent: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 75(3). For the meaning of references to a group of party list candidates and for the meaning of 'individual candidate' for these purposes see PARA 237 note 23 ante. As to the appointment of an election agent for elections to the National Assembly for Wales see PARA 242 ante.

9 As to European parliamentary elections see PARA 224 et seq ante; and as to the appointment of the election agent of a registered party or for an individual candidate at a European parliamentary election see PARA 246 ante.

10 Ie, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 75 or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 74, contravention of which is an offence (see PARA 751 post).

11 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 75(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 74(3).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(iv) Corrupt Practices/A. IN GENERAL/707. Practices which are corrupt.

(iv) Corrupt Practices

A. IN GENERAL

707. Practices which are corrupt.

The following are corrupt practices¹: (1) making false statements in support of the nomination of candidates at elections²; (2) issuing false certificates authorising a description to be used by a candidate at an election³; (3) incurring certain expenses without the authorisation of the election agent⁴; (4) making a false declaration as to such expenses⁵; (5) making a false declaration as to election expenses⁶; (6) bribery⁷; (7) treating⁸; (8) undue influence⁹.

Some offences may also constitute corrupt practices¹⁰.

1 As to the consequences of corrupt practices see PARA 885 et seq post.

2 See PARA 708 post.

3 See PARA 709 post.

4 See PARA 710 post.

5 See PARA 710 post.

6 See PARA 711 post.

7 See PARA 712 et seq post.

8 See PARAS 724-725 post.

9 See PARAS 726-731 post.

10 See PARA 732 et seq post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(iv) Corrupt Practices/A. IN GENERAL/708. Making false statements in connection with the nomination of candidates at elections.

708. Making false statements in connection with the nomination of candidates at elections.

A person is guilty of a corrupt practice¹ if, at any parliamentary² or local government election³ or at any Welsh Assembly⁴ or European parliamentary election⁵, he causes or permits to be included in a document delivered or otherwise furnished to a returning officer⁶ for use in connection with the election⁷: (1) a statement of the name or home address of a candidate⁸ at the election which he knows to be false in any particular⁹; or (2) (except in the case of a European parliamentary election) anything which purports to be the signature of an elector¹⁰ who proposes, seconds or assents to, the nomination of such a candidate¹¹ but which he knows was not written by the elector by whom it purports to have been written¹² or, if written by that elector, was not written by him for the purpose of signifying that he was proposing, seconding, or (as the case may be) assenting to, that candidate's nomination¹³. In relation to a parliamentary election, a person is also guilty of a corrupt practice if he causes or permits to be included in a document delivered or otherwise furnished to a returning officer for use in connection with the election a certificate authorising¹⁴ the use by a candidate of a description if he knows that the candidate is standing in another constituency¹⁵ in which the poll is to be held on the same day as the poll at the election to which the certificate relates¹⁶.

A person is guilty of a corrupt practice if, at any parliamentary or local government election, he makes in any document in which he gives his consent to his nomination as a candidate¹⁷: (a) a statement of his date of birth¹⁸; or (b) a statement as to his qualification for being elected at that election¹⁹, which he knows to be false in any particular²⁰. In relation to a parliamentary election only, a person is also guilty of a corrupt practice if he makes in any document in which he gives his consent to his nomination as a candidate a statement that he is not a candidate at an election for any other constituency the poll for which is to be held on the same day as the poll at the election to which the consent relates²¹, which he knows to be false in any particular²².

1 As to the consequences of corrupt practices see PARA 885 et seq post.

2 For the meaning of 'parliamentary election' see PARA 9 ante.

3 Ie except for the purposes of the Representation of the People Act 1983 s 65A(1)(c) (as added) (see the text and notes 14-16 infra) and s 65(1A)(c) (as added) (see the text and notes 21-22 infra): s 65A(2)(b) (s 65A added by the Representation of the People Act 2000 s 15(1), Sch 6 paras 3, 5; and the Representation of the People Act 1983 s 65A(2)(b) amended by the Electoral Administration Act 2006 s 23(1), (4)). Any amendment effected by the Electoral Administration Act 2006 s 23(1), (2), (4) has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. For the meaning of 'local government election' generally see PARA 10 ante. As to elections in the City of London see PARA 30 ante.

4 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

5 As to European parliamentary elections see PARA 224 et seq ante.

6 As to returning officers for parliamentary elections see PARA 355 et seq ante; as to returning officers for local government elections (including elections for the return of a local authority mayor) see PARA 359 et seq ante; and as to returning officers for European parliamentary elections see PARA 365 et seq ante. For the purposes of elections for the return of members of the National Assembly for Wales, the appropriate returning

officer is, in relation to a constituency election, a constituency returning officer (for the meaning of which see PARA 18 note 2 ante) and, in relation to a regional election, a regional returning officer (for the meaning of which see PARA 18 note 2 ante). For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

7 Representation of the People Act 1983 s 65A(1), (2) (s 65A as added, and s 65A(2) as amended: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 32; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 27.

8 For the meaning of 'candidate' for these purposes see PARA 237 ante.

9 Representation of the People Act 1983 s 65A(1)(a) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 32(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 27.

In *R v Duffy* (1994) 15 Cr App Rep (S) 677, CA (which pre-dated the offence set out in the text) a failure to perfect the consent to nomination form was held to be essentially a technical offence and, even where that failure formed part of a reprehensible plan, the Court of Appeal declined to use it as a peg on which to criminalise the behaviour; the facts of the case disclosed that a candidate had arranged for a fellow candidate's nomination in order to split his opponent's vote but that the latter's consent to nomination form had contained defects which were not necessary to the mischievous purpose (the candidate's signature had not been witnessed properly and the address given had related to the accused rather than to the candidate); and it was held that the conduct, however reprehensible, was permissible under the law as it stood and that the judge at first instance had erred in giving a custodial sentence on the basis that the irregularity amounted to a fraud on the electorate when a substantial financial penalty would have been more appropriate.

10 For the meaning of 'elector' for these purposes see PARA 110 note 2 ante.

11 As to the nomination of candidates at parliamentary and local government elections see PARA 231 et seq ante.

12 Representation of the People Act 1983 s 65A(1)(b)(i) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 32(b)(i).

13 Representation of the People Act 1983 s 65A(1)(b)(ii) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 32(b)(ii).

14 Ie for the purposes of the Representation of the People Act 1983 s 23(1), Sch 1 r 6A (as added and amended) (see PARAS 263 ante, 709 post).

15 For the meaning of 'constituency' in relation to a parliamentary election see PARA 9 ante.

16 Representation of the People Act 1983 s 65A(1)(c) (s 65A as added (see note 3 supra); s 65A(1)(c) added by the Electoral Administration Act 2006 s 23(1), (2)). As to the commencement and effect of this provision see note 3 supra.

17 Representation of the People Act 1983 s 65A(1A) (s 65A as added (see note 3 supra); and s 65A(1A), (1B) added by the Electoral Administration Act 2006 s 23(1), (3)); Representation of the People Act 1983 s 65A(2) (as added and amended: see note 3 supra).

18 Ibid s 65A(1A)(a) (as added: see note 17 supra).

19 Ibid s 65A(1A)(b) (as added: see note 17 supra). For these purposes, a statement as to a candidate's qualification is a statement that he is qualified for being elected, that he will be qualified for being elected, or that to the best of his knowledge and belief he is not disqualified for being elected: s 65A(1B) (as so added).

20 Ibid s 65A(1A) (as added: see note 17 supra).

21 Ibid s 65A(1A)(c) (as added: see note 17 supra).

22 Ibid s 65A(1A) (as added: see note 17 supra).

UPDATE

708 Making false statements in connection with the nomination of candidates at elections

NOTE 7--Representation of the People Act 1983 s 65A(1) amended: Political Parties and Elections Act 2009 Sch 6 para 4.

TEXT AND NOTES 17-20--As to false statements of a candidates date of birth or qualification for being elected at a European parliamentary election, see SI 2004/293 reg 28(3), (4) (added by SI 2009/186).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(iv) Corrupt Practices/A. IN GENERAL/709. Issuing false certificate authorising a description to be used by candidate at an election.

709. Issuing false certificate authorising a description to be used by candidate at an election.

A person¹ is guilty of a corrupt practice² if he fraudulently purports to be authorised to issue a certificate or statement (as the case may be)³, which authorises a description to be used by a candidate⁴ at an election, on behalf of a registered political party's nominating officer⁵.

1 As to the meaning of 'person' see PARA 110 note 1 ante.

2 As to the consequences of corrupt practices see PARA 885 et seq post.

3 See PARA 263 ante. In the case of an election of London members of the London Assembly, the reference may be either to a certificate authorising a description of a candidate that is likely to lead voters to associate the candidate with a registered party (ie a certificate issued under the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 2 r 6(4) (as substituted) (see PARA 263 ante)) or to a statement included with each party list confirming that it is issued by the nominating officer of the party or by a person authorised in writing by him (ie a statement required by Sch 2 r 7(5) (see PARA 263 ante)): see Sch 2 r 6(5) (substituted by SI 2001/3789); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 7(6). In the case of a European parliamentary election, the reference may be either to a certificate authorising a description of an individual candidate that is likely to lead voters to associate the candidate with a registered party (ie a certificate issued under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 5(1) (see PARA 263 ante)) or to a statement included with each party nomination paper that the party is nominated by or on behalf of the nominating officer of the registered party in question (ie a statement required by Sch 1 para 6(5) (see PARA 263 ante)): see Sch 1 rr 5(2), 6(7). As to individual candidates and the submission of lists of candidates to be London members of the London Assembly see PARA 233 ante; and as to references to party lists in elections for the return of London members of the London Assembly see PARA 262 note 24 ante. As to the submission of lists of candidates to be members of the European Parliament ('MEPs') see PARA 235 ante. For the meaning of 'registered political party' in this context see PARA 233 note 16 ante. For the meaning of 'list' in the context of a European parliamentary election see PARA 237 note 30 ante; and for the meaning of 'individual candidate' see PARA 237 note 32 ante. As to a registered political party's nominating officer see PARA 260 ante.

4 For the meaning of 'candidate' generally see PARA 237 ante. At a Welsh Assembly election, the reference in the text is to a constituency candidate at a constituency election (see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 5(4)) or to any or all of a group of party list candidates at a regional election (see Sch 5 para 8(4)). For the meanings of 'Assembly election', 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante; and for the meaning of references to a group of party list candidates and for the meaning of 'individual candidate' for these purposes see PARA 237 note 23 ante. As to an election of London members of the London Assembly or a European parliamentary election see note 3 supra.

5 Representation of the People Act 1983 s 23(1), Sch 1 r 6A(2) (Sch 1 r 6A added by the Registration of Political Parties Act 1998 s 13, Sch 2 para 2; and the Representation of the People Act 1983 Sch 1 r 6A(2) amended by the Electoral Administration Act 2006 s 74(1), Sch 1 paras 104, 129(1), (3)); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), (3), Sch 1 r 6(5), Sch 2 rr 6(5), 7(6), Sch 3 r 6(6) (Sch 1 r 6(5), Sch 2 r 6(5), Sch 3 r 6(6) all substituted by SI 2001/3789); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 6(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 paras 5(4), 8(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 rr 5(2), 6(7); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 5(5); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 5(5).

Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 104, 129 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that

election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

UPDATE

709 Issuing false certificate authorising a description to be used by candidate at an election

NOTES 3, 5--SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848.

NOTE 5--SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541. SI 2002/185 Sch 1 r 6 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, Sch 1 rr 6, 7.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(iv) Corrupt Practices/A. IN GENERAL/710. Incurring election expenses without due authorisation or making false declaration as to such expenses.

710. Incurring election expenses without due authorisation or making false declaration as to such expenses.

If a person¹ incurs, or aids, abets, counsels or procures any other person to incur, any expenses in contravention of the statutory provision which prohibits the incurring of expenses other than by the candidate², his election agent³ and persons authorised in writing by the election agent⁴, or if he knowingly makes the required declaration as to such expenses⁵ falsely, he is guilty of a corrupt practice⁶. The court before which a person is convicted may, however, if it thinks it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of the conviction⁷.

A candidate at a parliamentary⁸ or local government or Welsh Assembly election⁹ is not liable, nor is his election avoided, for such an corrupt practice committed by an agent without his consent or connivance¹⁰.

Where any act or omission of an association or body of persons, corporate or unincorporate, is an offence declared to be a corrupt practice by this provision, any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or who was purporting to act in any such capacity, is to be deemed to be guilty of that offence, unless he proves that the act or omission took place without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances¹¹.

The provisions which establish this corrupt practice¹² have been applied with modifications for the purposes of local authority mayoral elections¹³.

1 As to the meaning of 'person' see PARA 110 note 1 ante.

2 For the meaning of 'candidate' for these purposes see PARA 284 note 2 ante.

3 As to the appointment of an election agent for parliamentary and local government elections see PARA 238 ante; as to the appointment of an election agent for elections to the National Assembly for Wales see PARA 242 ante; and as to the appointment of the election agent of a registered party or for an individual candidate at a European parliamentary election see PARA 246 ante. In relation to a European parliamentary election, references to an election agent include a sub-agent: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(7). As to the appointment of a sub-agent at a European parliamentary election see PARA 248 et seq ante.

4 See, in relation to a parliamentary or local government election, the Representation of the People Act 1983 s 75(1) (as amended) or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(1) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(1); and see PARA 277 ante.

5 See, in relation to a parliamentary or local government election, the Representation of the People Act 1983 s 75(2) (as amended) or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(3) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(3); and see PARA 284 ante.

6 Representation of the People Act 1983 s 75(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(6); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(5). As to the consequences of corrupt practices see PARA 885 et seq post.

The Representation of the People Act 1983 s 75 (as amended) does not apply at an election under the local government Act which is not a local government election (see the Representation of the People Act 1983 s 90(2) (as amended); and PARA 681 ante); and, in relation to an election of parish councillors in England or of community councillors in Wales, the provisions of s 90(1), Sch 4 (both as amended) apply instead: see s 90(1) (b) (as amended); and PARA 678 ante. For the meaning of 'election under the local government Act' see PARA 10 note 2 ante. For the meaning of 'local government election' see PARA 10 ante. As to elections in the City of London see PARA 30 ante.

7 Ibid s 75(5)(i); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(6)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(5). As to the incapacities imposed as mentioned in the text see PARAS 904-906 post; and as to mitigation and remission of incapacities so imposed see PARA 907 post.

8 For the meaning of 'parliamentary election' see PARA 9 ante.

9 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

10 Representation of the People Act 1983s 75(5)(ii); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(6)(ii). As to the avoidance of elections see PARAS 892-894 post.

11 Representation of the People Act 1983 s 75(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(7); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(6).

12 Ie under the Representation of the People Act 1983 s 75 (as amended) (see the text and notes 1-11 supra).

13 See the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(2), Sch 2 Table 1.

UPDATE

710 Incurring election expenses without due authorisation or making false declaration as to such expenses

TEXT AND NOTES 12, 13--SI 2002/185 replaced: Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024. 1983 Act s 75 no longer applies to local authority mayoral elections.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(iv) Corrupt Practices/A. IN GENERAL/711. False declarations as to election expenses.

711. False declarations as to election expenses.

If a candidate¹ or election agent² at a parliamentary³ or local government election⁴, or at a Welsh Assembly or European parliamentary election, knowingly⁵ makes the required declaration as to election expenses⁶ falsely, he is guilty of a corrupt practice⁷. Before any defendant may be so convicted, the tribunal of fact must be satisfied: (1) that the defendant made a declaration as to election expenses as required⁸; (2) that such declaration was false, in that expenses which should have been included were omitted or expenses which were included were understated, or both⁹; and (3) that the defendant knew such declaration to be false, either because the defendant knew that expenses which should have been included were omitted or because the defendant knew that expenses which were included were understated, or both¹⁰.

1 For the meaning of 'candidate' generally see PARA 237 ante. In the case of a Welsh Assembly election, the reference is to a candidate at a constituency election or to an individual candidate at a regional election (see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 51(2); and PARA 286 ante) or to each candidate on a regional list submitted by a registered party at a regional election (see art 52(1); and PARA 286 ante). For the meanings of 'Assembly election', 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante; and for the meaning of references to a group of party list candidates and for the meaning of 'individual candidate' for these purposes see PARA 237 note 23 ante. In the case of a European parliamentary election, the reference is to an individual candidate: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 51(1). For the meaning of 'individual candidate' in relation to a European parliamentary election see PARA 237 note 32 ante. As to European parliamentary elections see PARA 224 et seq ante.

2 As to the appointment of an election agent for parliamentary and local government elections see PARA 238 ante; as to the appointment of an election agent for elections to the National Assembly for Wales see PARA 242 ante; and as to the appointment of the election agent of a registered party or for an individual candidate at a European parliamentary election see PARA 246 ante.

3 For the meaning of 'parliamentary election' see PARA 9 ante.

4 For the meaning of 'local government election' see PARA 10 ante.

5 The word 'knowingly' is levelled at an offence based on moral turpitude, and guilt must be proved: see *Cork, Eastern Division Case* (1911) 6 O'M & H 318 at 347.

6 I.e., in relation to a parliamentary or local government election, under the Representation of the People Act 1983 s 82 (as amended) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 51 (candidates at a constituency election and individual candidates at a regional election) or art 52 (party list candidates) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 52 (see PARA 286 ante) or, in relation to an election of parish councillors in England or of community councillors in Wales (where election agents are not required), under the Representation of the People Act 1983 s 90(1)(b), Sch 4 para 3 (as amended) (see PARA 300 ante). As to the election of parish and community councillors see PARA 207 et seq ante. For the meanings of 'England' and 'Wales' see PARA 13 note 1 ante. For the meaning of 'declaration as to election expenses' see PARA 287 note 2 ante.

7 Ibid s 82(6), Sch 4 para 5; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, arts 51(5), 52(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 52(6). At a European parliamentary election, it is also a corrupt practice for a candidate to make falsely the statement required by reg 53(1) (personal expenses incurred by candidate on party list: see PARA 285 note 29 ante): reg 53(2). As to the consequences of a corrupt practice see PARA 885 et seq post.

A candidate or election agent who knowingly makes a false declaration as to election expenses is also guilty of an offence under the Perjury Act 1911: see s 5(b) (false statutory declarations: see CRIMINAL LAW, EVIDENCE AND

PROCEDURE vol 11(2) (2006 Reissue) PARA 717) and s 16(1) (dual liability: see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(2) (2006 Reissue) PARA 725).

8 *R v Jones, R v Whicher* [1999] 2 Cr App Rep 253 at 258, CA, per Lord Bingham CJ.

9 *R v Jones, R v Whicher* [1999] 2 Cr App Rep 253 at 258, CA, per Lord Bingham CJ.

10 *R v Jones, R v Whicher* [1999] 2 Cr App Rep 253 at 258, CA, per Lord Bingham CJ. The requirement in head (3) in the text is the nub of the offence and defines the dishonest knowledge which constitutes the mens rea of the crime: see *R v Jones, R v Whicher* supra at 259 per Lord Bingham CJ. Honest belief in the truth of the declaration, and thus in the completeness and accuracy of the figures disclosed, is a complete defence; but it is for the prosecution to prove lack of honest belief and not for the defendant to prove his honesty: see *R v Jones, R v Whicher* supra at 259 per Lord Bingham CJ. Accordingly, the candidate is not required to perform the role of auditor to the agent: *Sharma v DPP* [2005] EWHC 902 (Admin), [2005] All ER (D) 214 (May) (where a candidate had conducted a superficial examination of the return, trusting that his agent had done his job properly, the candidate could state honestly that to the best of his knowledge and belief the return was complete and accurate).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(iv) Corrupt Practices/B. BRIBERY/712. Bribery.

B. BRIBERY

712. Bribery.

A person¹ is guilty of a corrupt practice if he is guilty of bribery at an election². A person is guilty of bribery if he, directly or indirectly, by himself³ or by any other person on his behalf⁴:

- 16 (1) gives any money⁵ or procures any office⁶ to or for any voter⁷ or to or for any other person⁸ on behalf of any voter or to or for any other person in order to induce⁹ any voter to vote or refrain from voting¹⁰; or
- 17 (2) corruptly¹¹ does any such act as aforesaid on account of any voter having voted or refrained from voting¹²; or
- 18 (3) makes any such gift or procurement as aforesaid to or for any person in order to induce that person to procure, or endeavour to procure, the return of any person at an election¹³ or the vote of any voter¹⁴,

or if upon or in consequence of any such gift or procurement as aforesaid he procures or engages, promises or endeavours to procure the return of any person at an election (or registered party at a European parliamentary election) or the vote of any voter¹⁵.

1 As to the meaning of 'person' see PARA 110 note 1 ante.

2 Representation of the People Act 1983 s 113(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 78(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 77(1). The text refers to a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante; for the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'Authority election' see PARA 10 ante; and for the meaning of 'election under the local government Act' see PARA 10 note 2 ante. As to elections in the City of London see PARA 30 ante; and as to European parliamentary elections see PARA 224 et seq ante. Bribery at a parliamentary or local government election was an offence at common law but the offence is now covered in the express statutory provisions. As to votes struck off for bribery see PARA 840 post; and as to the consequence of a corrupt practice see PARA 885 et seq post.

The Representation of the People Act 1983 s 113 has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For these purposes, the provisions of the Representation of the People Act 1983 Pt II (ss 67-119) (as amended, applied and modified) (see PARA 238 et seq ante), prohibiting payments and contracts for payments, do not affect the right of any creditor, who, when the contract was made or the expense was incurred, was ignorant of that contract or expense being in contravention of those provisions: s 116 (applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2). For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

3 Personal corruption ought not to be charged except upon good grounds (*Tewkesbury Case*, *Collins v Price* (1880) 3 O'M & H 97 at 99; cf *Canterbury Borough Case* (1880) 3 O'M & H 103 at 104), otherwise the petitioner will be penalised in costs (*Salisbury Case*, *Rigden v Edwards and Grenfell* (1880) 44 LT 193, 3 O'M & H 130; *Sandwich Case* (1880) 3 O'M & H 158). Where a candidate in person gives tickets to voters, and the tickets are

exchangeable for money when presented to that candidate's agent, the court may find the agent personally guilty of bribery: *Canterbury Case* (1853) 2 Pow R & D 14 at 15 (in this case each voter was allowed to name two others for coloured tickets, and the parliamentary committee avoided the election). Where the candidate has not appointed another person as election agent, it is the more easy to establish personal bribery against that candidate: *Cashel Borough Case* (1869) 1 O'M & H 286 at 288.

4 Representation of the People Act 1983 s 113(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 78(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 77(2); and see note 2 *supra*. A corrupt act done with a view to the betrayal of the candidate on whose behalf it purports to be done is not bribery for which he can be held liable: *Stafford Borough Case* (1869) 21 LT 210 at 212, 1 O'M & H 228 at 231.

5 'Giving money' includes giving, lending, agreeing to give or lend, offering, promising or promising to procure or to endeavour to procure any money or valuable consideration: Representation of the People Act 1983 s 113(2)(i); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 78(3)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 77(2)(i); and see note 2 *supra*. See further PARA 713 post.

6 'Procuring an office' includes giving, procuring, agreeing to give or procure, offering, promising or promising to procure or to endeavour to procure, any office, place or employment: Representation of the People Act 1983 s 113(2)(ii); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 78(3)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 77(2)(ii); and see note 2 *supra*. A seat on a town council may be the means of bribery within this provision, because it is an office of honour and dignity and the natural and fair object of reasonable ambition on the part of many electors: *Waterford Borough Case* (1870) 2 O'M & H 24 at 25; *Roberts v Hogg* 1971 SLT 78.

7 For this purpose, 'voter' also includes any person who has or claims to have a right to vote: Representation of the People Act 1983 s 113(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 78(8); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 77(7); and see note 2 *supra*. The fact that the voter was ineligible for voting does not necessarily prevent it being bribery: *Lichfield Case*, *Anson v Dyott* (1869) 20 LT 11, 1 O'M & H 22; *Guildford Case* (1869) 19 LT 729, 1 O'M & H 13.

8 There must be distinct evidence that the gift was made to the third person with a view to bribing a particular voter: *Clare County Case* (1860) Wolf & B 138. Where money was alleged to have been distributed to non-voters in the expectation that they would spend it in drink at the public-houses and thus indirectly influence the votes of the publicans, O'Brien J said 'this was not contemplated as being within the Act': *Youghal Borough Case* (1869) 1 O'M & H 291 at 294.

9 If the act is done for the purpose of so inducing the voter, it is no answer to say that the bribe was unsuccessful: *Henslow v Fawcett* (1835) 3 Ad & El 51 at 58; *Harding v Stokes* (1837) 2 M & W 233 at 235; *Sulston v Norton* (1761) 3 Burr 1235.

10 Representation of the People Act 1983 s 113(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 78(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 77(2)(a); and see note 2 *supra*. There must be an inducement to vote or to refrain from voting for a particular person: *Cooper v Slade* (1856) 6 E & B 447 at 456; *revsd* on the facts (1858) 6 HL Cas 746. See also *Oldham Case* (1869) 20 LT 302 at 311, 1 O'M & H 151 at 165; *Cork, Eastern Division Case* (1911) 6 O'M & H 318 at 363.

11 'Corruptly' imports intention: *Wallingford Case* (1869) 19 LT 766 at 767-768, 1 O'M & H 57 at 58. 'Corruptly' does not mean wickedly, immorally or dishonestly or anything of that sort (*Bewdley Case* (1869) 19 LT 676 at 678, 1 O'M & H 16 at 19), but doing something knowing that it is wrong (*Bradford Case (No 2)* (1869) 19 LT 723 at 724, 1 O'M & H 35 at 37), and doing it with the object and intention of doing that thing which the statute intended to forbid (*Norfolk, Northern Division Case* (1869) 21 LT 264 at 268, 1 O'M & H 236 at 242).

12 Representation of the People Act 1983 s 113(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 78(2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 77(2)(b); and see note 2 *supra*.

13 References to procuring the return of any person at an election include, in the case of an election of the London members of the London Assembly at an ordinary election, references to procuring the return of candidates on a list of candidates submitted by a registered political party for the purposes of that election: Representation of the People Act 1983 s 113(2)(iii) (added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 30). For the meaning of 'London member' see PARA 10 note 5 *ante*. As to references to a registered political party submitting a list of candidates to be London members of the London Assembly at an ordinary election see PARA 237 note 14 *ante*. As to London Assembly ordinary elections see PARA 206 *ante*; and LONDON GOVERNMENT vol 29(2) (Reissue) PARA 88 *et seq*.

14 Representation of the People Act 1983 s 113(2)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 78(2)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 77(2)(c); and see note 2 *supra*. This provision, originally enacted in 1854, was directed against any such extensive bribery as might amount to a purchase of a seat and against corrupt agreements with persons whose local influence would enable them to control the return: *Coventry Case, Berry v Eaton and Hill* (1869) 1 O'M & H 97 at 102. Under the different conditions in which elections are now contested, this provision does not appear to be of much practical importance.

15 Representation of the People Act 1983 s 113(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 78(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 77(2); and see note 2 *supra*. As to bribery by receipt of a bribe see PARA 722 post.

UPDATE

712 Bribery

NOTE 2--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(iv) Corrupt Practices/B. BRIBERY/713. Consideration for a bribe.

713. Consideration for a bribe.

The consideration for a bribe need not be money; it may be any money or valuable consideration¹. The gift or promise of refreshments may amount to both treating and bribery². Treating, however, will not as a rule be regarded as bribery if it takes the form of refreshment to be consumed at the moment and not pocketed, reserved or promised for future enjoyment, although whether it is or is not to be regarded as bribery will depend on the circumstances³.

Loans may be as much bribery as absolute gifts⁴. Excessive payments may amount to bribery⁵. An offer to bribe is as bad as actual bribery, but it is more difficult to prove⁶. Colourable employment of any person to render valueless services is bribery⁷.

1 See PARA 712 note 5 ante. Permission to shoot rabbits on the candidate's estate was held to be bribery in *Launceston Case* (1874) 30 LT 823 at 825 et seq, 2 O'M & H 129 at 133.

2 *Bodmin Case* (1869) 1 O'M & H 117 at 124; *Tynemouth Case* (1853) 21 LTOS 67; *Huddersfield Case, Priestley's Case* (1859) Wolf & B 28 at 36. As to the offence of bribery at elections see PARA 712 ante; and as to treating at elections see PARAS 724-725 post.

3 *Bodmin Case* (1869) 1 O'M & H 117; *Youghal Borough Case* (1869) 1 O'M & H 291.

4 See the meaning of 'giving money' in PARA 712 note 5 ante.

5 *Huddersfield Case, Priestley's Case* (1859) Wolf & B 28 at 36 (giving more for pigs than their real value); *St George's Division, Tower Hamlets, Case* (1895) 5 O'M & H 89 (giving more for services rendered than their real value); *Dartmouth Borough Case* (1859) Wolf & B 19 (payment without inquiry of more than a fair charge for a room for the candidate's wife to witness the election proceedings); *Hartlepool Case* (1910) 6 O'M & H 1 (where it was suggested that a legal expense may, if exaggerated, be turned into a bribe, eg where by the provision of unnecessarily costly arrangements for conveying speakers and others to a meeting the persons conveyed are bribed); *Sandwich Case* (1880) 3 O'M & H 158 (hiring rooms for no object).

6 *Coventry Case, Berry v Eaton and Hill* (1869) 1 O'M & H 97 at 107; and see the meanings of 'giving money' and 'procuring an office' in PARA 712 notes 5, 6 ante.

7 *Boston Case, Buxton v Garfit* (1880) 44 LT 287, 3 O'M & H 150; *Gravesend Case* (1880) 44 LT 64 at 65-66, 3 O'M & H 81 at 84; *Boston Case, Tunnard v Ingram* (1880) 44 LT 287, 3 O'M & H 151; *Stroud Case, Baynes v Stanton* (1874) 2 O'M & H 181 at 183; *Penryn Case* (1869) 1 O'M & H 127 at 129; *Cambridge Borough Case* (1857) Wolf & D 28; *Oxford City Case* (1857) Wolf & D 106 at 109.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(iv) Corrupt Practices/B. BRIBERY/714. Travelling expenses may constitute bribery.

714. Travelling expenses may constitute bribery.

The unconditional payment, or promise of payment, to a voter of his travelling expenses is not bribery¹, but the payment or promise of payment to a voter of his travelling expenses on the condition, express or implied, that he would vote for a particular candidate is bribery².

The mere payment of travelling expenses after the poll and without proof of any previous promise to a voter who has come of his own accord and voted is not bribery, although it is an illegal payment³. The payment of a sum of money ostensibly as travelling expenses but in excess of the mere travelling expenses may be bribery even though it is paid unconditionally⁴. The payment of a substitute to do the voter's work while he votes is bribery⁵.

1 *Cooper v Slade* (1856) 6 E & B 447 (revsd on the facts (1858) 6 HL Cas 746); *Bolton Case* (1874) 2 O'M & H 138 at 144. As to the offence of bribery at elections see PARA 712 ante.

2 *Cooper v Slade* (1858) 6 E & B 447; *Ipswich Case*, *Packard v Collings and West* (1886) 54 LT 619, 4 O'M & H 70; *Dublin City Case* (1869) 1 O'M & H 270; *Coventry Case*, *Berry v Eaton and Hill* (1869) 1 O'M & H 97; *Horsham Case*, *Aldridge v Hurst* (1876) 3 O'M & H 52.

3 *Harwich Borough Case* (1880) 3 O'M & H 61 at 67 (a case in which there was no doubt that the voter expected to be paid); *Maidstone Borough Case*, *Evans v Viscount Castlereagh* (1906) 5 O'M & H 200; cf *Horsham Case*, *Aldridge v Hurst* (1876) 3 O'M & H 52. See also *Wareham Case* (1857) Wolf & D 85 at 88, 29 LTOS 346 at 347.

4 *Stroud Case*, *Marling v Dorington* (1874) 2 O'M & H 179; *Louth, Northern Division Case* (1911) 6 O'M & H 103; cf *Salisbury Case*, *Rigden v Edwards and Grenfell* (1880) 44 LT 193 at 194, 3 O'M & H 130 at 133; *Maidstone Borough Case*, *Evans v Viscount Castlereagh* (1906) 5 O'M & H 200; *Carlisle Case* (1860) Wolf & B 90.

5 *Plymouth Case* (1880) 3 O'M & H 107. As to payments for loss of time while voting see PARA 715 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(iv) Corrupt Practices/B. BRIBERY/715. Time off to allow for voting may constitute bribery.

715. Time off to allow for voting may constitute bribery.

Payments by an employer to his employees in respect of time lost while voting at elections have in certain cases been held to constitute bribery¹. It is expressly provided, however, that nothing in the statutory provisions which relate to the election campaign² makes it illegal for an employer to permit electors or their proxies to absent themselves from his employment for a reasonable time³ for the purpose of voting at the poll at a parliamentary⁴, Welsh Assembly⁵ or European parliamentary election⁶, without having any deduction from their salaries or wages on account of their absence⁷, if the permission is, so far as practicable without injury to the employer's business, given equally to all persons alike who are at the time in his employment⁸ and if the permission is not given with a view to inducing any person to give his vote in a particular way at the election⁹, and is not refused to any person for the purpose of preventing him from giving his vote in a particular way at the election¹⁰. This provision must not be construed as making illegal any act which would not be illegal apart from it¹¹.

¹ See *Staleybridge Case*, *Ogden, Woolley and Buckley v Sidebottom*, *Gilbert's Case* (1869) 20 LT 75, 1 O'M & H 66; *Gravesend Case* (1880) 44 LT 64, 3 O'M & H 81 (holiday with pay); *Simpson v Yeend* (1869) LR 4 QB 626. As to the offence of bribery at elections see PARA 712 ante.

² I.e., in relation to a parliamentary or local government election, the Representation of the People Act 1983 Pt II (ss 67-119) (as amended) or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Pt III (arts 35-84) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, Pt 2 (regs 31-81) (as amended).

³ As to what is a reasonable time see *Aylesbury Case* (1886) 4 O'M & H 59 at 60-61.

⁴ For the meaning of 'parliamentary election' see PARA 9 ante.

⁵ For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

⁶ As to European parliamentary elections see PARA 224 et seq ante.

⁷ Representation of the People Act 1983 s 117(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 82(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 81.

⁸ Representation of the People Act 1983 s 117(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 82(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 81(a).

⁹ Representation of the People Act 1983 s 117(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 82(2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 81(b).

¹⁰ Representation of the People Act 1983 s 117(2)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 82(2)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 81(c).

¹¹ Representation of the People Act 1983 s 117(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 82(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 81.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(iv) Corrupt Practices/B. BRIBERY/716. Payments for past services may constitute bribery.

716. Payments for past services may constitute bribery.

Payments for past services may in special circumstances amount to bribery. Thus payment on a balance due which had not been paid until an election occurred, and was then made by a person not liable for the debt and for the avowed purpose of inducing an elector to vote, was held to be bribery¹. The promise of payment of an outstanding account on condition that the elector should forbear from voting for the opposing candidate as previously promised by him has been held to be bribery². The payment of a just claim, however, will not lightly be taken to be bribery³.

1 *Cambridge Borough Case* (1843) Bar & Arn 169. As to the offence of bribery at elections see PARA 712 ante.

2 *Sligo Borough Case* (1853) 2 Pow R & D 256.

3 *Galway Borough Case* (1857) Wolf & D 136 at 142.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(iv) Corrupt Practices/B. BRIBERY/717. Charitable gifts may constitute bribery.

717. Charitable gifts may constitute bribery.

The distribution of genuine charitable gifts to voters has always been allowed¹. On the other hand what are called charitable gifts may be merely a specious and subtle form of bribery². If a gift is charitable, it will not become bribery because of the use made of it, even if political capital is made out of the gift³; it is not possible by any subsequent act to make that which was legal at the time illegal and criminal⁴.

The imminence of an election is an important factor to be taken into consideration in deciding whether a particular act of charity amounts to bribery. A charitable design may be unobjectionable so long as no election is in prospect, but if an election becomes imminent the danger of the gift being regarded as bribery is increased⁵. It has been said that charity at election times ought to be kept in the background by politicians⁶.

The question is one of degree. An isolated small donation on the occasion of a birth or death may not be bribery although such gifts on an extensive scale would lead to the inference that they were given to influence voters⁷. It is legitimate for a member of Parliament to benefit his constituency and the court will not therefore draw any adverse inference from the fact that he confines his charity to his constituency⁸. The care with which charity is dispensed by a candidate or his agents is also likely to be a factor to be considered⁹. An agent may turn what was intended by the candidate to be a charitable gift into a corrupt gift¹⁰.

1 *Maldon Case* (1857) Wolf & D 162 at 163, 30 LTOS 76.

2 *Plymouth Case* (1880) 3 O'M & H 107.

3 *Dorsetshire, Eastern Division Case* (1910) 6 O'M & H 22 at 42. In *Windsor Case, Herbert v Gardiner* (1874) 31 LT 133 at 135, 2 O'M & H 88 at 90, Bramwell B said that a man is not to refrain from doing that which he legitimately might have done on account of the existence of a motive which by itself would have been an illegitimate motive. It was similarly held in *Carrickfergus Borough Case* (1880) 3 O'M & H 90. In a later case, however, Pollock B and Bruce J disapproved of *Windsor Case, Herbert v Gardiner* supra, and said that the court must take all the facts into consideration and must then answer the question whether the motive of the act in question was true charity, or whether it was done in order to corrupt the minds of the voters: *St George's Division, Tower Hamlets, Case* (1895) 5 O'M & H 89 at 93-94. See also *Salisbury Case, Moore v Kennard* (1883) 4 O'M & H 21 at 29; *Nottingham Borough, East Division Case* (1911) 6 O'M & H 292 at 310; *King's Lynn Case, Flanders v Ingleby* (1911) 6 O'M & H 179 at 192. Subscriptions to charities stimulated by gratitude or hope of favours to come are not bribes: *Westbury Case, Laverton v Phipps, Harrop's Case* (1869) 1 O'M & H 47 at 49. As to the offence of bribery at elections see PARA 712 ante.

4 *Stafford County, Lichfield Division Case* (1895) 5 O'M & H 27.

5 *Kingston-upon-Hull, Central Division Case* (1911) 6 O'M & H 372 at 374.

6 *Wigan Case, Spencer and Prestt v Powell* (1881) 4 O'M & H 1 at 14; *Kingston-upon-Hull, Central Division Case* (1911) 6 O'M & H 372 at 380.

7 *Windsor Case, Richardson-Gardner v Eykyn* (1869) 19 LT 613, 1 O'M & H 1.

8 *Plymouth Case* (1880) 3 O'M & H 107; *Nottingham Borough, East Division Case* (1911) 6 O'M & H 292.

9 *Nottingham Borough, East Division Case* (1911) 6 O'M & H 292 at 309, 311; *Kingston-upon-Hull, Central Division Case* (1911) 6 O'M & H 372 at 380, 383, 390; *Boston Borough Case, Malcolm v Parry* (1874) LR 9 CP 610; *Stafford Borough Case* (1869) 21 LT 210 at 211, 1 O'M & H 228 at 230.

10 *Boston Borough Case, Malcolm v Parry* (1874) LR 9 CP 610.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(iv) Corrupt Practices/B. BRIBERY/718. Other instances of bribery.

718. Other instances of bribery.

Taking a burdensome share in a building society in order to relieve a voter and thereby to induce him to vote has been held to be bribery¹, as also has a promise that the voter 'shall be no loser' by his coming to vote², paying a man's debts to release him from prison so that he could vote³, and paying a man to personate a voter⁴.

A corrupt agreement to vote for a certain candidate the benefit of which is afterwards taken over and adopted by another candidate has been held to be bribery for which the latter may be held liable⁵.

An agreement to forgo payments of rent has been considered corrupt on the facts of the particular case⁶.

1 *Bewdley Case, Spencer v Harrison* (1880) 44 LT 283, 3 O'M & H 145. As to the offence of bribery at elections see PARA 712 ante.

2 *Staleybridge Case, Ogden, Woolley and Buckley v Sidebottom, Gilbert's Case* (1869) 20 LT 75 at 79, 1 O'M & H 66 at 67; but see PARA 714 ante.

3 *Londonderry Borough Case* (1869) 1 O'M & H 274.

4 *Lisburn Case* (1863) Wolf & B 221 at 225. As to personation see PARA 733 post.

5 *Dover Case* (1860) Wolf & B 121 at 126-127.

6 *Ipswich Case* (1857) Wolf & D 173 at 178.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(iv) Corrupt Practices/B. BRIBERY/719. Time of bribe.

719. Time of bribe.

In order to constitute the offence of bribery¹ it does not matter how long before an election a bribe is given provided the bribe is operative at the time of the election². Time is, however, material when considering the question of evidence; it is obvious that where a considerable time elapses between a bribe and an election the difficulty of proving bribery is much increased. If the act of bribery is committed shortly before the poll, the act will be assumed to be bribery until the contrary is shown³. If the act of bribery is committed after the voter has voted, it must be shown to have been done corruptly and for this purpose it is at least important to see whether it was done in pursuance of an antecedent promise⁴.

1 As to the offence of bribery at elections see PARA 712 ante.

2 *Sligo Borough Case* (1869) 1 O'M & H 300; *Stroud Case* (1874) 2 O'M & H 181. See also *Windsor Case*, *Herbert v Gardiner* (1874) 31 LT 133 at 136, 2 O'M & H 88 at 91 per Bramwell B (the force of a bribe must be in existence, continuing till the time of the election, before it will avoid the election).

3 *Limerick Borough Case* (1869) 1 O'M & H 260.

4 Bribery after the election is a difficult charge to establish (*Norwich Case* (1859) Wolf & B 58 at 62), but if clearly made out it is sufficient to avoid the election (*Harwich Borough Case* (1880) 3 O'M & H 61 at 70). Where a corrupt expectation on the part of the voter was followed by payment on behalf of the candidate, that voter's vote was struck off by a parliamentary committee (*Dublin Case* (1836) Falc & Fitz 88 at 204); and 'head money', 'market money' and 'dinner money' paid after the election to voters in pursuance of an understanding avoided the election (*Newcastle-under-Lyme Case* (1842) Bar & Aust 436 at 453; *Durham City Case* (1843) Bar & Arn 201 at 215). Whether an antecedent promise must necessarily be proved was left undecided in *Northallerton Case* (1869) 1 O'M & H 167. In *Caldicott v Corrupt Practices Comrs* (1907) 21 Cox CC 404, the court declined to convict in the absence of an antecedent promise; but in *Cheltenham Case*, *Smythies and Claridge v Mathias*, *Davies' Case* (1911) 6 O'M & H 194 at 212, the court did not accept this view but agreed that it was important to see whether there was an antecedent promise or not. See also *Stroud Case* (1874) 2 O'M & H 181 at 184; *Cooper v Slade* (1858) 6 HL Cas 746 at 790.

The time at which an alleged act of treating is done is also considered to be relevant to that particular offence: see PARA 725 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(iv) Corrupt Practices/B. BRIBERY/720. Payments for expenditure in bribes.

720. Payments for expenditure in bribes.

A person is guilty of bribery if he advances or pays or causes to be paid any money to or to the use of any other person with the intent that that money or any part of it is to be expended in bribery at any election¹, or knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election². It is not necessary that the person to whom the money is paid should be the person who is intended to expend it in bribery; the payment of money into a bank to be expended in bribery would come within this provision³.

1 le at a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante; for the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'Authority election' see PARA 10 ante; and for the meaning of 'election under the local government Act' see PARA 10 note 2 ante. As to elections in the City of London see PARA 30 ante; and as to European parliamentary elections see PARA 224 et seq ante.

The Representation of the People Act 1983 s 113 has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante. For these purposes, the provisions of the Representation of the People Act 1983 Pt II (ss 67-119) (as amended, applied and modified) (see PARA 238 et seq ante), prohibiting payments and contracts for payments, do not affect the right of any creditor, who, when the contract was made or the expense was incurred, was ignorant of that contract or expense being in contravention of those provisions: s 116 (applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2).

2 Representation of the People Act 1983 s 113(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 78(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 77(3); and see note 1 supra.

3 *Aylesbury Case* (1804) 2 Peck 258 at 259; *Rye Case* (1848) 1 Pow R & D 112.

UPDATE

720-722 Payments for expenditure in bribes ... Offence of receiving bribe

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(iv) Corrupt Practices/B. BRIBERY/721. Payment of legitimate expenses not to constitute bribery.

721. Payment of legitimate expenses not to constitute bribery.

The provisions relating to the payment of bribes at an election¹ do not extend and must not be construed as extending to any money paid or agreed to be paid for or on account of any legal expenses incurred in good faith at or concerning an election². This has been interpreted as meaning that the provisions in question do not extend to any money paid or agreed to be paid for or on account of any expenses incurred in good faith at or concerning any election, provided those expenses are not illegal on some other ground. For instance, the payment of expenses of committee rooms and advertisements is not unlawful, even though they are incurred with a view to inducing the person receiving the payment to vote³. A public subscription for defraying a candidate's expenses is not illegal⁴; nor is it illegal for one candidate to pay the election expenses of another, unless the former intends by so doing to purchase any influence which the latter may have with the electors⁵.

¹ I.e., in relation to a parliamentary or local government election, the Representation of the People Act 1983 s 113(1)-(3) (as amended) or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 78(1)-(4) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 77(1)-(3) (see PARAS 712, 720 ante). For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante; for the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'Authority election' see PARA 10 ante; and for the meaning of 'election under the local government Act' see PARA 10 note 2 ante. As to elections in the City of London see PARA 30 ante; and as to European parliamentary elections see PARA 224 et seq ante.

The Representation of the People Act 1983 s 113 has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

² Representation of the People Act 1983 s 113(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 78(5); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 77(4); and see note 1 supra.

³ *Cooper v Slade* (1858) 6 HL Cas 746 at 766.

⁴ *Belfast Borough Case* (1869) 1 O'M & H 281 at 285.

⁵ *Coventry Case, Berry v Eaton and Hill* (1869) 1 O'M & H 97.

UPDATE

720-722 Payments for expenditure in bribes ... Offence of receiving bribe

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(iv) Corrupt Practices/B. BRIBERY/722. Offence of receiving bribe.

722. Offence of receiving bribe.

A voter is guilty of bribery if, before or during an election¹, he directly or indirectly by himself or by any other person on his behalf receives, agrees or contracts for any money, gift, loan or valuable consideration, office, place or employment for himself or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting². A person is also guilty of bribery if after an election he directly or indirectly by himself or by any other person on his behalf receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting³. Merely asking for a bribe has been held not to constitute an offence under these provisions⁴.

The corrupt receipt of a bribe is a separate offence and distinct from that of which the briber is guilty⁵.

1 le at a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante; for the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'Authority election' see PARA 10 ante; and for the meaning of 'election under the local government Act' see PARA 10 note 2 ante. As to elections in the City of London see PARA 30 ante; and as to European parliamentary elections see PARA 224 et seq ante.

The Representation of the People Act 1983 s 113 has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For these purposes, the provisions of the Representation of the People Act 1983 Pt II (ss 67-119) (as amended, applied and modified) (see PARA 238 et seq ante), prohibiting payments and contracts for payments, do not affect the right of any creditor, who, when the contract was made or the expense was incurred, was ignorant of that contract or expense being in contravention of those provisions: s 116 (applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2). For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 Representation of the People Act 1983 s 113(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 78(6); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 77(5); and see note 1 supra. This provision concerns voters who receive bribes before or during, but not after, an election. As to votes struck off for bribery see PARA 840 post.

3 Representation of the People Act 1983 s 113(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 78(7); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 77(6); and see note 1 supra. This provision concerns voters and non-voters who receive bribes of money or valuable consideration, but not an office or employment, after an election. The provision has little practical significance now because it is unlikely to matter so much whether a particular person votes or abstains from voting since no constituency or electoral area consists of so few voters as was formerly the case.

4 *Mallow Borough Case* (1870) 2 O'M & H 18. See also *Ipswich Case* (1835) Kn & Omb 332.

5 *Boston Borough Case*, *Malcolm v Parry* (1874) LR 9 CP 610.

UPDATE

720-722 Payments for expenditure in bribes ... Offence of receiving bribe

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(iv) Corrupt Practices/B. BRIBERY/723. Proof of bribery.

723. Proof of bribery.

Due proof of a single act of bribery by or with the knowledge and consent of the candidate or by his agents, however insignificant that act may be, is sufficient to invalidate the election¹. The judges are not at liberty to weigh its importance², nor can they allow any excuse, whatever the circumstances may be, such as they can allow in certain conditions in cases of treating or undue influence by agents³. For this reason, clear and unequivocal proof is required before a case of bribery will be held to have been established; and suspicion is not sufficient⁴. The confession of the person alleged to have been bribed is not conclusive⁵.

A corrupt motive must in all cases be strictly proved⁶. For this purpose a corrupt motive in the mind of the person bribed alone is not enough; the question is as to the intention of the person who bribes him⁷.

Where the evidence as to bribery consists merely of offers or proposals to bribe, stronger evidence will be required than in the case of a successful bribe because of the greater likelihood of there having been some misunderstanding⁸. A general conversation as to a candidate's wealth and liberality is not evidence of an offer to bribe⁹. General evidence may, however, be given to show what the character of particular acts has presumably been¹⁰.

1 *Plymouth Case* (1880) 3 O'M & H 107 at 108.

2 *Shrewsbury Case* (1870) 2 O'M & H 36 at 37; *Norwich Case* (1871) 23 LT 701 at 704, 2 O'M & H 38 at 41.

3 See PARA 724 et seq post.

4 *Lichfield Case, Anson v Dyott* (1869) 20 LT 11 at 13 et seq, 1 O'M & H 22 at 28. Clear evidence must also be given that the person bribing was the candidate's agent: see PARAS 252-253 ante.

5 *Stroud Case, Baynes v Stanton and Dickinson* (1874) 2 O'M & H 107 at 108.

6 *Lichfield Case, Anson v Dyott* (1869) 20 LT 11, 1 O'M & H 22.

7 *Wallingford Case* (1869) 19 LT 766, 1 O'M & H 57; *Westminster Borough Case* (1869) 20 LT 238 at 245, 1 O'M & H 89 at 95.

8 *Cheltenham Case, Gardner v Samuelson* (1869) 1 O'M & H 62 at 64-65; *Mallow Borough Case* (1870) 2 O'M & H 18 at 22.

9 *Northallerton Case* (1869) 1 O'M & H 167 at 168.

10 *Beverley Case* (1869) 20 LT 792 at 795-796, 1 O'M & H 143 at 144-145.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(iv) Corrupt Practices/C. TREATING/724. Treating.

C. TREATING

724. Treating.

A person guilty of treating at an election¹ is guilty of a corrupt practice². The following persons³ are guilty of treating: (1) any person who corruptly⁴, by himself or by any other person, either before, during or after an election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing, any meat, drink, entertainment or provision to or for any person⁵: (a) for the purpose of corruptly influencing that person or any other person to vote or refrain from voting⁶; or (b) on account of that person or any other person having voted or refrained from voting, or being about to vote or refrain from voting⁷; (2) every elector or proxy for an elector who corruptly accepts or takes any such meat, drink, entertainment, or provision⁸.

1 le at a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante; for the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'Authority election' see PARA 10 ante; and for the meaning of 'election under the local government Act' see PARA 10 note 2 ante. As to elections in the City of London see PARA 30 ante; and as to European parliamentary elections see PARA 224 et seq ante.

The Representation of the People Act 1983 s 114 has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 Representation of the People Act 1983 s 114(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 79(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 78(1); and see note 1 supra. As to the consequences of a corrupt practice see PARA 885 et seq post. Prior to the enactment of statutory provisions, treating was an offence at common law.

3 'Person' includes a corporate body: see PARA 110 note 1 ante.

4 For the meaning of 'corrupt' see PARA 712 note 11 ante; and as to what is regarded as corrupt in the context of treating see PARA 725 post. See also *Bradford Case (No 2)* (1869) 19 LT 723, 1 O'M & H 35; *Wigan Case*, *Spencer and Prestt v Powell* (1881) 4 O'M & H 1; *Ipswich Case*, *Packard v Collings and West* (1886) 54 LT 619, 4 O'M & H 70, which cases concern treating to secure general popularity and therefore to influence votes.

5 Representation of the People Act 1983 s 114(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 79(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 78(2); and see note 1 supra.

6 Representation of the People Act 1983 s 114(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 79(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 78(2)(a); and see note 1 supra.

7 Representation of the People Act 1983 s 114(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 79(2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 78(2)(b); and see note 1 supra.

8 Representation of the People Act 1983 s 114(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 79(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 78(3); and see note 1 *supra*. As to votes struck off for treating see PARA 840 post.

UPDATE

724 Treating

NOTE 1--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(iv) Corrupt Practices/C. TREATING/725. Treating must be corrupt.

725. Treating must be corrupt.

The essence of the offence of treating is that it should be corrupt¹. Treating, in fact, is often innocent; and prima facie it will be taken so to be². The statutory provision against treating does not in general apply to mutual treating between equals or to treating in connection with business matters, but it applies to the treating of an inferior by a superior, otherwise than in return for services rendered, with a view to securing the goodwill of the particular person treated and to influencing the vote³. The alleged offender's previous and habitual conduct will be considered⁴. No man is bound to abstain from customary and harmless hospitality because an election is pending⁵.

Where refreshments are a mere incident of a political meeting there is no offence, but if persons are gathered together merely to gratify their appetites and so influence their votes, then it is corrupt treating⁶. The gift or promise of refreshments may amount to both treating and bribery⁷. It is not necessarily corrupt, however, to attract people to meetings by offering refreshments of a moderate kind⁸. The giving of refreshments to persons employed at the election, if done honestly and in good faith, is not illegal⁹.

The time at which the act is done is also a relevant consideration, for the treating must have reference to some election and must be for the purpose of influencing the vote of the person treated¹⁰, and must have a continuing operation on the elector at the time of the election¹¹.

A candidate at a general election may be guilty of treating even though the treating took place before the dissolution of Parliament and consequently before he came within the statutory definition of 'candidate'¹². A corrupt act is not the less corrupt because it is done a long time before the election, but in determining whether it is reasonable to conclude that an act is done with a view to influencing votes, the element of time becomes a very material one¹³. Treating after an election, to be illegal, must be done under such circumstances as to lead to the inference that it was done in pursuance of an antecedent agreement¹⁴.

Custom is only relevant as having some bearing on the intent of a particular individual¹⁵.

A candidate who is reported by an election court guilty by his agents of treating may be excused from the consequences in certain circumstances¹⁶.

1 As to the offence of treating see PARA 724 ante.

2 *Aylesbury Case* (1886) 4 O'M & H 59 at 63; cf *Shoreditch, Haggerston Division Case*, *Cremer v Lowles* (1896) 5 O'M & H 68 at 72, where on the facts of the particular case the judges differed. But treating intended to secure general popularity, and so to influence votes, is corrupt treating: *Bradford Case (No 2)* (1869) 19 LT 723, 1 O'M & H 35; *Wigan Case*, *Spencer and Prestt v Powell* (1881) 4 O'M & H 1; *Ipswich Case* (1886) 54 LT 619, 2 TLR 477.

3 *Norwich Case*, *Birbeck v Bullard* (1886) 4 O'M & H 84, 54 LT 625.

4 *Aylesbury Case* (1886) 4 O'M & H 59 (school feast customarily given by respondent).

5 *Worcester Borough Case*, *Glaszard and Turner v Allsopp* (1892) Day 85 at 88.

6 *Rochester Borough Case* (1892) 4 O'M & H 156 at 157, where a threepenny ticket entitled the holder to partake of food and various wines. The practice of political associations giving entertainments, picnics, suppers, teas, sports etc has been judicially described as 'a practice dangerously akin to corrupt treating', and one

which, 'if indulged in by a candidate, would certainly amount to corrupt treating' (*Northumberland, Hexham Division Case, Hudspeth and Lyal v Clayton* (1892) 4 O'M & H 143 at 150); but this is 'not an intimation that any of the transactions referred to are to be taken alone as amounting to corrupt treating'. It is always a question of intention, and the court looks to the whole of the circumstances in each case: *Rochester Borough Case* supra.

If you give drink to a man with the intention of confirming his vote and keeping up the party zeal of those believed to be already supporting your candidate, that is corrupt treating: *Cornwall, Bodmin Division Case* (1906) 5 O'M & H 225 at 231. Where a candidate is in the midst of people who are drinking and the worse for drink, it will not necessarily be inferred that because there was drinking there must have been treating: *Southampton Borough Case* (1895) 5 O'M & H 17.

7 *Bodmin Case* (1869) 1 O'M & H 117 at 124; *Tynemouth Case* (1853) 21 LTOS 67; *Huddersfield Case, Priestley's Case* (1859) Wolf & B 28 at 36. As to the offence of bribery see PARA 712 et seq ante.

8 *St George's Division, Tower Hamlets, Case* (1895) 5 O'M & H 89 at 99; *Great Yarmouth Borough Case* (1906) 5 O'M & H 176 at 194. The question of corrupt treating must be in each case a question of fact. If the refreshments provided were excessive, if the occasions were numerous, and if there were other circumstances calculated to excite suspicion, a corrupt intention might be inferred: *St George's Division, Tower Hamlets, Case* supra.

9 *Westminster Borough Case* (1869) 20 LT 238, 1 O'M & H 89; *Bradford Case (No 2)* (1869) 19 LT 723, 1 O'M & H 35. See also *Barrow-in-Furness Case* (1886) 4 O'M & H 76, where non-workers participated in the refreshments.

10 *Norwich Case, Birbeck v Bullard* (1886) 4 O'M & H 84 at 91, 54 LT 625 at 627. Treating at a local government election held shortly before a parliamentary election and with a view to influencing the latter is treating at the parliamentary election: *Hastings Case, Calthorpe and Sutton v Brassey and North, Foster's Case* (1869) 21 LT 234, 1 O'M & H 217; and see *Great Yarmouth Borough Case* (1906) 5 O'M & H 176.

11 *Tamworth Case, Hill and Walton v Peel and Bulwer* (1869) 20 LT 181, 1 O'M & H 75; *Berwick-upon-Tweed Case* (1803) 1 Peck 401 at 402; *Northumberland, Hexham Division Case* (1892) 4 O'M & H 143, as explained in *Rochester Borough Case* (1892) 4 O'M & H 156; *St George's Division, Tower Hamlets, Case* (1896) 5 O'M & H 89; *Cornwall, Bodmin Division Case* (1896) 5 O'M & H 225.

12 *Norwich Case, Birkbeck v Bullard* (1886) 4 O'M & H 84 at 86 (cf the report in 54 LT 625 at 627); *Aylesbury Case* (1886) 4 O'M & H 59 at 63; *Montgomery Boroughs Case* (1892) 4 O'M & H 167 at 168; *Walsall Borough Case* (1892) as reported in Day 106 at 112, where it was said that the period in respect of which a candidate can be held responsible must be confined within reasonable limits; *Youghal Election Petition* (1869) IR 3 CL 530 (although it should be noted that the definition of treating in that case differed from the present definition (as to which see PARA 724 ante)). For the current statutory definition of 'candidate' see PARA 237 ante.

13 *St George's Division, Tower Hamlets, Case* (1896) 5 O'M & H 89 at 100-101; cf *Lancaster County, Lancaster Division Case* (1896) 5 O'M & H 39 at 43, where, although the person who eventually became the election agent took part in an entertainment given by a political association, it was held that there had not in the circumstances been any corrupt treating for which his principal, the candidate, was responsible.

14 *Brecon Borough Case, Watkins and Watkins v Holford* (1871) 2 O'M & H 43; *Harwich Borough Case* (1880) 3 O'M & H 61; *Poole Case, Hurdle and Stark v Waring* (1874) 31 LT 171, 2 O'M & H 123; *Kidderminster Case* (1874) 2 O'M & H 170; *Salford Case* (1869) 20 LT 120, 1 O'M & H 133. The time at which an alleged act of bribery is done is also considered to be relevant to that particular offence: see PARA 719 ante.

15 *Great Yarmouth Borough Case* (1906) 5 O'M & H 176 at 193 per Channell J (otherwise even bribery might be justified upon the ground that it was the custom to take a coin for a vote).

16 See PARA 899 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(iv) Corrupt Practices/D. UNDUE INFLUENCE/726. Undue influence.

D. UNDUE INFLUENCE

726. Undue influence.

A person guilty of undue influence at an election¹ is guilty of a corrupt practice². A person³ is guilty of undue influence: (1) if he, directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of any force, violence or restraint⁴, or inflicts or threatens to inflict, by himself or by any other person, any temporal⁵ or spiritual injury⁶, damage, harm or loss upon or against any person in order to induce or compel that person to vote or refrain from voting, or on account of that person having voted or refrained from voting⁷; (2) if, by abduction, duress or any fraudulent device or contrivance, he impedes or prevents⁸ the free exercise of the franchise of an elector or proxy for an elector, or so compels, induces or prevails upon⁹ an elector or proxy for an elector either to vote or to refrain from voting¹⁰.

A candidate who is reported by an election court guilty by his agents of the corrupt practice of undue influence may be excused from the consequences in certain circumstances¹¹.

1 le at a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante; for the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'Authority election' see PARA 10 ante; and for the meaning of 'election under the local government Act' see PARA 10 note 2 ante. As to elections in the City of London see PARA 30 ante; and as to European parliamentary elections see PARA 224 et seq ante.

The Representation of the People Act 1983 s 115 (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 Representation of the People Act 1983 s 115(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 80(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 79(1); and see note 1 supra. As to votes struck off for undue influence see PARA 840 post; and as to the consequences of a corrupt practice see PARA 885 et seq post. See also *East Kerry Case* (1910) 6 O'M & H 58; *R v Rowe, ex parte Mainwaring* [1992] 4 All ER 821, [1992] 1 WLR 1059, CA, at 829 and 1068 per Farquharson LJ, at 830 and 1069 per Nolan LJ and at 831 and 1070 per Parker LJ (reference to a person being 'guilty' of corrupt practice connotes a criminal offence and, accordingly, a criminal standard of proof is to be applied in a civil court no less than in a criminal court). As to the standard of proof required for a vote to be avoided for personation see PARA 842 post.

3 'Person' includes a corporate body: see PARA 110 note 1 ante. A corporation cannot be convicted of an offence involving personal violence: *R v Cory Bros & Co* [1927] 1 KB 810.

4 As to the use or threatened use of force, violence or restraint see PARA 727 post.

5 As to temporal influences see PARA 728 post.

6 As to spiritual influence see PARA 729 post.

7 Representation of the People Act 1983 s 115(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 80(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 79(2)(a); and see note 1 supra.

8 In the case of a parliamentary or local government election, it is specified that a person is also guilty of undue influence if he intends to impede or prevent a voter: Representation of the People Act 1983 s 115(2)(b) (amended by the Electoral Administration Act 2006 s 39(1)(a)). See *R v Rowe, ex p Mainwaring* [1992] 4 All ER 821, [1992] 1 WLR 1059, CA, where the court refused to construe the words 'calculated to impede or prevent' from the Representation of the People Act 1983 s 115(2)(b) (as originally enacted) but advised its amendment by reference to the less blatant and less easily detected but no less effective methods of exerting influence which are available and are worthy of attracting a penalty. In *R v Rowe, ex p Mainwaring* supra at 826 and 1064-1065, Farquharson LJ explained that the difference between 'impeding' and 'preventing' lies in the effect on the voter's choice of candidate and that the operative time for the offence is the moment of voting: an improper influence which is brought to bear on the mind of a voter and causes him to vote as the person exercising that improper influence intended (when otherwise he would not), 'prevents' the free exercise of his franchise; a voter who, though influenced by the impropriety, is not thereby caused to vote in the way intended (either because he was going to vote that way anyway, or because the device did not cause him to change his allegiance), is 'impeded' in the free exercise of his franchise. See further *R v Rowe, ex p Mainwaring* supra at 830 and 1068-1069 per Nolan LJ.

9 In the case of a parliamentary or local government election, it is specified that a person is also guilty of undue influence if he intends so to compel, induce or prevail upon an elector: Representation of the People Act 1983 s 115(2)(b) (amended by the Electoral Administration Act 2006 s 39(1)(b)). See also note 8 supra.

10 Representation of the People Act 1983 s 115(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 80(2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 79(2)(b); and see note 1 supra. In *Spencer v Huggett* [1997] 30 LS Gaz R 30 (cited in PARA 668 ante), it was held that the court had jurisdiction to grant an injunction to restrain a breach of the Representation of the People Act 1983 s 115(2)(b) (as originally enacted), where a candidate was alleged to be telling untruths about himself in nomination papers.

11 See PARA 899 post.

UPDATE

726 Undue influence

NOTE 1--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

TEXT AND NOTES 8-10--SI 2004/293 reg 79(2)(b) substituted: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(iv) Corrupt Practices/D. UNDUE INFLUENCE/727. Use or threatened use of force, violence or restraint.

727. Use or threatened use of force, violence or restraint.

It is the undue influence on individual voters and not general rioting or violence which constitutes the corrupt practice¹. In order to constitute undue influence a threat must be serious and intended to influence the voter². A threat may amount to undue influence even though the person using the threat has no power to carry it out³. An unsuccessful threat has been held to amount to undue influence⁴. It has been held to be an offence where a voter's sister was told that he would be hurt if she did not keep him at home⁵.

1 *Cheltenham Case, Gardner v Samuelson* (1869) 1 O'M & H 62; *Nottingham Borough Case* (1869) 1 O'M & H 245. As to the offence of undue influence see PARA 726 ante; and as to the consequences of a corrupt practice see PARA 885 et seq post.

2 *North Norfolk Case* (1869) 1 O'M & H 236 at 240, 242. See also *Windsor Case, Herbert v Gardiner* (1874) 31 LT 133 at 136, 2 O'M & H 88 at 91 per Bramwell B (the force of a threat must be in existence, continuing till the time of the election, before it will avoid the election).

3 *Oldham Case* (1869) 20 LT 302, 1 O'M & H 151 at 162.

4 *Northallerton Case* (1869) 1 O'M & H 167; *Durham County, Northern Division Case (No 2)* (1874) 2 O'M & H 152.

5 *Louth, Northern Division Case* (1911) 6 O'M & H 103 at 140. There do not appear to be any cases where the threat was directed not against the voter but against a relative or friend of the voter.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(iv) Corrupt Practices/D. UNDUE INFLUENCE/728. Temporal influence.

728. Temporal influence.

The law cannot strike at the existence of influence; it cannot take away from a man who has property, or who can give employment, the influence he has over those whom he can benefit¹. A landlord is therefore entitled to use influence with his tenants if he does so legitimately². He has a perfect right to choose a tenant who agrees with him in politics rather than one who does not³. A suggestion to a tenant to vote for a particular candidate and a request that, if the voter could not do so, he should stay at home and not vote against that candidate has been held not to exceed the bounds of legitimate influence⁴; but the threat of eviction of a tenant, who then votes under the influence of that threat, is undue influence⁵.

If an employer dismisses an employee, he may be called upon to prove that he has good grounds for the dismissal apart from political grounds⁶, and if the dismissal were for political reasons it would amount to undue influence⁷.

Where workmen for political purposes ill-treated certain of their fellow workmen and expelled them from a common place of employment, they were guilty of undue influence⁸.

It has been laid down that to withdraw, or to threaten to withdraw, one's custom in order to induce a voter to vote or to abstain from voting amounts to undue influence⁹. On the other hand, it has been said that it is open to a man to say that he chooses to deal with another, not in accordance with the merits of the commodities he sells, but according to his politics on one side or the other¹⁰. A letter written by a lady withdrawing her custom from a voter, who occasionally looked after puppies for her, on the ground of his political views has been stated to be not sufficient to justify a criminal charge of undue influence¹¹. It appears that the loss, or threat of loss, must be so serious that a judge could direct a jury in a criminal court to find the individual guilty of the statutory offence¹².

A promise to take no proceedings on a bill of sale if a voter voted as required might amount to undue influence¹³.

1 *Lichfield Case, Anson v Dyott* (1869) 20 LT 11, 1 O'M & H 22.

2 *Galway Borough Case* (1869) 22 LT 75 at 77, 1 O'M & H 303 at 306.

3 *Windsor Case, Herbert v Gardiner* (1874) 31 LT 133 at 137, 2 O'M & H 88 at 93, where the eviction of tenants for the way they voted at the previous election was held not to be undue influence on the ground that the undue influence undoubtedly used at the previous election had not been repeated at the election under consideration and was not still operative.

4 *Galway County Case* (1872) 2 O'M & H 46 at 54.

5 *Windsor Case, Herbert v Gardiner* (1874) 31 LT 133, 2 O'M & H 88. As to the offence of undue influence see PARA 726 ante; and as to the consequences of a corrupt practice see PARA 885 et seq post.

6 *Blackburn Case* (1869) 1 O'M & H 198; *Dorsetshire, Eastern Division Case* (1910) 6 O'M & H 22 at 31, 46.

7 *Westbury Case, Laverton v Phipps, Harrop's Case* (1869) 20 LT 16 at 22, 1 O'M & H 47 at 52; *Wareham Case* (1857) Wolf & D 85 at 90, 29 LTOS 346 at 347 (threatening to dismiss an employee unless he voted for the sitting member); *Harwich Case (No 2)* (1866) 14 LT 383.

8 See *Blackburn Case* (1869) 20 LT 823, 1 O'M & H 198.

- 9 *R v Barnwell* (1857) 29 LTOS 107; *R v Wilson* (1910) Times, 12 July.
- 10 *Durham County, Northern Division Case (No 2)* (1874) 2 O'M & H 152.
- 11 *R v Wilson* (1910) Times, 12 July.
- 12 *North Norfolk Case* (1869) 1 O'M & H 236 at 241-242.
- 13 *Cheltenham Case, Digby's Case* (1866) 14 LT 839 at 841.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(iv) Corrupt Practices/D. UNDUE INFLUENCE/729. Spiritual influence.

729. Spiritual influence.

Ministers of religion may legitimately address their congregations upon the candidates' conflicting claims, but in this connection must not hold out hopes of reward for the hereafter, or threaten to excommunicate or to withhold the sacraments, or denounce the voting for any particular candidate as a sin¹.

¹ *Galway Borough Case* (1869) 22 LT 75, 1 O'M & H 303; *Longford Case* (1870) 2 O'M & H 6; *Tipperary Case* (1870) 2 O'M & H 31; *Meath, Southern Division Case* (1892) 4 O'M & H 130; *Meath, Northern Division Case* (1892) 4 O'M & H 185 at 188.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(iv) Corrupt Practices/D. UNDUE INFLUENCE/730. Fraudulent device or contrivance.

730. Fraudulent device or contrivance.

A candidate who has adopted a name which closely resembles that of another candidate standing at the same election may be held to contravene the statutory provisions aimed at preventing undue influence¹.

It is not clear whether matters relating to the secrecy of the ballot come within the statutory provisions or not. In one case a newspaper article distributed in a constituency alleged a plan by which it would be possible to ascertain after the election how each voter had voted; on a prosecution for undue influence, the judges were divided in opinion, the senior judge holding that it was not within the provisions because it was impossible to specify or ascertain the individuals affected by it, the junior judge holding that it was within the provisions because it was a contrivance interfering with the free exercise of the franchise². Where a number of voters who could read and write had been induced to vote as illiterates and so to disclose unnecessarily for whom they voted, the court held that, although the facts were suspicious and might be relevant on the question of intimidation, illegal intent had not been established and there was no proof of a contrivance³.

A fraudulent scheme by which an elector is prevented from receiving a candidate's election literature may constitute undue influence, as his freedom of choice has been impeded⁴.

Watching voters at polling stations in the hope that by so doing they might be induced to vote for a particular candidate, or at all events not to vote against him, has been held to be a legal, although an objectionable, practice⁵.

An agreement by two voters to pair and not vote has in the absence of fraud been held not to come within the provisions even though one voter as the result of false information thought the other had voted and in consequence voted himself⁶.

1 See *Lyell v Hayward (also known as Lyell)* (15 April 1997, unreported) (defendant's use of claimant's name on nomination papers was calculated to induce electors in the constituency to believe that he was in fact the claimant and constituted a fraudulent device or contrivance to impede or prevent the free exercise of the franchise of such electors). As to the offence of undue influence see PARA 726 ante.

A previous case of similar fact had been decided on the basis that the effect of a candidate adopting a name which was likely to mislead members of the electorate was an abuse of the electoral process and that this abuse allowed the court to exercise its powers to prevent an abuse of its own procedure: see *R v Returning Officer for the Parliamentary Constituency of Barnet and Finchley, ex p Bennett v Thatcher* (3 June 1983, unreported), CA (where a male candidate changed his name by deed poll to 'Margaret Thatcher' (who was then prime minister) and styled his address as 'Downing Street Mansions'; it was held that his nomination paper was designed to confuse the electorate and to make a farce of the electoral process and that, accordingly, his application for the discretionary remedy of judicial review of the returning officer's rejection of the nomination paper was refused without needing to determine whether or not the returning officer acted lawfully in so rejecting it). Where a nomination paper is an obvious unreality (eg if it purported to nominate a deceased Sovereign), it has been suggested, as an obiter dictum, that it ought to be rejected: *Harford v Linskey* [1899] 1 QB 852 at 862, DC, per Wright J (but that case concerned the right of a validly nominated, but disqualified, candidate to bring an election petition). This suggestion was cited in *Hobbs v Morey* [1904] 1 KB 74 at 78, DC, but to support the proposition that, in the event of such a nomination being accepted, no notice of disqualification (as to which see PARA 273 ante) need be published by an opposing candidate.

2 *Down County Case* (1880) 3 O'M & H 115.

3 *Louth, Northern Division Case* (1911) 6 O'M & H 103 at 139.

4 *Roberts v Hogg* 1971 SLT 78 (the accused took possession of election literature of another party which was intended for distribution to the electors prior to a local government election; it was found that he took it, not to distribute it, but to destroy or suppress it, and he was convicted), cited with approval in *R v Rowe, ex p Mainwaring* [1992] 4 All ER 821, [1992] 1 WLR 1059, CA, to support the point that the Representation of the People Act 1983 s 115(2)(b) (as amended) does not rely on intention only.

5 *Lichfield Borough Case* (1880) 3 O'M & H 136; *Dorsetshire, Eastern Division Case* (1910) 6 O'M & H 22 at 48.

6 *Northallerton Case* (1869) 1 O'M & H 167 at 169.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(iv) Corrupt Practices/D. UNDUE INFLUENCE/731. Acquiescence by official in face of undue influence.

731. Acquiescence by official in face of undue influence.

A mere passive outsider who owes no duty to interfere or prevent undue influence cannot be made responsible for it; but a person in a position of authority and responsibility who, without being personally guilty of any overt act, nevertheless does nothing to prevent the undue influence becomes responsible for the undue influence if it is clear that he could have prevented it if he had chosen to do so¹.

¹ *Louth, Northern Division Case* (1911) 6 O'M & H 103 at 143.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/ (v) Offences which are also Corrupt Practices/732. Offences which also constitute corrupt practices.

(v) Offences which are also Corrupt Practices

732. Offences which also constitute corrupt practices.

The following offences are also deemed to be corrupt practices¹: (1) personation²; (2) certain offences associated with postal or proxy voting³.

1 As to the consequences of corrupt practices see PARA 885 et seq post.

2 See PARA 733 post.

3 See PARA 734 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/ (v) Offences which are also Corrupt Practices/733. Personation.

733. Personation.

A person¹ is guilty of a corrupt practice if he commits, or aids, abets, counsels or procures the commission of, the offence of personation at an election or referendum². A person is deemed to be guilty of personation if he: (1) votes in person or by post as some other person, whether as an elector or as proxy, and whether that other person is living or dead or is a fictitious person³; or (2) votes in person or by post as proxy for a person whom he knows or has reasonable grounds for supposing to be dead or to be a fictitious person⁴; or (3) votes in person or by post as proxy when he knows or has reasonable grounds for supposing that his appointment as proxy is no longer in force⁵.

A person who has applied for a ballot paper for the purpose of voting in person or who has marked, whether validly or not, and returned a ballot paper issued for the purpose of voting by post, is deemed to have voted⁶.

Mens rea is an essential ingredient in personation⁷, and an agent who honestly believes that the person whom he is instigating to vote is the person whose name is on the register is not guilty of a corrupt practice, although the person whose vote is in question may know that he is not the person whose name is on the register⁸. On the same principle, if a person innocently votes in the name of another this does not amount to personation⁹.

1 As to the meaning of 'person' see PARA 110 note 1 ante.

2 Representation of the People Act 1983 s 60(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 28(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 23(1). For an example of inducing a person to commit personation see *R v Hague* (1864) 4 B & S 715. The Police and Criminal Evidence Act 1984 s 24A (as added; prospectively amended) (arrest without warrant (other persons): see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(2) (2006 Reissue) PARA 925) does not permit a person other than a constable to arrest inside a polling station a person who commits or is suspected of committing an offence under the Representation of the People Act 1983 s 60: Electoral Administration Act 2006 s 71. As to striking off a vote for personation see PARA 842 post; as to the consequences of corrupt practices generally see PARA 885 et seq post; and as to the avoidance of an election on report of a corrupt practice see PARA 892 post.

The text refers to a parliamentary or local government election or a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante; for the meaning of 'parliamentary election' see PARA 9 ante; and for the meaning of 'local government election' see PARA 10 ante. As to elections in the City of London see PARA 30 ante; and as to European parliamentary elections see PARA 224 et seq ante. As to the application of the Representation of the People Act 1983 s 60 for the purposes of a poll consequent on a parish or community meeting see s 187(1) (amended by the Representation of the People Act 1985 ss 24, 28, Sch 4 para 64, Sch 5); and the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(a), (d). As to the application and modification of the Representation of the People Act 1983 s 60 for the purposes of local authority referendums see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2.

3 Representation of the People Act 1983 s 60(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 28(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 23(2)(a); and see note 2 supra. If the name of the voter was placed on the register with the intention of enabling him to vote, he does not commit the offence by applying for a ballot paper in that name, even though the name is not his own: *R v Fox* (1887) 16 Cox CC 166; and see *Oldham Case* (1869) 1 O'M & H 151 at 152.

4 Representation of the People Act 1983 s 60(2)(b)(i); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 28(2)(b)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 23(2)(b)(i); and see note 2 *supra*.

5 Representation of the People Act 1983 s 60(2)(b)(ii); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 28(2)(b)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 23(2)(b)(ii); and see note 2 *supra*. As to the challenge and arrest of a person suspected of personation see PARA 405 *ante*.

6 Representation of the People Act 1983 s 60(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 28(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 23(3); and see note 2 *supra*.

7 *Gloucester Borough Case, Guise v Wait* (1873) 2 O'M & H 59 at 63-64; *Stepney Division, Tower Hamlets Case* (1886) 54 LT 684 at 685. A candidate is nevertheless liable to have his election avoided for corrupt practices (including procuring personation) committed by his agent even though the acts were unauthorised by him: see *Gloucester Borough Case* *supra*; and see also PARA 251 *ante*.

8 *Gloucester Borough Case, Guise v Wait* (1873) 2 O'M & H 59 at 63. Conversely, the agent may be guilty although the voter may be innocent: *Hexham Case* (1892) cited in Day 68.

9 *Athlone Borough Case* (1880) 3 O'M & H 57 at 59 (where a son, who succeeded his father, having the same name, voted in the name of his father, who was in fact the person intended on the register).

UPDATE

733 Personation

NOTE 2--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/ (v) Offences which are also Corrupt Practices/734. Offences associated with postal or proxy voting which are corrupt practices.

734. Offences associated with postal or proxy voting which are corrupt practices.

A person¹ commits an offence if he engages in any act specified in heads (1) to (4) below at a parliamentary² or local government election³, and if he intends, by doing so, to deprive another of an opportunity to vote or to make for himself or another a gain of a vote to which he or the other is not otherwise entitled or a gain of money or property⁴. The prohibited acts are: (1) applying for a postal or proxy vote⁵ as some other person (whether that other person is living or dead or is a fictitious person)⁶; (2) otherwise making a false statement in, or in connection with, an application for a postal or proxy vote⁷; (3) inducing the registration officer⁸ or returning officer⁹ to send a postal ballot paper¹⁰ or any communication relating to a postal or proxy vote to an address which has not been agreed to by the person entitled to the vote¹¹; (4) causing a communication relating to a postal or proxy vote or containing a postal ballot paper not to be delivered to the intended recipient¹².

A person who commits such an offence or who aids, abets, counsels or procures the commission of such an offence is guilty of a corrupt practice¹³.

1 As to the meaning of 'person' see PARA 110 note 1 ante.

2 For the meaning of 'parliamentary election' see PARA 9 ante.

3 Representation of the People Act 1983 s 62A(1)(a) (s 62A added by the Electoral Administration Act 2006 s 40). For the meaning of 'local government election' see PARA 10 ante. The Representation of the People Act 1983 s 62A (as added) applies at a poll consequent on a parish or community meeting by virtue of s 187(1) (as amended) and the Local Government Act 1972 s 99, Sch 12 paras 18(5), 34(5) (as amended): see PARA 388 ante.

4 Representation of the People Act 1983 s 62A(1)(b) (as added: see note 3 supra). For this purpose, property includes any description of property: s 62A(3) (as so added). The provision set out in the text covers the kinds of abuse that were found to have prevailed in *Akhtar v Jahan*, *Iqbal v Islam* [2005] All ER (D) 15 (Apr) (revsd in part sub nom *R (on the application of Afzal) v Election Court* [2005] EWCA Civ 647, [2005] LGR 823), cited in PARA 893 note 7 post.

5 For these purposes, a reference to a postal vote includes a reference to a proxy postal vote: Representation of the People Act 1983 s 62A(4) (as added: see note 3 supra).

6 Ibid s 62A(2)(a) (as added: see note 3 supra). As to applications for an absent vote see PARA 372 et seq ante.

7 Ibid s 62A(2)(b) (as added: see note 3 supra).

8 As to electoral registration officers see PARA 154 et seq ante.

9 As to returning officers for parliamentary elections see PARA 355 et seq ante; and as to returning officers for local government elections see PARA 359 et seq ante.

10 For these purposes, a reference to a postal ballot paper includes a reference to a proxy postal ballot paper: Representation of the People Act 1983 s 62A(4) (as added: see note 3 supra).

11 Ibid s 62A(2)(c) (as added: see note 3 supra).

12 Ibid s 62A(2)(d) (as added: see note 3 supra).

13 Ibid s 62A(5) (as added: see note 3 supra).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(vi) Offences/735. Offences.

(vi) Offences

735. Offences.

The following are offences which do not constitute either a corrupt or illegal practice¹: (1) interfering with or obstructing the registration officer's duty to maintain electoral registers²; (2) interference with documents published or made available by the registration officer in pursuance of his duties³; (3) unlawful disclosure of the full electoral register or its contents⁴; (4) making a false statement in or irregular attestation of any declaration or form used in connection with absent voting⁵; (5) making a false or irregular declaration of local connection, service declaration or overseas elector's declaration⁶; (6) making a false statement in any application or declaration required for registration or nomination purposes by a relevant citizen of the Union⁷; (7) breaches of official duty⁸; (8) tampering with nomination or ballot papers⁹; (9) contravening the requirement to keep the ballot secret¹⁰; (10) publishing an exit poll before the poll is closed¹¹; (11) failure to comply with conditions on access to or control of election documents¹²; (12) acting as a candidate's agent while an election official¹³; (13) canvassing in the police area while a member of the police force¹⁴; (14) failure to display required details on election or referendum publications¹⁵; (15) contravening the controls imposed on expenditure incurred during election and referendum campaigns¹⁶; (16) contravening the controls imposed on donations during election and referendum campaigns¹⁷; (17) obstructing the Electoral Commission in its duties¹⁸.

1 As to illegal practices (including those which are also offences) see PARA 674 et seq ante; as to corrupt practices (including those which are also offences) see PARA 707 et seq ante; and as to the punishment of offences see PARA 880 et seq post.

2 See PARA 736 post.

3 See PARA 736 post.

4 See PARA 737 post.

5 See PARA 738 post.

6 See PARA 738 post.

7 See PARA 739 post.

8 See PARA 740 post.

9 See PARA 741 post.

10 See PARAS 742-746 post.

11 See PARA 747 post.

12 See PARA 748 post.

13 See PARA 749 post.

14 See PARA 750 post.

15 See PARAS 751-753 post.

16 See PARA 754 post.

17 See PARA 755 post.

18 See PARA 756 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(vi) Offences/736. Interference with the duties of registration officer.

736. Interference with the duties of registration officer.

If any person fails to comply with any requisition of a registration officer¹ to give information required for the purposes of that officer's duties in maintaining registers of parliamentary and local government electors², that person is liable on summary conviction to a fine³.

If any person without lawful authority destroys, mutilates, defaces or removes any notice published by the registration officer in connection with his registration duties or any copies of a document which have been made available for inspection in pursuance of those duties, he is liable on summary conviction to a fine⁴.

1 le any such requisition as is mentioned in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 23 (as amended) (see PARA 157 ante). As to electoral registration officers see PARA 154 et seq ante. By virtue of reg 13(6), (7), reg 23 (as amended) applies to registration in pursuance of a European parliamentary overseas elector's declaration as it applies to registration in pursuance of an overseas elector's declaration: see PARA 116 note 7 ante.

2 As to the duty of registration officers to maintain, prepare and publish registers of electors see PARA 156 ante.

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 23(3). The penalty is a fine not exceeding level 3 on the standard scale: see reg 23(3). The 'standard scale' means the standard scale of maximum fines for summary offences as set out in the Criminal Justice Act 1982 s 37 (as amended): see the Interpretation Act 1978 s 5, Sch 1 (definition added by the Criminal Justice Act 1988 s 170(1), Sch 15 para 58); and SENTENCING AND DISPOSITION OF OFFENDERS vol 92 (2010) PARA 142. At the date at which this title states the law, the standard scale is as follows: level 1, £200; level 2, £500; level 3, £1,000; level 4, £2,500; level 5, £5,000: Criminal Justice Act 1982 s 37(2) (substituted by the Criminal Justice Act 1991 s 17(1)). As to the determination of the amount of the fine actually imposed, as distinct from the level on the standard scale which it may not exceed, see the Criminal Justice Act 2003 s 164 (as amended); and SENTENCING AND DISPOSITION OF OFFENDERS vol 92 (2010) PARA 144.

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 11; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 145; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 13. The penalty is a fine not exceeding level 3 on the standard scale: see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 11; the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 145; and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 13. Although Sch 2 makes provision for the purposes of a European parliamentary election with respect to absent voting in particular, its general purpose is to make provision with respect to the manner of voting at such elections (see PARA 370 et seq ante) and the prohibition set out in Sch 2 para 13 appears to have a general effect. The Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 11 applies, by virtue of reg 13(6), (7), to a European parliamentary overseas elector's declaration and registration as it applies to an overseas elector's declaration and registration (see PARA 116 note 7 ante) and, for the purposes of the registration of relevant citizens of the Union as European parliamentary electors, as it applies for the purposes of the registration of parliamentary and local government electors, subject to any modification and exceptions specified in relation to those provisions in the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule (see PARA 117 note 5 ante). The Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 11 has also been applied and modified for the purposes of a local authority referendum, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4. For the meaning of 'referendum' see PARA 576 note 2 ante.

UPDATE

736 Interference with the duties of registration officer

NOTE 4--SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848. SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(vi) Offences/737. Offences connected with supply and inspection of the full electoral register and associated records.

737. Offences connected with supply and inspection of the full electoral register and associated records.

A person who inspects the full register¹ and makes a copy of it or records any particulars included in it otherwise than by means of handwritten notes² is guilty of an offence and liable on summary conviction to a fine³. A person who inspects the copy of the full register that is held by the British Library⁴ or by the National Library of Wales⁵ or the copy that is supplied to the Office for National Statistics⁶ or any copy that is supplied to a public library or a local authority archives service⁷, or who inspects a copy of any information which would be included in the postal voters lists⁸, the list of proxies⁹ or the proxy postal voters lists¹⁰, whether a printed copy or in data form¹¹, and makes copies of any part of it or them (as the case may be), or records any particulars included in it or them (as the case may be), otherwise than by means of handwritten notes, is guilty of an offence¹² and is liable on summary conviction to a fine¹³.

A person is guilty of an offence and liable on summary conviction to a fine if he contravenes any of the following provisions¹⁴ relating to disclosure of the full register or associated records¹⁵:

- 19 (1) a returning officer¹⁶ or counting officer¹⁷ to whom the registration officer¹⁸ supplies, together with the copy of the register (or any part thereof), a copy of the record of anonymous entries¹⁹ (or any part thereof) may not supply to any person a copy of the record or disclose information contained in it or make use of any such information, otherwise than for the purposes of an election or referendum (as the case may be)²⁰;
- 20 (2) each person who has been supplied with a copy of the record of anonymous entries in accordance with the Juries Act 1974²¹ may not supply a copy of the record or disclose information contained in it or make use of any such information, otherwise than for the purpose of summoning jurors²²;
- 21 (3) no person serving as an officer or employee in the Security Service²³, the Government Communications Headquarters²⁴ or the Secret Intelligence Service²⁵, to whom the registration officer has supplied a copy of the record of anonymous entries, together with the register, may supply to any person a copy of the record, disclose any information contained in it or make use of any such information, otherwise than for purposes connected with the carrying out of any of his statutory functions²⁶;
- 22 (4) no person serving whether as a constable, officer or employee of any police force in Great Britain²⁷, the Police Information Technology Organisation²⁸, any body of constables established under an Act or the Serious Organised Crime Agency²⁹, to whom the registration officer has supplied a copy of the record of anonymous entries together with the register, may supply to any person a copy of the record, disclose any information contained in it or make use of any such information, otherwise than for the purposes of the prevention and detection of crime and the enforcement of the criminal law (whether in England and Wales or elsewhere) or the vetting of a relevant person for the purpose of safeguarding national security³⁰;
- 23 (5) no person who obtains any information which would be included in the postal voters lists, the list of proxies or the proxy postal voters lists may use it for other than the permitted purposes³¹ or in contravention of any restrictions which are

- specified or which would apply to the use of the full register under the provisions by virtue of which the information was supplied³²;
- 24 (6) the processor³³ of registration data may not disclose the full register or the information contained in it except to the person who supplied it to the processor or an employee of that person or to a person who is entitled to obtain a copy of the full register or any employee of such a person³⁴;
- 25 (7) the registration officer or a member of his staff³⁵ may not supply to any person a copy of the full register or disclose information contained in it (which is not contained in the edited register³⁶) or make use of any such information, otherwise than in accordance with the statutory provisions³⁷;
- 26 (8) any officer to whom copies of the register are delivered under the Juries Act 1974³⁸ and any other person to whom a copy of the full register has been supplied or to whom information contained in it has been disclosed for the purpose of summoning jurors may not supply a copy of the full register or disclose information contained in it (which is not contained in the edited register) or make use of any such information, otherwise than for the purpose of summoning jurors³⁹;
- 27 (9) a person to whom a copy of the full register has been supplied for a permitted purpose (and any person who has obtained access to a copy of the full register or information contained in it by any other means) may not supply a copy of the full register or disclose information contained in it (and not contained in the edited register) or make use of any such information, other than for a permitted purpose⁴⁰;
- 28 (10) a person employed by the British Library or by the National Library of Wales to whom a free copy of the full register has been supplied may not supply a copy of the full register other than to another such person or to a person using that library to inspect it under supervision, or disclose information contained in it (and not contained in the edited register) otherwise than by allowing a person using that library to inspect it under supervision or make use of any such information⁴¹;
- 29 (11) a person who obtains a copy of the full register (or to whom information contained in it that is not contained in the edited register is disclosed by a person employed by the British Library or by the National Library of Wales in circumstances where more than ten years have expired since that version of the register was first published and the supply or disclosure is for research purposes in compliance with the relevant conditions⁴²) may not supply a copy of it, or disclose any such information or make use of any such information, otherwise than for research purposes in compliance with the relevant conditions⁴³;
- 30 (12) a returning officer⁴⁴ to whom a copy of the register has been supplied for electoral purposes may not supply a copy of the full register or disclose any information contained in it (that is not contained in the edited register) or make use of any such information, other than for the purposes of an election⁴⁵;
- 31 (13) a person employed by the Office for National Statistics may not supply a copy of the full register other than to another such person or disclose any information contained in it (that is not contained in the edited register) otherwise than by allowing a person using the premises of that office to inspect it under supervision or by publishing information about electors which does not include the name or address of any elector or make use of any such information other than for statistical purposes⁴⁶;
- 32 (14) a person who obtains a copy of the full register (or to whom information contained in it that is not contained in the edited register is disclosed by a person employed by the Office for National Statistics in circumstances where more than ten years have expired since that version of the register was first published and the supply or disclosure is for research purposes in compliance with the relevant conditions) may not supply a copy of it, or disclose any such information or make use of any such information, otherwise than for research purposes in compliance with the relevant conditions⁴⁷;

- 33 (15) the Electoral Commissioners or any person employed by the Electoral Commission⁴⁸ may not supply a copy of the full register other than to an Electoral Commissioner or another such person or disclose any information contained in it that is not contained in the edited register (otherwise than where necessary to carry out the Commission's duties in relation to the rules on permissible donors in the Political Parties, Elections and Referendums Act 2000 or by publishing information about electors which does not include the name or address of any elector) or make use of any such information otherwise than in connection with their functions under, or by virtue of, the Political Parties, Elections and Referendums Act 2000⁴⁹;
- 34 (16) a member of the Boundary Commission for England⁵⁰ or of the Boundary Commission for Wales⁵¹ or of the Local Government Boundary Commission for Wales⁵² or a person appointed to assist the Commission in question to carry out its functions or a person employed by the Commission in question may not supply a copy of the full version of the register, other than to another relevant person or disclose any information contained in it and not contained in the edited register (otherwise than by publishing information about electors which does not include the name and address of any elector) or process or make use of any such information, other than in connection with their statutory functions⁵³;
- 35 (17) an elected representative person who has been supplied with a copy of the register for electoral purposes may not supply a copy of the full register to any person or disclose any information contained in it that is not contained in the edited register or make use of any such information, otherwise than for purposes in connection with the office by virtue of which he is entitled to the full register or for electoral purposes⁵⁴;
- 36 (18) the holder of a relevant elective office⁵⁵ or a candidate⁵⁶ for election at a parliamentary⁵⁷, local government⁵⁸ or Authority election⁵⁹ who has been supplied with a copy of the register may not supply a copy of the full register to any person, or disclose any information contained in it that is not contained in the edited register, or make use of any such information otherwise than for the purpose of complying with the controls on donations⁶⁰;
- 37 (19) any person nominated to act for a particular constituency by the registered nominating officer of a registered political party⁶¹ who has been supplied with a copy of the register may not supply a copy of the full register to any person or disclose any information contained in it (that is not contained in the edited register) or make use of any such information, otherwise than for electoral purposes or the purposes of electoral registration⁶²;
- 38 (20) a person employed by, or assisting (whether or not for reward) a registered political party other than a minor party⁶³, a recognised third party⁶⁴ other than a registered political party or a permitted participant⁶⁵ other than a registered political party, and to which a copy of the register has been supplied, may not supply a copy of the full register to any person or disclose any information contained in it (that is not contained in the edited register) or make use of any such information, otherwise than for electoral or referendum purposes or for the purpose of complying with the relevant controls on donations⁶⁶;
- 39 (21) a councillor or employee of the local authority may not supply a copy of the full register to any person other than to another councillor or employee of the same local authority or disclose any information contained in it that is not included in the edited register or make use of any such information, except where necessary for the discharge of a statutory function of the local authority or any other local authority relating to security, law enforcement and crime prevention or for the purposes of a local poll under the Local Government Act 2003⁶⁷ or for statistical purposes (in which case no information is to be disclosed which includes the name and address of any elector)⁶⁸;

- 40 (22) a parish or community councillor or a person employed by or otherwise assisting (whether or not for reward) a parish or community council and to which a copy of the register has been supplied may not supply a copy of the full register to any person or disclose any information contained in it that is not included in the edited register or make use of any such information, otherwise than for the purpose of establishing whether any person is entitled to attend and participate in a meeting of, or take any action on behalf of, the parish or community, as the case may be, or for the purposes of a local poll under the Local Government Act 2003⁶⁹;
- 41 (23) a specified candidate or election agent to whom a copy of the register has been supplied may not supply a copy of the full register to any person or disclose any information contained in it (that is not contained in the edited register) or make use of any such information, other than for electoral purposes⁷⁰;
- 42 (24) a person authorised by a government department⁷¹ to be supplied with a copy of the full register (or a person to whom he discloses information which is contained in the full register) may not disclose information contained in the full register except to any person falling within heads (17) to (23) above and for use for the purposes for which such a person could obtain a copy of the register under the provision concerned⁷²;
- 43 (25) a person serving whether as a constable, officer or employee in specified police forces and organisations or specified security and intelligence services may not supply a copy of the full register to any person or disclose any information contained in it (that is not contained in the edited register) or make use of any such information, otherwise than (in the case of specified police forces and organisations) for the prevention and detection of crime and the enforcement of the criminal law (whether in England and Wales or elsewhere) or for the vetting of a relevant person for the purpose of safeguarding national security and (in the case of the security and intelligence services specified) for those purposes connected with the carrying out of any of their statutory functions⁷³;
- 44 (26) a person employed by the public library or the local authority archives service may not supply a copy of the full register other than to another such person or to a person using the library or the archives service to inspect it under supervision, or disclose any information contained in it (that is not contained in the edited register) otherwise than by allowing a person using the library or the archives service to inspect it under supervision, or make use of any such information⁷⁴;
- 45 (27) a person who obtains a copy of the full register (or to whom information contained in it that is not contained in the edited register is disclosed by a person employed by a public library or local authority archives service in circumstances where more than ten years have expired since that version of the register was first published and the supply or disclosure is for research purposes in compliance with the relevant conditions) may not supply a copy of it, or disclose any such information or make use of any such information, otherwise than for research purposes in compliance with the relevant conditions⁷⁵;
- 46 (28) a person in a specified government department or credit reference agency to which a copy of the register has been supplied (or, consequently, a person to whom a copy of the full register is supplied or to whom information contained in it is disclosed) may not supply a copy of the full register to any person or disclose any information contained in it (and not contained in the edited register) or make use of any such information, other than for the purpose set out in the provision by virtue of which the full register has been supplied⁷⁶.

1 For the meaning of 'full register' see PARA 166 notes 2, 9 ante.

2 As to provision made for inspection of the full register see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 7(2)-(5) (as added); and PARA 166 note 9 ante.

3 Ibid reg 7(4) (reg 7(2)-(5) added by SI 2002/1871). The penalty is a fine not exceeding level 5 on the standard scale: see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 7(4) (as so added). As to the standard scale see PARA 736 note 3 ante.

By virtue of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(6), (7), reg 7 (as amended) is applied with modifications to registration in pursuance of a European parliamentary overseas elector's declaration as it applies to registration in pursuance of an overseas elector's declaration (see PARA 116 note 7 ante); and for the purposes of extending the rights of relevant citizens of the Union who (subject to the requirements of registration) may vote at European parliamentary elections, reg 7 (as amended) is applied with modifications (see the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule; and PARA 117 note 5 ante).

4 See the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 97(4) (as added and amended); and PARA 177 ante.

5 See ibid reg 97A(6) (as added); and PARA 177 ante.

6 See ibid reg 99(5) (as added and amended); and PARA 183 ante.

7 See ibid reg 109A(8) (as added); and PARA 178 ante.

8 For the meaning of 'postal voters lists' see PARA 378 note 7 ante.

9 For the meaning of 'list of proxies' see PARA 378 note 14 ante.

10 See the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61(14) (as substituted); and PARAS 378, 386 ante. For the meaning of 'proxy postal voters lists' see PARA 386 note 6 ante.

11 For the meaning of 'data form' see PARA 177 note 11 ante.

12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(1), (2) (reg 115 added by SI 2002/1871; and substituted by SI 2006/2910). A person is guilty of an offence as mentioned in the text if he contravenes any of the provisions specified in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted) (see the text and notes 4-11 supra; and see also heads (1) to (28) in the text) or if he is an appropriate supervisor of a person (P) who fails to comply with any of those provisions and he failed to take appropriate steps: reg 115(1) (as so added and substituted). However, P is not guilty of an offence under reg 115(1) (as added and substituted) if he has an appropriate supervisor and he has complied with all the requirements imposed on him by his appropriate supervisor: reg 115(3) (as so added and substituted). Nor is a person who is not P or an appropriate supervisor guilty of an offence under reg 115(1) (as added and substituted) if he takes all reasonable steps to ensure that he complies with the provisions specified in reg 115(2) (as added and substituted): reg 115(4) (as so added and substituted). For these purposes, an 'appropriate supervisor' is a person who is a director of a company or concerned in the management of an organisation in which P is employed or under whose direction or control P is; and 'appropriate steps' are such steps as it was reasonable for the appropriate supervisor to take to secure the operation of procedures designed to prevent, so far as reasonably practicable, the occurrence of a failure to comply with the provisions in reg 115(2) (as added and substituted): reg 115(5) (as so added and substituted).

13 Ibid reg 115(6) (as added and substituted: see note 12 supra). The penalty is a fine not exceeding level 5 on the standard scale: see reg 115(6) (as so added and substituted).

14 Ie if he contravenes any of the provisions described in heads (1) to (28) in the text, or if he is an appropriate supervisor of a person who fails to comply with any of the specified provisions and he failed to take appropriate steps: see note 12 supra.

15 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(1), (6) (as added and substituted: see note 12 supra). The penalty is a fine not exceeding level 5 on the standard scale: see reg 115(1), (6) (as so added and substituted). As to defences see note 12 supra.

16 As to returning officers for parliamentary elections see PARA 355 et seq ante; as to returning officers for local government elections see PARA 359 et seq ante; as to the returning officer at elections for the return of members of the National Assembly for Wales see PARA 362 ante; and as to returning officers for European parliamentary elections see PARA 365 et seq ante.

17 As to the counting officer see PARA 591 note 2 ante.

18 As to the registration officer see PARA 154 ante.

19 As to the form and content of the record of anonymous entries see PARA 160 ante.

20 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (1) in the text recites the prohibition that is contained in reg 45C(4) (as added) (see PARA 179 ante).

21 Ie either in accordance with ibid reg 45D (as added) (see PARA 176 ante) or in accordance with the Juries Act 1974 s 3(1A) (as added) (see JURIES vol 61 (2010) PARA 801 et seq).

22 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (2) in the text recites the prohibition that is contained in reg 45D(4) (as added) (see PARA 176 ante).

23 As to the Security Service see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 471.

24 As to the Government Communications Headquarters see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 473.

25 As to the Secret Intelligence Service see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 472.

26 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (3) in the text recites the prohibition that is contained in reg 45E(3) (as added) (see PARA 182 ante).

27 As to police authorities and areas see POLICE vol 36(1) (2007 Reissue) PARA 136 et seq.

28 As to the Police Information Technology Organisation see POLICE vol 36(1) (2007 Reissue) PARAS 222-227.

29 As to the Serious Organised Crime Agency see POLICE vol 36(1) (2007 Reissue) PARA 430 et seq.

30 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (4) in the text recites the prohibition that is contained in reg 45F(3) (as added) (see PARA 182 ante).

31 For the meaning of 'permitted purpose' see PARA 176 note 18 ante.

32 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (5) in the text recites the prohibition that is contained in reg 61(3) (as substituted) (see PARAS 378, 386 ante).

33 For the meaning of 'processor' see PARA 177 note 11 ante.

34 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (6) in the text recites the prohibition that is contained in reg 92(9) (as added) and refers to persons entitled to obtain a copy of the full register under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) (see PARA 177 note 11 ante).

35 As to the appointment of deputies and assistants to the registration officer see PARA 155 ante.

36 For the meaning of 'edited register' see PARA 166 note 4 ante.

37 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (7) in the text recites the prohibition that is contained in reg 94(3) (as added) and refers to the statutory provisions contained in any enactment, including the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) (see PARA 176 ante). For the meaning of 'enactment' see PARA 176 note 8 ante.

38 Ie under the Juries Act 1974 s 3(1) (as amended) (electoral register as basis of jury selection: see JURIES vol 61 (2010) PARA 812).

39 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (8) in the text recites the prohibition that is contained in reg 95(2) (as added) (see PARA 176 ante).

40 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (9) in the text recites the prohibition that is contained in reg 96(2) (as added and amended) (see PARA 176 ante).

41 Ibid reg 115(2) (as added and substituted: see note 12 supra). Head (10) in the text recites the prohibition that is contained, in relation to England, in reg 97(2) (as added and amended) and, in relation to Wales, in reg 97A(4) (as added) (see PARA 177 ante).

42 For the meaning of 'relevant conditions' see PARA 177 note 11 ante.

43 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (11) in the text recites the prohibition that is contained, in relation to England, in reg 97(6) (as added) and, in relation to Wales, in reg 97A(8) (as added) (see PARA 177 ante).

44 Ie, for these purposes, the returning officer for a non-metropolitan county, the persons or officers who are the returning officers at an election of members of the London Assembly and of the Mayor of London or the returning officer appointed for elections to each parish or community council within the electoral area: see ibid reg 98(2) (as added); and PARA 179 ante.

45 Ibid reg 115(2) (as added and substituted: see note 12 supra). Head (12) in the text recites the prohibition that is contained in reg 98(9) (as added) (see PARA 179 ante).

46 Ibid reg 115(2) (as added and substituted: see note 12 supra). Head (13) in the text recites the prohibition that is contained in reg 99(3) (as added and amended) (see PARA 183 ante).

47 Ibid reg 115(2) (as added and substituted: see note 12 supra). Head (14) in the text recites the prohibition that is contained in reg 99(7) (as added) (see PARA 183 ante).

48 As to the Electoral Commission see PARA 31 et seq ante.

49 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (15) in the text recites the prohibitions contained in reg 100(3), (5) (as added) (see PARA 180 ante).

50 As to the Boundary Commission for England see PARA 67 ante.

51 As to the Boundary Commission for Wales see PARA 67 ante.

52 As to the Local Government Boundary Commission for Wales see PARA 71 ante.

53 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (16) in the text recites the prohibition that is contained in reg 101(6) (as added) (see PARA 181 ante).

54 Ibid reg 115(2) (as added and substituted: see note 12 supra). Head (17) in the text recites the prohibition that is contained in reg 103(3) (as added) (see PARA 182 ante).

55 Ie the holder of a relevant elective office within the meaning of the Political Parties, Elections and Referendums Act 2000 s 71, Sch 7 para 1(8) (as amended) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS).

56 For the meaning of 'candidate' for these purposes see PARA 182 note 20 ante.

57 For the meaning of 'parliamentary election' see PARA 9 ante.

58 For the meaning of 'local government election' see PARA 10 ante.

59 For the meaning of 'Authority election' see PARA 10 ante.

60 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (18) in the text recites the prohibition that is contained in reg 104(3) (as added) (see PARA 182 ante), which refers to the controls on donations contained in the Representation of the People Act 1983 s 71A, Sch 2A (as added) (see PARA 291 et seq) or the Political Parties, Elections and Referendums Act 2000 Sch 7 (as amended) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS), as the case may be.

61 Ie within the meaning of the Political Parties, Elections Referendums Act 2000 s 24 (as amended) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS).

62 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (19) in the text recites the prohibition that is contained in reg 105(4) (as added) (see PARA 182 ante).

63 le a registered political party other than a minor party within the meaning of the Political Parties, Elections and Referendums Act 2000 s 160(1) (see PARA 260 note 8 ante).

64 le a recognised third party within the meaning of *ibid* s 85(5) (control of expenditure by third parties in national parliamentary election campaigns: see PARA 318 ante).

65 le a permitted participant within the meaning of *ibid* s 105(1) (permitted participant for the purpose of referendums: see PARA 521 ante).

66 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (20) in the text recites the prohibition that is contained in reg 106(3) (as added) (see PARA 182 ante), which refers to purposes in connection with the campaign in respect of the referendum identified in the declaration made to the Electoral Commission by the participant under the Political Parties, Elections and Referendums Act 2000 s 106 (see PARA 521 ante) and the controls on donations under Pt IV (ss 50-71) (as amended) (control of donations to registered parties, individuals and members associations: see CONSTITUTIONAL LAW AND HUMAN RIGHTS) or under s 95, Sch 11 (as amended) (control of donations to recognised third parties: see PARA 330 et seq ante) or under s 119, Sch 15 (as amended) (control of donations to permitted participants: see PARA 538 et seq ante), as the case may be.

67 le a local poll under the Local Government Act 2003 s 116 (see PARA 559 et seq ante).

68 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (21) in the text recites the prohibition that is contained in reg 107(3) (as added and amended) (see PARA 182 ante).

69 *Ibid* reg 115(2) (as added and substituted: see note 12 supra). Head (22) in the text recites the prohibition that is contained in reg 107(8) (as added and amended) (see PARA 182 ante).

70 *Ibid* reg 115(2) (as added and substituted: see note 12 supra). Head (23) in the text recites the prohibition that is contained in reg 108(5) (as added) (see PARA 182 ante).

71 For the meaning of 'authorised person' see PARA 184 note 32 ante.

72 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (24) in the text recites the prohibition that is contained in reg 113(5), (6) (as added) (see PARA 184 ante).

73 *Ibid* reg 115(2) (as added and substituted: see note 12 supra). Head (25) in the text recites the prohibition that is contained in reg 109(3) (as added and amended) (see PARA 182 ante).

74 *Ibid* reg 115(2) (as added and substituted: see note 12 supra). Head (26) in the text recites the prohibition that is contained in reg 109A(6) (as added) (see PARA 178 ante).

75 *Ibid* reg 115(2) (as added and substituted: see note 12 supra). Head (27) in the text recites the prohibition that is contained in reg 109A(10) (as added) (see PARA 178 ante).

76 *Ibid* reg 115(2) (as added and substituted: see note 12 supra). Head (28) in the text recites the prohibition that is contained in reg 112(4), (5) (as added) (see PARA 184 ante).

UPDATE

737 Offences connected with supply and inspection of the full electoral register and associated records

TEXT AND NOTE 6--Office for National Statistics replaced by Statistics Board: see REGISTRATION CONCERNING THE INDIVIDUAL vol 39(2) (Reissue) PARA 605.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(vi) Offences/738. Offences as to certain voting applications or declarations.

738. Offences as to certain voting applications or declarations.

A person who in any declaration or form used in connection with absent voting¹ makes a statement which he knows to be false or who attests an application to vote by post or by proxy² when he knows he is not authorised to do so (or when he knows that it contains a statement which is false) is guilty of an offence and is liable on summary conviction to a fine³.

Any person who makes a declaration of local connection⁴ or a service declaration⁵ when he is not authorised to do so⁶ or (except in the case of a person who is permitted to make such a declaration notwithstanding the fact that by reason of age he is not yet entitled to vote⁷) when he knows that he is subject to a legal incapacity to vote⁸, or when he knows that it contains a statement which is false, commits an offence⁹. Any person who attests a service declaration¹⁰ when he knows that he is not authorised to do so, or when he knows that it contains a false statement as to any required particulars¹¹, commits an offence¹². Any person who makes a declaration in connection with an application for an anonymous entry in the register of electors¹³ when he knows that he is subject to a legal incapacity to vote¹⁴ (except in the case of a person who is permitted to make such a declaration notwithstanding the fact that by reason of age he is not yet entitled to vote¹⁵), or when he knows that it contains a statement which is false, is guilty of an offence¹⁶. Any such offence in relation to such a declaration is punishable on summary conviction by a fine¹⁷.

A person who makes an overseas elector's declaration¹⁸ (or a declaration purporting to be such a declaration) when he knows that he is subject to a legal incapacity to vote at parliamentary elections (age apart), or when he knows that it contains a statement which is false, is guilty of an offence¹⁹. A person who attests an overseas elector's declaration²⁰ (or a declaration purporting to be such a declaration) when he knows that he is not authorised to attest such a declaration, or when he knows that it contains a statement which is false, is also guilty of an offence²¹. Either such offence is punishable on summary conviction by a fine²².

1 le for any purposes of, in relation to a parliamentary or local government election, the Representation of the People Act 2000 s 12, Sch 4 (as amended) or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, arts 8-9, 11-12 (as amended) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 (as amended) (see PARA 372 et seq ante).

The Representation of the People Act 2000 Sch 4 (as amended) has been applied and modified in order to make provision for the conduct of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1. As to the conduct of local authority referendums generally see PARA 557 ante.

2 le an application made for an absent vote for a particular period or for an indefinite period, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 3 (as amended) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8 (as amended) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3 (as amended) (see PARA 372 ante) or an application made for an absent vote at a particular election, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 4 (as amended) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9 (as amended) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4 (see PARA 376 ante).

3 Representation of the People Act 2000 Sch 4 para 8; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 13; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 8. The penalty is a fine not exceeding level 5 on the standard scale: see the Representation of the People Act 2000 Sch 4 para 8; the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 13; and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 8. As to the standard scale see PARA 736 note 3 ante. As to the application and modification of these provisions see note 1 supra.

4 As to declarations of local connection see PARA 136 ante.

5 As to service declarations see PARA 140 et seq ante.

6 Is not authorised, in the case of a declaration of local connection, by the Representation of the People Act 1983 s 7B(1) (as added) (see PARA 136 ante) or, in the case of a service declaration, by s 15(1) (see PARA 141 ante).

7 See, in the case of a declaration of local connection, *ibid* s 7B(1) (as added) (see PARA 136 ante) and, in the case of a service declaration, s 15(1) (see PARA 141 ante).

8 Where the declaration is available only for local government elections (as to which see PARA 112 et seq ante), this means a legal incapacity to vote at local government elections: *ibid* s 62(2). For the meaning of 'local government election' see PARA 10 ante; and for the meaning of 'legal incapacity' see PARA 110 note 8 ante. As to the persons who have a service qualification see PARA 140 ante; and as to the persons who have a declaration of local connection see PARA 136 ante. As to the application of s 62 (as amended), as it applies to those who are registered as parliamentary and local government electors, in relation to relevant citizens of the Union who are registered as European parliamentary electors, subject to any modification and exceptions specified in the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule, see PARA 117 note 5 ante. For the meaning of 'relevant citizen of the Union' for these purposes see PARA 117 note 4 ante.

9 Representation of the People Act 1983 s 62(1)(a) (s 62(1) substituted by the Representation of the People Act 2000 s 8, Sch 1 paras 1, 17). As to the application of this provision see note 8 supra.

10 As to the attestation of a service declaration see PARA 142 ante.

11 Is required by regulations made under the Representation of the People Act 1983 s 16 (as amended) (see PARA 142 ante).

12 *Ibid* s 62(1)(b) (as substituted: see note 9 supra). As to the application of this provision see note 8 supra.

13 Is a declaration made under *ibid* s 9B(1)(b) (as added) (see PARA 170 ante). For the meaning of 'anonymous entry' in relation to a register of electors see PARA 174 ante.

14 Where the declaration is available only for local government elections (as to which see PARA 112 et seq ante), this means a legal incapacity to vote at local government elections: *ibid* s 62(2) (amended by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 2, 9(1), (3)). As to the application of this provision see note 8 supra.

15 Is except as permitted by the Representation of the People Act 1983 (see PARA 110 et seq ante).

16 *Ibid* s 62(1A) (added by the Electoral Administration Act 2006 Sch 1 paras 2, 9(1), (2)). As to the application of this provision see note 8 supra.

17 Representation of the People Act 1983 s 62(1) (as substituted: see note 9 supra), s 62(1A) (as added: see note 16 supra). The penalty is a fine not exceeding level 5 on the standard scale: see s 62(1) (as so substituted), s 62(1A) (as so added). As to the application of these provisions see note 8 supra.

18 As to overseas elector's declarations see PARA 129 et seq ante.

19 Representation of the People Act 1985 s 12(1). As to the application of s 12, with modifications, to citizens and nationals of accession states who are registered as local government electors and European parliamentary electors see the Local and European Parliamentary Elections (Registration of Citizens of Accession States) Regulations 2003, SI 2003/1557, reg 2(1), (6). As to the application, with modifications, of the Representation of the People Act 1985 s 12 in relation to peers who are registered to vote at a European parliamentary election see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(4), Sch 4; and PARA 116 note 7 ante.

20 As to the attestation of an overseas elector's declaration see PARA 149 ante.

21 Representation of the People Act 1985 s 12(2). As to the application of this provision see note 19 supra.

22 Ibid s 12(4). The penalty is a fine not exceeding level 5 on the standard scale: see s 12(4). As to the application of this provision see note 19 supra.

UPDATE

738 Offences as to certain voting applications or declarations

NOTES 1-3--SI 2004/293 Sch 2 substituted: SI 2009/186. SI 2004/293 Sch 2 amended: SI 2009/848.

NOTE 1--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

TEXT AND NOTES 23-26--Omit head (3): SI 2001/341 reg 115(2) (amended by Counter-Terrorism Act 2008 Sch 1 para 2, Sch 9 Pt 2).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(vi) Offences/739. Offences as to applications or declarations made by a relevant citizen of the Union.

739. Offences as to applications or declarations made by a relevant citizen of the Union.

A person who makes a statement which he knows to be false either in an application by a relevant citizen of the Union¹ for registration as a European parliamentary elector² or in a related declaration³ is guilty of an offence and liable on summary conviction to a fine⁴; and a person who makes a statement which he knows to be false in the declaration required⁵ before a relevant citizen of the Union⁶ can be validly nominated⁷ as an individual candidate⁸ or as a candidate on a registered party's list⁹ is guilty of an offence and is also liable on summary conviction to a fine¹⁰.

1 For the meaning of 'relevant citizen of the Union' for these purposes see PARA 117 note 4 ante.

2 Ie in an application required by the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 6(1) (see PARA 169 ante).

3 Ie in a declaration required by ibid reg 6(2) (see PARA 169 ante).

4 Ibid reg 7(1). The penalty is a fine not exceeding level 3 on the standard scale: see reg 7(1). As to the standard scale see PARA 736 note 3 ante. The provisions of the Representation of the People Act 1983 Pt III (ss 120-186) (as amended) (legal proceedings: see PARA 759 et seq post) relating to the prosecution of offences, as applied by regulations made under the European Parliamentary Elections Act 2002 (see PARA 388 ante), have effect in relation to such an offence as they have effect in relation to an offence under the Representation of the People Act 1983 as so applied: European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 7(2); and see the Interpretation Act 1978 s 17(2).

5 Ie under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 9(2) (see PARA 236 ante).

6 For the meaning of 'relevant citizen of the Union' for these purposes see PARA 159 note 6 ante.

7 As to the nomination of candidates at elections see PARA 262 et seq ante.

8 For the meaning of 'individual candidate' for these purposes see PARA 237 note 32 ante.

9 For the meanings of 'list' and 'registered party' in relation to European parliamentary elections see PARA 237 note 30 ante.

10 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 28(1). The penalty is a fine not exceeding level 3 on the standard scale: see reg 28(1).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(vi) Offences/740. Breaches of official duty.

740. Breaches of official duty.

If any of the following persons is, without reasonable cause, guilty of any act or omission in breach of his official duty, he is liable on summary conviction to a fine¹: (1) the Clerk of the Crown at a parliamentary election² or any member of staff of the National Assembly for Wales at a Welsh Assembly election³; (2) any registration officer⁴, returning officer⁵ or presiding officer⁶; (3) any other person whose duty it is to be responsible after a parliamentary or local government election⁷ or a Welsh Assembly election (as the case may be) for the used ballot papers and other documents (including returns and declarations as to expenses)⁸; (4) any official designated by a universal postal service provider⁹; (5) any deputy of a person mentioned in any of heads (1) to (4) above or any person appointed to assist or in the course of his employment assisting¹⁰ a person so mentioned in connection with his official duties¹¹; (6) (as from a day to be appointed¹²) a CORE keeper¹³.

'Official duty' is to be construed accordingly¹⁴, but it is not to include duties imposed otherwise than by the law relating to parliamentary or local government elections or Welsh Assembly or European parliamentary elections or the registration of parliamentary or local government electors¹⁵. None of the persons mentioned above is to be liable for breach of his official duty to any penalty at common law, and no action for damages lies in respect of the breach by such a person of his official duty¹⁶. Where a returning officer for a parliamentary or local government election is guilty of an act or omission in breach of his official duty, but he remedies that act or omission in full by taking steps in accordance with the provision which allows for the correction of procedural errors¹⁷, he is not guilty of an offence of breach of his official duty¹⁸, except in relation to any conviction which takes place, or any penalty which is imposed, before the date on which the act or omission is remedied in full¹⁹.

1 Representation of the People Act 1983 s 63(1) (s 63 substituted by the Representation of the People Act 1985 s 24, Sch 4 para 19); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 30(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 25(1). The penalty is a fine not exceeding level 5 on the standard scale: see the Representation of the People Act 1983 s 63(1) (as substituted); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 30(1); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 25(1). As to the standard scale see PARA 736 note 3 ante.

The Representation of the People Act 1983 s 63 (as substituted and amended) is applied with modifications by the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(4), Sch 4, in relation to peers who are registered to vote at a European parliamentary election (see PARA 116 note 7 ante) and by the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule, in relation to relevant citizens of the Union who are registered to vote at a European parliamentary election (see PARA 117 note 5 ante).

2 Representation of the People Act 1983 s 63(3)(a) (as substituted: see note 1 supra). For the meaning of 'parliamentary election' see PARA 9 ante. 'Clerk of the Crown' means Clerk of the Crown in Chancery: s 202(1). As to the Clerk of the Crown see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 921.

3 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 30(3)(b). For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

4 As to electoral registration officers see PARA 154 et seq ante.

5 As to returning officers for parliamentary elections see PARA 355 et seq ante; as to returning officers for local government elections see PARA 359 et seq ante; and as to returning officers at Welsh Assembly elections

see PARA 362 et seq ante. In relation to a European parliamentary election, a local returning officer is also specified: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 25(3)(a). As to the designation of returning officers and local returning officers at European parliamentary elections see PARA 365 et seq ante.

6 Representation of the People Act 1983 s 63(3)(b) (as substituted: see note 1 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 30(3)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 25(3)(a). As to the appointment of presiding officers and their clerks see PARA 398 ante.

7 For the meaning of 'local government election' generally see PARA 10 ante. The Representation of the People Act 1983 s 63 (as substituted and amended) has effect as if any reference in it to a local government election included a reference to any other election under the Local Government Act 1972: Representation of the People Act 1983 ss 187(2), 203(1) (s 187(2) amended by the Representation of the People Act 1985 s 24, Sch 4 para 64(b)).

8 Representation of the People Act 1983 s 63(3)(c) (as substituted: see note 1 supra); and amended by the Electoral Administration Act 2006 s 41(8)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 30(3)(c).

The amendment effected by the Electoral Administration Act 2006 s 41(8) has no effect in relation to any documents which have been or must be forwarded to the Clerk of the Crown on or before 2 May 2007, in accordance with the Representation of the People Act 1983 Sch 1 r 55 (as amended) (see PARA 494 ante) or the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91 (as amended) (see PARA 495 ante): see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 4.

9 Representation of the People Act 1983 s 63(3)(d) (as substituted (see note 1 supra); and amended by the Postal Services Act 2000 (Consequential Modifications No 1) Order 2001, SI 2001/1149, art 3(1), Sch 1 para 57(1), (2)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 30(3)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 25(3)(b). For the meaning of 'universal postal service provider' see PARAS 417 note 3, 479 note 4 ante.

10 As to local authority staff who may assist at an election see PARA 355 et seq ante.

11 Representation of the People Act 1983 s 63(3)(e) (as substituted: see note 1 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 30(3)(e); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 25(3)(c).

12 The Representation of the People Act 1983 s 63(3)(ba) is added by the Electoral Administration Act 2006 s 7 as from a day to be appointed under s 77(2). At the date at which this volume states the law, no such day had been appointed.

13 Representation of the People Act 1983 s 63(3)(ba) (prospectively added: see note 12 supra). For the meaning of 'CORE keeper' see PARA 185 note 4 ante.

14 In so construing 'official duty', it is clear from the list of persons specified that duties after an election in connection with the retention of documents used at an election fall within the expression. Where there are gross discrepancies in the counting of the votes, the clerks responsible for them might be guilty, in the absence of reasonable cause, of a dereliction of duty and liable for the offence now set out in the Representation of the People Act 1983 s 63 (as substituted and amended): see *McWhirter v Platten* [1970] 1 QB 508 at 516, [1969] 1 All ER 172 at 176, DC, per Lord Parker CJ. As to inspection of the ballot papers for the purposes of prosecution for such an offence see PARA 849 post.

15 Representation of the People Act 1983 s 63(3) (as substituted: see note 1 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 30(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 25(3). Certain peers resident outside the United Kingdom may be included in a register for use only at European parliamentary elections: see PARA 115 ante.

16 Representation of the People Act 1983 s 63(2) (as substituted: see note 1 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 30(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 25(2). Unlike the provision which the Representation of the People Act 1983 s 63(2) (as substituted) replaced as respects parliamentary elections (ie s 63(2) as originally enacted), it provides no exemption from penalties under any enactment and accordingly the persons listed in the text could be prosecuted for statutory offences done in connection with the election (if any are relevant). The actions at common law in respect of which this provision provides protection were actions for damages against the returning officer: see *Ashby v White* (1704) 2 Ld Raym 938, HL. It is for consideration whether the Representation of the People Act 1983 s 63(2) (as substituted) provides protection in respect of the tort of misfeasance in public office, where there is a deliberate act or omission which is intended to harm the person at

whom it is directed: see *Bourgoin SA v Ministry of Agriculture, Fisheries and Food* [1986] QB 716, [1985] 3 All ER 585, CA. In addition, a returning officer at a parliamentary election might be liable to be punished by the House of Commons if he acts corruptly or with partiality: see *Great Grimsby Case* (1803) 1 Peck 59 at 74; *Middlesex Case* (1804) 2 Peck 1 at 28. However, since those cases were decided, the jurisdiction in respect of controverted elections has been transferred from the House of Commons to the courts by the Parliamentary Elections Act 1868. Furthermore, detailed provision as to the conduct of elections is now made by legislation and breach of duty in connection therewith is an offence under the statutory provision set out in the text.

17 le under the Electoral Administration Act 2006 s 46(1) (see PARAS 355 note 23, 359 note 28 ante).

18 Representation of the People Act 1983 s 63(4) (s 63(4), (5) added by the Electoral Administration Act 2006 s 46(6)); Electoral Administration Act 2006 s 46(3).

The amendments effected by the Electoral Administration Act 2006 s 46 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

19 Representation of the People Act 1983 s 63(5) (as added: see note 18 supra). As to the effect of this provision see note 18 supra.

UPDATE

740 Breaches of official duty

TEXT AND NOTES 1-13--SI 2004/293 reg 25(3)(c) amended, reg 25(3)(ba), (bb) added: SI 2009/186.

NOTE 5--A local returning officer has a defence to an offence under SI 2004/293 reg 25(1) of taking action to remedy the relevant act or omission: see reg 25(4), (5) (added by SI 2009/186).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(vi) Offences/741. Tampering with nomination and ballot papers.

741. Tampering with nomination and ballot papers.

A person is guilty of an offence if, at a parliamentary¹ or local government election² or Welsh Assembly³ or European parliamentary election⁴: (1) he fraudulently defaces or fraudulently destroys any nomination paper⁵; (2) he fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper or on any postal voting statement (or, in the case of an election that is not a parliamentary or local government election, any declaration of identity) or official envelope used in connection with voting by post⁶; (3) he without due authority supplies any ballot paper to any person⁷; (4) he fraudulently puts into any ballot box any paper other than the ballot paper which he is authorised by law to put in⁸; (5) he fraudulently takes out of the polling station any ballot paper⁹; (6) he without due authority destroys, takes, opens, or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election¹⁰; or (7) he fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts¹¹.

If a returning officer¹², a presiding officer or a clerk appointed to assist¹³ in taking the poll, counting the votes or assisting at the proceedings in connection with the issue and receipt of postal ballot papers¹⁴ is guilty of one of the offences described above, he is liable on conviction to a penalty¹⁵; and any other person who is guilty of such an offence is also liable to a penalty¹⁶.

If any person in a poll consequent on a parish or community meeting¹⁸: (a) fraudulently defaces or fraudulently destroys any ballot paper or the official mark¹⁹; (b) without due authority supplies a ballot paper to any person²⁰; (c) fraudulently puts into a ballot box any paper other than the ballot paper which he is authorised by law to put in²¹; (d) fraudulently takes out of the polling station any ballot paper²²; or (e) without due authority destroys, takes, opens, or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the poll²³, he is liable on conviction to a penalty²⁴.

1 For the meaning of 'parliamentary election' see PARA 9 ante.

2 For the meaning of 'local government election' see PARA 10 ante.

3 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

4 As to European parliamentary elections see PARA 224 et seq ante.

5 Representation of the People Act 1983 s 65(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 31(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 26(1)(a). At a Welsh Assembly election, the reference in the text is to any individual nomination or party nomination paper: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 31(1)(a). At a European parliamentary election, the reference is to any nomination paper or to the list of candidates submitted by a registered party: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 26(1). For the meanings of 'list' and 'registered party' for these purposes see PARA 237 note 30 ante. As to nomination papers see PARA 262 et seq ante. Forgery of the signatures on a nomination paper might be an offence under the Forgery and Counterfeiting Act 1981 s 1 (see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(1) (2006 Reissue) PARA 347). The Representation of the People Act 1983 s 65 (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

6 Representation of the People Act 1983 s 65(1)(b) (amended by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 72, 96); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 31(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 26(1)(b); and see note 5 supra. As to the manner of voting see PARA 368 et seq ante; as to ballot papers and the official mark see PARA 391 et seq ante; and as to the issue of postal voting statements see PARA 411 ante. Forgery of a ballot paper or of the official mark on a ballot paper might be an offence under the Forgery and Counterfeiting Act 1981 s 1 (see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(1) (2006 Reissue) PARA 347). As to the inspection of the ballot papers or counterfoils for the purpose of initiating or maintaining a prosecution for an offence in relation to the ballot papers see PARA 849 post. As to the inspection of other documents see PARAS 503-504 ante.

Any amendments effected by the Electoral Administration Act 2006 Sch 1 paras 69, 72, 96 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

7 Representation of the People Act 1983 s 65(1)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 31(1)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 26(1)(c); and see note 5 supra.

8 Representation of the People Act 1983 s 65(1)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 31(1)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 26(1)(d); and see note 5 supra.

9 Representation of the People Act 1983 s 65(1)(e); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 31(1)(e); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 26(1)(e); and see note 5 supra. As to whether a voter who takes a ballot paper out of a station deciding not to vote commits an offence see *Re Derbyshire, North-Eastern, Case, Holmes v Lee and Cleaver* (1923) 39 TLR 423.

10 Representation of the People Act 1983 s 65(1)(f); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 31(1)(f); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 26(1)(f); and see note 5 supra. Breaking a glass vessel containing a noxious fluid over the aperture of a ballot box has been held to be interference with the ballot box since interference with the ballot papers in the ballot box is equivalent to interference with the ballot box: *R v Chapin* (1909) 74 JP 71, 22 Cox CC 10.

11 Representation of the People Act 1983 s 65(1)(g); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 31(1)(g); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 26(1)(g); and see note 5 supra.

12 As to returning officers for parliamentary elections see PARA 355 et seq ante; and as to returning officers for local government elections see PARA 359 et seq ante. At a Welsh Assembly election, the reference is to a constituency returning officer at a constituency election and to a constituency or regional returning officer at a regional election: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 31(2). For the meanings of 'Assembly constituency election' and 'Assembly regional election' in the case of a Welsh Assembly election see PARA 3 note 1 ante; and for the meanings of 'constituency returning officer' and 'regional returning officer' see PARA 18 note 2 ante. At a European parliamentary election, a local returning officer is also specified: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 26(3). As to the designation of returning officers and local returning officers at European parliamentary elections see PARA 365 et seq ante.

13 As to the appointment of presiding officers and their clerks see PARA 398 ante.

14 As to proceedings in connection with the issue and receipt of postal ballot papers see PARA 411 et seq ante.

15 Representation of the People Act 1983 s 65(3) (s 65(3), (4) substituted by the Representation of the People Act 1985 s 23, Sch 3 para 2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 31(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 26(3); and see note 5 supra. The penalty on indictment is a fine or imprisonment for a term not exceeding two years or both, and on summary conviction is a fine not exceeding the statutory maximum or imprisonment for a term not exceeding six months or both: see the Representation of the People Act 1983 s 65(3) (as so substituted); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 31(2); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 26(3). The 'statutory maximum', with reference to a fine or penalty on summary conviction for an offence, is the prescribed sum within the meaning of the Magistrates' Courts Act 1980 s 32 (as amended; prospectively amended): see the Interpretation Act 1978 s 5, Sch 1 (definition added by the Criminal Justice Act 1988 s 170(1), Sch 15 para 58); and SENTENCING AND DISPOSITION OF OFFENDERS vol 92 (2010) PARA 140. The 'prescribed sum' means £5,000 or such sum as is for the time being substituted in this definition by order under the Magistrates' Courts Act 1980 s 143(1) (as

substituted): see s 32(9) (amended by the Criminal Justice Act 1991 s 17(2)); and SENTENCING AND DISPOSITION OF OFFENDERS vol 92 (2010) PARA 141.

16 Representation of the People Act 1983 s 65(4) (as substituted: see note 15 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 31(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 26(4); and see note 5 supra. The penalty on summary conviction is a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding six months or both: see the Representation of the People Act 1983 s 65(4) (as so substituted); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 31(3); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 26(4). As to the standard scale see PARA 736 note 3 ante.

18 As to polls consequent on a parish meeting on a question involving appointment to office see PARA 207 et seq ante; and as to polls consequent on a parish or community meeting on other questions see PARA 558 et seq ante.

19 Local Government Act 1972 s 99, Sch 12 paras 22(a), 38(a).

20 Ibid Sch 12 paras 22(b), 38(b).

21 Ibid Sch 12 paras 22(c), 38(c).

22 Ibid Sch 12 paras 22(d), 38(d).

23 Ibid Sch 12 paras 22(e), 38(e).

24 If he is a returning officer or an authorised person appointed to assist in taking the poll or counting the votes, the penalty on conviction on indictment is imprisonment for a term not exceeding two years; in any other case, he is liable on conviction on indictment to imprisonment for a term not exceeding six months or to a fine or to both, or on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the prescribed sum or to both: ibid Sch 12 paras 22(i), (ii), 38(i), (ii); Criminal Law Act 1977 s 32(1); Magistrates' Courts Act 1980 s 32(1). As to the court's power to fine in lieu of or in addition to the power to sentence to imprisonment see SENTENCING AND DISPOSITION OF OFFENDERS vol 92 (2010) PARA 2. As to the returning officer at a poll consequent on a parish meeting on a question involving appointment to office see PARA 361 ante; and as to the returning officer at a poll consequent on a parish or community meeting on other questions see PARA 593 ante.

UPDATE

741-747 Tampering with nomination and ballot papers ... Contravention of prohibition on publication of exit polls

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

741 Tampering with nomination and ballot papers

NOTES--Certain functions under provisions mentioned in this paragraph are 'relevant functions' for the purposes of the Regulatory Enforcement and Sanctions Act 2008 s 4, Sch 3, see LOCAL GOVERNMENT vol 69 (2009) PARA 733.

TEXT AND NOTE 6--SI 2004/293 reg 26(1)(b) amended: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(vi) Offences/742. Offence related to the requirement of secrecy.

742. Offence related to the requirement of secrecy.

Every returning officer¹, presiding officer or clerk², and every candidate³, election agent⁴ or polling agent⁵ attending at a polling station⁶ (and every representative of the Electoral Commission⁷ who is entitled so to attend⁸) must maintain and aid in maintaining the secrecy of voting and must not, except for some purpose authorised by law, communicate to any person⁹ before the poll is closed any information as to¹⁰: (1) the name of any elector or proxy for an elector who has or has not applied for a ballot paper or voted at a polling station¹¹; (2) the number on the register of electors of any elector who, or whose proxy, has or has not applied for a ballot paper or voted at a polling station¹²; or (3) the official mark¹³.

If a person acts in contravention of these requirements, he is liable on summary conviction to a penalty¹⁴.

1 As to returning officers for parliamentary elections see PARA 355 et seq ante; and as to returning officers for local government elections see PARA 359 et seq ante. At a Welsh Assembly election, the reference is to a constituency returning officer at a constituency election (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(1)(a)) and to a constituency or regional returning officer at a regional election (art 33(1)(b)). For the meanings of 'Assembly election', 'Assembly constituency election' and 'Assembly regional election' in the case of a Welsh Assembly election see PARA 3 note 1 ante; and for the meanings of 'constituency returning officer' and 'regional returning officer' see PARA 18 note 2 ante. At a European parliamentary election, a local returning officer is specified: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(1)(a). As to the designation of local returning officers at European parliamentary elections see PARA 365 et seq ante.

2 Representation of the People Act 1983 s 66(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(1)(a)-(c); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(1)(a). As to the appointment of presiding officers and their clerks see PARA 398 ante.

The Representation of the People Act 1983 s 66 (as amended) applies at a poll consequent on a parish or community meeting by virtue of s 187(1) (as amended) and the Local Government Act 1972 s 99, Sch 12 paras 18(5), 34(5) (as amended): see PARA 388 ante. See also the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(a). At such a poll any reference to an election agent or the proxy for an elector is to be omitted: r 6(e). The Representation of the People Act 1983 s 66 (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

3 For the meaning of 'candidate' generally see PARA 237 ante.

4 As to the appointment of an election agent for parliamentary and local government elections see PARA 238 ante; as to the appointment of an election agent for elections to the National Assembly for Wales see PARA 242 ante; and as to the appointment of the election agent of a registered party or for an individual candidate at a European parliamentary election see PARA 246 ante.

5 As to the appointment of polling agents see PARA 399 ante. In the case of a local authority referendum, the reference in the text is to every polling observer so attending: see the Representation of the People Act 1983 s 66(1)(b) (as applied and modified: see note 2 supra). As to the appointment of polling observers at a referendum see PARA 591 ante.

6 Ibid s 66(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(1)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(1)(b). See note 2 supra.

7 As to the Electoral Commission see PARA 31 et seq ante.

8 Representation of the People Act 1983 s 66(1)(c) (added by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 82); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(1)(c). For the purposes of the Representation of the People Act 1983 s 66(1)(c) (as added), the reference is to every person attending at a polling station at a parliamentary or local government election or European parliamentary general election or Welsh Assembly election, by virtue of any of the Political Parties, Elections and Referendums Act 2000 ss 6A-6D (as added) (Electoral Commission representatives and accredited observers to attend electoral proceedings and observe working practices: see PARA 48 ante): see the Representation of the People Act 1983 s 66(1)(c) (as so added).

9 Where a polling agent left a marked copy of the register in the committee room of the candidate by whom he was employed, but there was no evidence that it was seen by anyone while it was in the room, it was held that no offence had been committed: *Stannanought v Hazeldine* (1879) 4 CPD 191. The mere communication by the returning officer of the numbers on the backs of ballot papers given out after the close of the poll so that there might be a record of such papers is not an offence if it does not in fact lead, and is not intended to lead, to any disclosures of the names of voters or of the persons for whom they voted: *Islington, West Division Case* (1901) 5 O'M & H 120 at 126. The admission of the defendant that he did disclose the information is sufficient evidence without showing that the voter in fact voted: *R v Unkles* (1874) IR 8 CL 50.

10 Representation of the People Act 1983 s 66(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(1). See note 2 supra. A communication by a polling agent as to the course of the poll will not avoid the election: *Bolton Case* (1874) 2 O'M & H 138 at 141, 143.

11 Representation of the People Act 1983 s 66(1)(i); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(1)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(1)(i). See note 2 supra.

12 Representation of the People Act 1983 s 66(1)(ii); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(1)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(1)(ii). See note 2 supra.

13 Representation of the People Act 1983 s 66(1)(iii); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(1)(iii); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(1)(iii). See note 2 supra.

14 Representation of the People Act 1983 s 66(6) (amended by the Representation of the People Act 1985 s 23, Sch 3 para 3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(6); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(7). See note 2 supra. The penalty is a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding six months: see the Representation of the People Act 1983 s 66(6) (as so amended); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(6); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(7). As to the standard scale see PARA 736 note 3 ante.

UPDATE

741-747 Tampering with nomination and ballot papers ... Contravention of prohibition on publication of exit polls

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

742 Offence related to the requirement of secrecy

TEXT AND NOTES 7, 8--SI 2004/293 reg 29(1)(c) substituted: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(vi) Offences/743.

Contravention of requirement of secrecy at count and verification of ballot paper accounts.

743. Contravention of requirement of secrecy at count and verification of ballot paper accounts.

Except at a European parliamentary election¹, every person attending at the counting of the votes² must maintain and aid in maintaining the secrecy³ of voting and must not ascertain or attempt to ascertain at the counting of the votes the number (or, in the case of a parliamentary election, any other unique identifying mark) on the back of any ballot paper, or communicate any information obtained at the counting of the votes as to the candidate for whom any vote is given on any particular ballot paper⁴. If a person acts in contravention of these requirements, he is liable on summary conviction to a penalty⁵.

At a European parliamentary election, every person attending at the verification of the ballot paper accounts or at the counting of the votes must maintain and aid in maintaining the secrecy of voting and must not ascertain or attempt to ascertain at the counting of the votes the number on the back of any ballot paper and must not communicate any information obtained at the verification of the ballot paper accounts or at the counting of the votes as to the way in which any vote is given on any particular ballot paper⁶. No person attending at the verification of the ballot paper accounts is to express to any person an opinion based on information obtained at that verification as to the likely result of the election⁷. If a person acts in contravention of these requirements, he is liable on summary conviction to a penalty⁸.

1 At a European parliamentary election, the verification of the ballot paper accounts takes place separately from the counting of the votes: see PARA 468 ante.

2 As to attendance at the counting of the votes at a parliamentary election see PARA 431 et seq ante; and as to attendance at the counting of the votes at National Assembly for Wales constituency and regional elections see PARA 460 et seq ante.

3 As to notification of the requirement of secrecy see PARA 390 ante.

4 Representation of the People Act 1983 s 66(2) (amended by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 86(a), 96); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(2). As to security measures associated with the ballot paper see PARA 392 ante.

The Representation of the People Act 1983 s 66 (as amended) applies at a poll consequent on a parish or community meeting by virtue of s 187(1) (as amended) and the Local Government Act 1972 s 99, Sch 12 paras 18(5), 34(5) (as amended): see PARA 388 ante. See also the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(a). At such a poll, the reference to the giving of votes is to the manner in which any vote is given: r 6(e). At a Welsh Assembly election, the reference is to how any vote is given on any particular ballot paper: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(2). In relation to an election of the London members of the London Assembly at an ordinary election, the reference to the candidate is to the candidate for whom or the registered political party towards the return of whose candidates any vote is given (Representation of the People Act 1983 s 66(7) (s 66(7), (8) added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 11)); and any reference to the return of a registered political party's candidates is a reference to the return of candidates included in the list of candidates submitted by the registered political party for the purposes of the election (Representation of the People Act 1983 s 66(8) (as so added)). Section 66 (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

The amendment effected by the Electoral Administration Act 2006 Sch 1 paras 69, 86, 96 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that

election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

5 Representation of the People Act 1983 s 66(6) (amended by the Representation of the People Act 1985 s 23, Sch 3 para 3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(6). See note 4 supra. The penalty is a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding six months: see the Representation of the People Act 1983 s 66(6) (as so amended); and the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(6). As to the standard scale see PARA 736 note 3 ante.

6 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(2).

7 Ibid reg 29(3).

8 Ibid reg 29(7). The penalty is a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding six months: see reg 29(7).

UPDATE

741-747 Tampering with nomination and ballot papers ... Contravention of prohibition on publication of exit polls

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

743 Contravention of requirement of secrecy at count and verification of ballot paper accounts

TEXT AND NOTE 6--SI 2004/293 reg 29(2) amended: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(vi) Offences/744. Interference with voter.

744. Interference with voter.

No person is to: (1) interfere with or attempt to interfere with a voter when recording his vote¹; (2) otherwise obtain or attempt to obtain in a polling station information as to the candidate for whom, or the manner in which, a voter in that station is about to vote or has voted²; (3) communicate at any time to any person any information obtained in a polling station as to the candidate for whom, or the manner in which, a voter in that station is about to vote or has voted, or as to the number (or, in the case of a parliamentary election, any other unique identifying mark) on the back of the ballot paper given to a voter at that station³; or (4) directly or indirectly induce a voter to display his ballot paper after he has marked it, so as to make known to any person the name of the candidate for whom, or the manner in which, he has or has not voted⁴.

If a person acts in contravention of these requirements, he is liable on summary conviction to a penalty⁵.

1 Representation of the People Act 1983 s 66(3)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(3)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(4)(a). The Representation of the People Act 1983 s 66 (as amended) applies at a poll consequent on a parish or community meeting by virtue of s 187(1) (as amended) and the Local Government Act 1972 s 99, Sch 12 paras 18(5), 34(5) (as amended): see PARA 388 ante. See also the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(a). The Representation of the People Act 1983 s 66 (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 Representation of the People Act 1983 s 66(3)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(3)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(4)(b). At a poll consequent on a parish or community meeting (see note 1 supra), the reference to the giving of votes is to the manner in which any vote is given: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(e). At a Welsh Assembly election, the reference is to how a voter in that station is about to vote or has voted: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(3). At a European parliamentary election, the reference is to the way in which a voter in that station is about to vote or has voted: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(4). In relation to an election of the London members of the London Assembly at an ordinary election, the reference to the candidate is to the candidate for whom or the registered political party towards the return of whose candidates any vote is given (Representation of the People Act 1983 s 66(7) (s 66(7), (8) added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 11)); and any reference to the return of a registered political party's candidates is a reference to the return of candidates included in the list of candidates submitted by the registered political party for the purposes of the election (Representation of the People Act 1983 s 66(8) (as so added)).

3 Ibid s 66(3)(c) (amended by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 86(b), 96); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(3)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(4)(c). See notes 1, 2 supra. As to security measures associated with the ballot paper see PARA 392 ante.

The amendment effected by the Electoral Administration Act 2006 Sch 1 paras 69, 86, 96 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

4 Representation of the People Act 1983 s 66(3)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(3)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(4)(d). See notes 1, 2 supra.

5 Representation of the People Act 1983 s 66(6) (amended by the Representation of the People Act 1985 s 23, Sch 3 para 3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(6); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(7). See note 1 supra. The penalty is a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding six months: see the Representation of the People Act 1983 s 66(6) (as so amended); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(6); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(7). As to the standard scale see PARA 736 note 3 ante.

UPDATE

741-747 Tampering with nomination and ballot papers ... Contravention of prohibition on publication of exit polls

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

744 Interference with voter

TEXT AND NOTE 3--SI 2004/293 reg 29(4)(c) amended: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(vi) Offences/745. Contravention of requirement of secrecy at issue or receipt of postal ballot papers.

745. Contravention of requirement of secrecy at issue or receipt of postal ballot papers.

Every person attending the proceedings in connection with the issue or the receipt of ballot papers for persons voting by post¹ must maintain and aid in maintaining the secrecy of the voting and must not²: (1) except for some purpose authorised by law communicate, before the poll is closed, to any person any information obtained at those proceedings as to the official mark³; (2) except for some purpose authorised by law, communicate to any person at any time any information obtained at those proceedings as to the number (or, in the case of a parliamentary election, any other unique identifying mark) on the back of the ballot paper sent to any person⁴; (3) except for some purpose authorised by law, attempt to ascertain at the proceedings in connection with the receipt of ballot papers the number (or, in the case of a parliamentary election, any other unique identifying mark) on the back of any ballot paper⁵; or (4) attempt to ascertain at the proceedings in connection with the receipt of the ballot papers the candidate for whom any vote is given in any particular ballot paper or communicate any information with respect thereto obtained at those proceedings⁶.

If a person acts in contravention of these requirements, he is liable on summary conviction to a penalty⁷.

1 As to proceedings in connection with the issue and receipt of postal ballot papers see PARA 411 et seq ante.

2 Representation of the People Act 1983 s 66(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(5). The Representation of the People Act 1983 s 66 (as amended) applies at a poll consequent on a parish or community meeting by virtue of s 187(1) (as amended) and the Local Government Act 1972 s 99, Sch 12 paras 18(5), 34(5) (as amended): see PARA 388 ante. See also the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(a). The Representation of the People Act 1983 s 66 (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

3 Representation of the People Act 1983 s 66(4)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(5)(a). See note 2 supra.

4 Representation of the People Act 1983 s 66(4)(b) (s 66(4)(b), (c) amended by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 86(c), 96); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(4)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(5)(b). See note 2 supra. As to security measures associated with the ballot paper see PARA 392 ante.

The amendment effected by the Electoral Administration Act 2006 Sch 1 paras 69, 86, 96 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

5 Representation of the People Act 1983 s 66(4)(c) (as amended: see note 4 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(4)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(5)(c). See note 2 supra.

6 Representation of the People Act 1983 s 66(4)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(4)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(5)(d). At a poll consequent on a parish or community meeting (see note 2 supra), the

reference to the giving of votes is to the manner in which any vote is given: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(e). At a Welsh Assembly election, the reference is to how any vote is given on any particular ballot paper: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(4)(d). At a European parliamentary election, the reference is to the way in which any vote is given in any particular ballot paper: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(5)(d). In relation to an election of the London members of the London Assembly at an ordinary election, the reference to the candidate is to the candidate for whom or the registered political party towards the return of whose candidates any vote is given (Representation of the People Act 1983 s 66(7) (s 66(7), (8) added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 11)); and any reference to the return of a registered political party's candidates is a reference to the return of candidates included in the list of candidates submitted by the registered political party for the purposes of the election (Representation of the People Act 1983 s 66(8) (as so added)).

7 Ibid s 66(6) (amended by the Representation of the People Act 1985 s 23, Sch 3 para 3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(6); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(7). See note 2 *supra*. The penalty is a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding six months: see the Representation of the People Act 1983 s 66(6) (as so amended); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(6); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(7). As to the standard scale see PARA 736 note 3 *ante*.

UPDATE

741-747 Tampering with nomination and ballot papers ... Contravention of prohibition on publication of exit polls

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

745 Contravention of requirement of secrecy at issue or receipt of postal ballot papers

TEXT AND NOTES 4, 5--SI 2004/293 reg 29(5)(b), (c) amended: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(vi) Offences/746.

Contravention of requirement of secrecy for persons having undertaken to assist a voter with disabilities.

746. Contravention of requirement of secrecy for persons having undertaken to assist a voter with disabilities.

No person having undertaken to assist a voter with disabilities (or a blind voter) to vote¹ may communicate at any time to any person any information as to the candidate for whom that voter intends to vote or has voted, or as to the number (or, in the case of a parliamentary election, any other unique identifying mark) on the back of the ballot paper given for the use of that voter².

If a person acts in contravention of these requirements he is liable on summary conviction to a penalty³.

¹ See PARA 407 ante.

² Representation of the People Act 1983 s 66(5) (amended by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 86(d), 96); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(5); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(6). As to security measures associated with the ballot paper see PARA 392 ante.

The Representation of the People Act 1983 s 66 (as amended) applies at a poll consequent on a parish or community meeting by virtue of s 187(1) (as amended) and the Local Government Act 1972 s 99, Sch 12 paras 18(5), 34(5) (as amended): see PARA 388 ante. See also the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(a). At such a poll, the reference to the giving of votes is to the manner in which any vote is given: r 6(e). At a Welsh Assembly election, the reference is to information as to how that voter intends to vote or has voted: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(5). At a European parliamentary election, the reference is to information as to the way in which that voter intends to vote or has voted: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(6). In relation to an election of the London members of the London Assembly at an ordinary election, the reference to the candidate is to the candidate for whom or the registered political party towards the return of whose candidates any vote is given (Representation of the People Act 1983 s 66(7) (s 66(7), (8) added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 11)); and any reference to the return of a registered political party's candidates is a reference to the return of candidates included in the list of candidates submitted by the registered political party for the purposes of the election (Representation of the People Act 1983 s 66(8) (as so added)). Section 66 (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

The amendment effected by the Electoral Administration Act 2006 Sch 1 paras 69, 86, 96 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

³ Representation of the People Act 1983 s 66(6) (amended by the Representation of the People Act 1985 s 23, Sch 3 para 3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(6); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(7). See note 2 supra. The penalty is fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding six months: see the Representation of the People Act 1983 s 66(6) (as so amended); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(6); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(7). As to the standard scale see PARA 736 note 3 ante.

UPDATE

741-747 Tampering with nomination and ballot papers ... Contravention of prohibition on publication of exit polls

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

746 Contravention of requirement of secrecy for persons having undertaken to assist a voter with disabilities

TEXT AND NOTES 1, 2--SI 2004/293 reg 29(6) amended: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(vi) Offences/747.
 Contravention of prohibition on publication of exit polls.

747. Contravention of prohibition on publication of exit polls.

No person, at any parliamentary¹ or local government election² or Welsh Assembly³ or European parliamentary election⁴, is to publish⁵ before the poll is closed⁶ either any statement relating to the way in which voters have voted at the election where that statement is (or might reasonably be taken to be) based on information given by voters after they have voted⁷ or any forecast⁸ as to the result of the election⁹ which is (or might reasonably be taken to be) based on information so given¹⁰.

If a person acts in contravention of this prohibition, he is liable on summary conviction to a penalty¹¹.

1 For the meaning of 'parliamentary election' see PARA 9 ante.

2 For the meaning of 'local government election' see PARA 10 ante.

3 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

4 As to European parliamentary elections see PARA 224 et seq ante.

5 For these purposes, 'publish' means make available to the public at large, or any section of the public, in whatever form and by whatever means: Representation of the People Act 1983 s 66A(4) (s 66A added by the Representation of the People Act 2000 s 15(1), Sch 6 paras 3, 6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 34(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 30(3). The Representation of the People Act 1983 s 66A (as added) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

6 Representation of the People Act 1983 s 66A(1), (2) (as added: see note 5 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 34(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 30(1). As to the application and modification of these provisions for the purposes of a local authority referendum see note 5 supra. At a European parliamentary election, the reference is to the 'close of the poll' which means, in the case of a general election of members of the European Parliament ('MEPs'), the close of the polling in the member state whose electors are the last to vote in the election: reg 30(3). See further PARA 229 ante.

7 Representation of the People Act 1983 s 66A(1)(a) (as added: see note 5 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 34(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 30(1)(a). As to the application and modification of these provisions for the purposes of a local authority referendum see note 5 supra.

8 For these purposes, 'forecast' includes estimate: Representation of the People Act 1983 s 66A(4) (as added: see note 5 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 34(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 30(3). As to the application and modification of these provisions for the purposes of a local authority referendum see note 5 supra.

9 For these purposes, any reference to the result of an election is a reference to the result of the election either as a whole or so far as any particular candidate or candidates at the election is or are concerned: Representation of the People Act 1983 s 66A(4) (as added: see note 5 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 34(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 30(3). As to the application and modification of these provisions for the purposes of a local authority referendum see note 5 supra.

10 Representation of the People Act 1983 s 66A(1)(b) (as added: see note 5 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 34(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 30(1)(b). As to the application and modification of these provisions for the purposes of a local authority referendum see note 5 supra.

11 Representation of the People Act 1983 s 66A(3) (as added: see note 5 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 34(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 30(2). The penalty is a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding six months: see the Representation of the People Act 1983 s 66A(3) (as so added); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 34(2); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 30(2). As to the standard scale see PARA 736 note 3 ante. As to the application and modification of these provisions for the purposes of a local authority referendum see note 5 supra.

UPDATE

741-747 Tampering with nomination and ballot papers ... Contravention of prohibition on publication of exit polls

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(vi) Offences/748. Offences regarding access to or control of election or referendum documents.

748. Offences regarding access to or control of election or referendum documents.

A person is guilty of an offence if he: (1) fails to comply with any conditions imposed in pursuance of regulations under the provisions which govern the retention and public inspection of documents relating either to a parliamentary election¹ or to another relevant election or referendum²; or (2) is an appropriate supervisor of a person (the 'supervised person')³ who fails to comply with such a condition and he failed to take appropriate steps⁴. A supervised person who has an appropriate supervisor and who has complied with all the requirements imposed on him by his appropriate supervisor is not guilty of such an offence⁵; and a person who is not a supervised person or an appropriate supervisor is not guilty of such an offence if he takes all reasonable steps to ensure that he complies with the conditions⁶.

A person who is guilty of such an offence is liable on summary conviction to a penalty⁷.

1 le the provisions set out in the Representation of the People Act 1983 s 23(1), Sch 1 r 57 (as amended) (see PARA 503 ante). For the meaning of 'parliamentary election' see PARA 9 ante.

2 Electoral Administration Act 2006 s 43(1)(a); Representation of the People Act 1983 s 66B(1)(a) (s 66B added by the Electoral Administration Act 2006 s 41(9)). The reference in the text to the provisions which govern the retention and public inspection of documents relating to another relevant election or referendum is to the Electoral Administration Act 2006 s 42 (see PARAS 504-507 ante) where the reference to another relevant election is to a local government election or a Welsh Assembly election or to a European Parliamentary election.

Section 43 has effect in relation to: (1) any local government election, as defined by the Representation of the People Act 1983 s 203(1) (as amended) (see PARA 10 ante) other than an Authority election (see PARA 10 ante); (2) any referendum held under, or by virtue of regulations or an order made under, any provision of the Local Government Act 2000 Pt II (ss 10-48) (as amended) (see PARA 557 et seq ante); (3) any election for the return of an elected mayor held in accordance with regulations made under the Local Government Act 2000 Pt II (as amended) (see PARA 205 et seq ante); and (4) any election to the National Assembly for Wales under the Government of Wales Act 1998 Pt I (ss 1-20) (prospectively repealed) or the Government of Wales Act 2006 Pt 1 (ss 1-44) (the provisions of which are to come into force immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3: see PARA 12 ante): see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 3, Sch 1 para 15(a). However, the Electoral Administration Act 2006 s 43 has no effect in relation to any election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. As to the retention and inspection of documents relating to European parliamentary elections see PARA 507 ante.

The Representation of the People Act 1983 s 66B (as added) has no effect in relation to any documents which have been or must be forwarded to the Clerk of the Crown on or before 2 May 2007, in accordance with the Representation of the People Act 1983 Sch 1 r 55 (as amended) (see PARA 494 ante) or the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91 (as amended) (see PARA 495 ante): see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 4. As to the Clerk of the Crown see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 921.

3 For these purposes, an appropriate supervisor is a person who is a director of a company or who is concerned in the management of an organisation in which the supervised person is employed or under whose direction or control the supervised person is: Electoral Administration Act 2006 s 43(4)(a); Representation of the People Act 1983 s 66B(4)(a) (as added: see note 2 supra). As to the effect of these provisions see note 2 supra.

4 Electoral Administration Act 2006 s 43(1)(b); Representation of the People Act 1983 s 66B(1)(b) (as added: see note 2 supra). For these purposes, appropriate steps are such steps as it was reasonable for the appropriate supervisor to take to secure the operation of procedures designed to prevent, so far as reasonably practicable, the occurrence of a failure to comply with the conditions: Electoral Administration Act 2006 s 43(4)(b);

Representation of the People Act 1983 s 66B(4)(b) (as so added). As to the effect of these provisions see note 2 supra.

5 Electoral Administration Act 2006 s 43(2); Representation of the People Act 1983 s 66B(2) (as added: see note 2 supra). As to the effect of these provisions see note 2 supra.

6 Electoral Administration Act 2006 s 43(3); Representation of the People Act 1983 s 66B(3) (as added: see note 2 supra). As to the effect of these provisions see note 2 supra.

7 Electoral Administration Act 2006 s 43(5); Representation of the People Act 1983 s 66B(5) (as added: see note 2 supra). The penalty is a fine not exceeding level 5 on the standard scale: see the Electoral Administration Act 2006 s 43(5); and the Representation of the People Act 1983 s 66B(5) (as so added). As to the standard scale see PARA 736 note 3 ante. As to the effect of these provisions see note 2 supra.

UPDATE

748 Offences regarding access to or control of election or referendum documents

NOTE 2--The Electoral Administration Act 2006 s 43 now has effect in relation to Authority elections: SI 2007/3376.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(vi) Offences/749.
 Contravention of prohibition on officials acting as candidates' agents.

749. Contravention of prohibition on officials acting as candidates' agents.

If any returning officer at a parliamentary election¹, local government election², Welsh Assembly election³ or European parliamentary election⁴ or any officer or clerk appointed⁵ under the parliamentary elections rules⁶ or rules for the conduct of local elections⁷ or rules for the conduct of Welsh Assembly elections⁸ or the European parliamentary elections rules⁹, as the case may be, or any partner or clerk of any such person, acts as an agent of a candidate¹⁰ in the conduct or management of the election¹¹, he is guilty of an offence¹². This does not, however, prevent a candidate from acting as his own election agent¹³.

A person guilty of such an offence is liable on summary conviction to a penalty¹⁴.

1 As to returning officers for parliamentary elections see PARA 355 et seq ante. For the meaning of 'parliamentary election' see PARA 9 ante.

2 As to returning officers for local government elections (including elections for the return of a local authority mayor) see PARA 359 et seq ante. For the meaning of 'local government election' see PARA 10 ante. For these purposes, in relation to a poll consequent on a parish or community meeting, the returning officer at an election under the local government Act is also specified and references to an election under the local government Act are deemed to include a reference to a poll consequent on a parish or community meeting: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(d), (g). See also the Representation of the People Act 1983 s 187(1) (as amended); the Local Government Act 1972 s 99, Sch 12 paras 18(5), 34(5) (as amended); and PARA 388 ante. As to the returning officer at a poll consequent on a parish meeting on a question involving appointment to office see PARA 361 ante; and as to the returning officer at a poll consequent on a parish or community meeting on any other question see PARA 593 ante.

3 At a Welsh Assembly election, the reference is to any constituency or regional returning officer at a constituency election and to any constituency or regional returning officer at a regional election: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 70(1). For the meanings of 'Assembly election', 'Assembly constituency election' and 'Assembly regional election' in the case of a Welsh Assembly election see PARA 3 note 1 ante; and for the meanings of 'constituency returning officer' and 'regional returning officer' see PARA 18 note 2 ante.

4 At a European parliamentary election, any returning officer or local returning officer is specified: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 69(1). As to the designation of returning officers and local returning officers at European parliamentary elections see PARA 365 et seq ante. As to European parliamentary elections see PARA 224 et seq ante.

5 As to the appointment of such officers and clerks see PARA 398 ante.

6 As to the parliamentary elections rules see PARA 388 ante.

7 I.e. the rules under the Representation of the People Act 1983 s 36 (as amended) (see PARA 388 ante).

8 I.e. the rules in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 (as amended) (see PARA 388 ante).

9 For the meaning of 'European parliamentary elections rules' see PARA 388 ante.

10 For the meaning of 'candidate' generally see PARA 237 ante. At a Welsh Assembly election, the reference in the text is to a constituency candidate (at a constituency election) or to an individual candidate or a group of party list candidates (at a regional election): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 70(1). For the meaning of references to a group of party list candidates and for the meaning of 'individual candidate' for these purposes see PARA 237 note 23 ante. At a European parliamentary election, the reference is to a registered party which has submitted a list, a candidate on that list or an individual candidate: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 69(1).

For the meanings of 'list' and 'registered party' in relation to European parliamentary elections see PARA 237 note 30 ante; and for the meaning of 'individual candidate' in relation to a European parliamentary election see PARA 237 note 32 ante. As to the appointment of an election agent for parliamentary and local government elections see PARA 238 ante; as to the appointment of an election agent for elections to the National Assembly for Wales see PARA 242 ante; and as to the appointment of the election agent of a registered party or for an individual candidate at a European parliamentary election see PARA 246 ante.

11 It is not necessary that the agent should be an agent for the management of the whole election; it is sufficient if he is agent for part of the election. He must be not simply an agent who might be employed to such an extent as might make the candidate answerable for corrupt or illegal practices committed by him, but employed in the way of managing a portion of the election: *North Norfolk Case, Burton's Case* (1869) 1 O'M & H 236 at 239.

12 Representation of the People Act 1983 s 99(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 70(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 69(1).

13 Representation of the People Act 1983 s 99(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 70(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 69(1). At a Welsh Assembly election, the prohibition set out in the text does not prevent an individual candidate from acting as his own election agent or a party list candidate from acting as election agent for the candidates on the list: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 70(1). At a European parliamentary election, the prohibition set out in the text does not prevent an individual candidate from acting as his own election agent: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 69(1).

14 Representation of the People Act 1983 s 99(2) (substituted by the Representation of the People Act 1985 s 23, Sch 3 para 4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 70(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 69(2). The penalty is a fine not exceeding level 4 on the standard scale: see the Representation of the People Act 1983 s 99(2) (as so substituted); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 70(2); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 69(2). As to the standard scale see PARA 736 note 3 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(vi) Offences/750. Illegal canvassing by police officers.

750. Illegal canvassing by police officers.

No member of a police force¹ may by word, message, writing or in any other manner endeavour to persuade any person to give, or dissuade any person from giving, his vote, whether as an elector or as proxy, at any parliamentary election² for a parliamentary constituency³, at any local government election⁴ for any electoral area⁵, at any constituency election⁶ for a Welsh Assembly constituency⁷, at any regional election⁸ for a Welsh Assembly electoral region⁹ or at any European parliamentary election¹⁰ for a European parliamentary electoral region¹¹, wholly or partly within the police area¹². A person acting in contravention of this provision is liable on summary conviction to a penalty¹³. A member of a force, however, is not to be subjected to any penalty for anything done in the discharge of his duty as a member of the force¹⁴.

1 le within the meaning of the Police Act 1996 s 101(1): see POLICE vol 36(1) (2007 Reissue) PARA 136 et seq.

2 For the meaning of 'parliamentary election' see PARA 9 ante.

3 For the meaning of 'parliamentary constituency' see PARA 9 ante.

4 For the meaning of 'local government election' see PARA 10 ante.

5 For the meaning of 'electoral area' see PARA 10 ante.

6 For the meaning of 'constituency election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

7 For the meaning of 'Assembly constituency' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

8 For the meaning of 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

9 For the meaning of 'Assembly electoral region' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

10 As to European parliamentary elections see PARA 224 et seq ante.

11 As to the establishment of electoral regions for the purpose of elections to the European Parliament see PARA 76 ante.

12 Representation of the People Act 1983 s 100(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 71(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 70(1). 'Police area' means a police area within the meaning of the Police Act 1996 s 101(1): see POLICE vol 36(1) (2007 Reissue) PARA 136 et seq.

The Representation of the People Act 1983 s 100 (as amended) applies to a poll consequent on a parish or community meeting by virtue of s 187(1) (as amended) and the Local Government Act 1972 s 99, Sch 12 paras 18(5), 34(5) (as amended) (see PARA 388 ante). The Representation of the People Act 1983 s 100 (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

13 Representation of the People Act 1983 s 100(2) (amended by the Representation of the People Act 1985 s 23, Sch 3 para 5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 71(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 70(2). See note 12 supra. The penalty is a fine not exceeding level 3 on the standard scale: see the Representation of the People Act 1983 s

100(2) (as so amended); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 71(2); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 70(2). As to the standard scale see PARA 736 note 3 ante.

14 Representation of the People Act 1983 s 100(2) (as amended: see note 13 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 71(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 70(2). See note 12 supra.

UPDATE

750 Illegal canvassing by police officers

NOTE 12--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(vi) Offences/751. Failure to display details on election publications.

751. Failure to display details on election publications.

In relation to a parliamentary or local government election¹, no material which can reasonably be regarded as intended to promote or procure² the election of a candidate³ (whether or not it can be so regarded as intended to achieve any other purpose as well)⁴ may be published⁵ unless the following requirements are complied with⁶:

- 47 (1) where the material is a document consisting (or consisting principally) of a single side of printed matter, the names and addresses of the printer⁷ of the document⁸, of the promoter⁹ of the material¹⁰ and of any person on behalf of whom the material is being published (and who is not the promoter)¹¹ (the 'relevant details') must appear on the face of the document¹²;
- 48 (2) where the material is a printed document other than one to which head (1) above applies, the names and addresses of the printer of the document¹³, of the promoter of the material¹⁴ and of any person on behalf of whom the material is being published (and who is not the promoter)¹⁵ (the 'relevant details') must appear either on the first or the last page of the document¹⁶;
- 49 (3) where the material is an advertisement contained in a newspaper or periodical, the name and address of the printer of the newspaper or periodical must appear either on its first or last page¹⁷ and there must be included in the advertisement the names and addresses of the promoter of the material¹⁸ and of any person on behalf of whom the material is being published (and who is not the promoter)¹⁹;
- 50 (4) in the case of any other material, the name and address of the promoter of the material²⁰ and the name and address of any person on behalf of whom the material is being published (and who is not the promoter)²¹ must be included in the material in accordance with requirements imposed by regulations which may be made for these purposes by the Secretary of State after consulting the Electoral Commission²².

Where any material is published in contravention of these requirements, the promoter of the material and any other person by whom the material is so published (and, in the case of material falling within heads (1) to (3) above, the printer of the material) are guilty of an offence and liable on summary conviction to a penalty²³. It is a defence for a person charged with such an offence to prove that the contravention of the requirements arose from circumstances beyond his control and that he took all reasonable steps, and exercised all due diligence, to ensure that that contravention would not arise²⁴. A candidate or his election agent who would be guilty of such an offence is instead guilty of an illegal practice²⁵.

In relation to a Welsh Assembly constituency or regional election²⁶ or at a European parliamentary election²⁷, a person must not print or publish, or cause to be printed or published²⁸, any bill, placard or poster²⁹ having reference to an election or any printed document³⁰ distributed for the purpose of promoting or procuring the election of a candidate³¹ (or, in the case of a Welsh Assembly election, of promoting or procuring a particular result at the election), or post or cause to be posted any such bill, placard or poster, or distribute or cause to be distributed any printed document for that purpose, unless the bill, placard, poster or document bears on its face the name and address of the printer³² and publisher³³. Any

candidate or election agent³⁴ who acts in contravention of this provision is guilty of an illegal practice³⁵ but any other person who contravenes it is liable on summary conviction to a penalty³⁶.

1 ie a parliamentary election, an Authority election or an election under the local government Act: see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante. For the meaning of 'parliamentary election' see PARA 9 ante. For the meaning of 'Authority election' see PARA 10 ante; and for the meaning of 'election under the local government Act' see PARA 10 note 2 ante.

2 As to the meaning of 'promoting or procuring' see PARA 277 note 2 ante.

3 For the meaning of 'candidate' generally see PARA 237 ante.

4 Representation of the People Act 1983 s 110(1) (s 110 substituted by the Political Parties, Elections and Referendums Act 2000 s 138, Sch 18 paras 1, 14). For the purpose of determining whether any material is material such as is mentioned in the Representation of the People Act 1983 s 110(1) (as substituted), it is immaterial that it does not expressly mention the name of any candidate: s 110(14) (as so substituted).

The substitution made by the Political Parties, Elections and Referendums Act 2000 Sch 18 paras 1, 14 has no effect in relation to any election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007, and in relation to any such election the Election Publications Act 2001 s 1(1), (2)(a) continues to have effect: see the Political Parties, Elections and Referendums Act 2000 (Commencement No 3 and Transitional Provisions) Order 2006, SI 2006/3416, arts 3(b), 4, 5. The Election Publications Act 2001 continued the Representation of the People Act 1983 s 110 (as amended) in the form in which it had effect immediately before the day originally appointed for the Political Parties, Elections and Referendums Act 2000 Sch 18 paras 1, 14 to come into effect, ie 16 February 2001 (the 'commencement date': see the Political Parties, Elections and Referendums Act 2000 (Commencement No 1 and Transitional Provisions) Order 2001, SI 2001/222, art 2, Sch 1 Pt I). See further the Election Publications Act 2001 ss 1-3. As to the case law which attached to the previous form of wording of the Representation of the People Act 1983 s 110 (as amended) see notes 26-36 *infra*. Section 110 (as amended) was applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante. As to the conduct of referendums see PARA 557 *et seq* ante.

5 For these purposes, 'publish' means make available to the public at large, or any section of the public, in whatever form and by whatever means: Representation of the People Act 1983 s 110(13) (as substituted: see note 4 *supra*).

6 Ibid s 110(2) (as substituted: see note 4 *supra*).

7 For these purposes, 'print' means print by whatever means; and 'printer' must be construed accordingly: ibid s 110(13) (as substituted: see note 4 *supra*).

8 Ibid s 110(2)(a), (3)(a), (4) (as substituted: see note 4 *supra*).

9 For these purposes, the 'promoter', in relation to any material which can reasonably be regarded as intended to promote or procure the election of a candidate at an election (whether or not it can be so regarded as intended to achieve any other purpose as well), means the person causing the material to be published: ibid s 110(13) (as substituted: see note 4 *supra*).

10 Ibid s 110(2)(a), (3)(b), (4) (as substituted: see note 4 *supra*).

11 Ibid s 110(2)(a), (3)(c), (4) (as substituted: see note 4 *supra*).

12 Ibid s 110(2)(a), (4) (as substituted: see note 4 *supra*).

13 Ibid s 110(2)(a), (3)(a), (5) (as substituted: see note 4 *supra*).

14 Ibid s 110(2)(a), (3)(b), (5) (as substituted: see note 4 *supra*).

15 Ibid s 110(2)(a), (3)(c), (5) (as substituted: see note 4 *supra*).

16 Ibid s 110(2)(a), (5) (as substituted: see note 4 *supra*).

17 Ibid s 110(2)(a), (6)(a) (as substituted: see note 4 *supra*).

18 Ibid s 110(2)(a), (3)(b), (6)(b) (as substituted: see note 4 supra).

19 Ibid s 110(2)(a), (3)(c), (6)(b) (as substituted: see note 4 supra).

20 Ibid s 110(2)(b), (7)(a) (as substituted: see note 4 supra).

21 Ibid s 110(2)(b), (7)(b) (as substituted: see note 4 supra).

22 Ibid s 110(2)(b), (7) (as substituted: see note 4 supra). Such regulations may in particular specify: (1) the manner and form in which such details must be included in any such material for the purpose of complying with any such requirement (s 110(8)(a) (as so substituted)); (2) circumstances in which any such requirement does not have to be complied with by a person of any description specified in the regulations or in which a breach of any such requirement by a person of any description so specified is not to result in the commission of an offence under s 110 (as substituted) (see the text and note 25 infra) by that person or by a person of any such description (s 110(8)(b) (as so substituted)); (3) circumstances in which material is, or is not, to be taken for the purposes of the regulations to be published or (as the case may be) published by a person of any description so specified (s 110(8)(c) (as so substituted)). At the date at which this volume states the law, no such regulations had been made. As to the Secretary of State see PARA 2 ante. As to the Electoral Commission see PARA 31 et seq ante.

23 Ibid s 110(9), (10) (as substituted: see note 4 supra). The penalty is a fine not exceeding level 5 on the standard scale: see s 110(9), (10) (as so substituted). As to the standard scale see PARA 736 note 3 ante. Liability for an offence which arises out of the requirement set out in head (4) in the text is subject to regulations made by virtue of s 110(8)(b) (as substituted) (see note 22 supra).

24 Ibid s 110(11) (as substituted: see note 4 supra). See *DPP v Edwards* [2002] EWHC 636 (Admin), [2002] All ER (D) 314 (Mar) (as it stood at the time of the offence, the Representation of the People Act 1983 s 110 (as amended) was an absolute offence and so it could not be contended that the omission of details from election leaflets had been inadvertent and that the defendant had taken immediate steps to rectify the situation).

25 See the Representation of the People Act 1983 s 110(12) (as substituted); and PARA 706 ante. As to the appointment of an election agent for parliamentary and local government elections see PARA 238 ante. As to the consequences of illegal practices see PARA 886 et seq post.

26 For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

27 As to European parliamentary elections see PARA 224 et seq ante. In relation to a European parliamentary election, where any act or omission would be lawful by reason of the act being done in compliance with, or the omission being made in reliance on, any provisions of the Representation of the People Act 1983 s 110 (as substituted) if it were substituted for the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 74(1)-(3) (see the text and notes 28-36 infra) with the modification that for references to 'candidate' there were substituted references to 'individual candidate or a registered party', the act or omission is deemed to be lawful: reg 74(4)-(6).

28 Where a candidate's brother gave the instructions for the printing of an address, not bearing the printer's name and address, to be done for the candidate, and the cost was debited to the candidate but not paid by him, it was held that the candidate had not been proved to have printed or caused to be printed the address, even though the document purported to be signed by him: *Bettesworth v Allingham* (1885) 16 QBD 44, DC.

29 'Bill' is a word of very wide application: *Barrow-in-Furness Case* (1886) 4 O'M & H 76. A circular on paper of notepaper size to be sent by post or by hand to voters has been held not to be a bill, placard or poster: *Re Essex County Councillors, Barstow Division, Election* (1888) 5 TLR 159, DC; *Re Shrewsbury County Councillors' Election* (1888) 5 TLR 160, DC; *Re East Suffolk and Eye Borough County Councillors' Election* (1888) 5 TLR 170, DC; *Cheshire, Knutsford Division Case* (1888) 5 TLR 170; *Re Election of Common Councillors for the Ward of Farringdon Without in the City of London* (1925) 161 LT Jo 26, DC; see also *Cumberland, Cockermouth Division Case* (1901) 5 O'M & H 155; cf *Alcott v Emden* (1904) 68 JP 434, DC (where a circular headed with the complainant's name and the words 'Shall he be our new Mayor' and sent to the complainant, the town clerk and four councillors in August 1903, it being known that the complainant intended to stand as candidate for that post at the next election on the following 9 November, was held to have reference to the election and to be a bill). Circulars will, however, be 'documents': see note 30 infra. Postcards reading 'You did not forget me a year ago. I shall not forget you' were held not to be bills, placards or posters: *Oxford Borough Case* (1924) 7 O'M & H 49 at 84. A poster is something that is stuck up: *Alcott v Emden* (1904) 68 JP 434, DC. Official poll cards do not appear to fall within this provision, but official notices of the election may come within it: see also note 33 infra.

30 A duplicated personal letter is a 'document': *Re Shipston-on-Stour RDC Election* (1953) Times, 9 June; *Re Liverpool City Council Election* (1964) Times, 16 May, DC. See also *Alcott v Emden* (1904) 68 JP 434, DC

(circular); *Oxford Borough Case* (1924) 7 O'M & H 49 at 73, 93 (document printed before the election without any intention of using it for election purposes, in fact used for propaganda purposes in the election).

31 At a European parliamentary election, the reference is to the election of a registered party or an individual candidate: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 75(1). For the meaning of 'registered party' in relation to European parliamentary elections see PARA 237 note 30 ante; and for the meaning of 'individual candidate' in relation to a European parliamentary election see PARA 237 note 32 ante.

32 Any process for multiplying copies of a document, other than copying it by hand, is deemed to be printing; and 'printer' is to be construed accordingly: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 75(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 74(2). See also *Re Shipston-on-Stour RDC Election* (1953) Times, 9 June (a duplicated personal letter to electors).

33 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 75(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 74(1). It has been argued that by the 'custom and comity of the printing trade' the name of a printer appearing on a placard means that he is also the publisher: *Re County Councillors' Elections* (1889) 5 TLR 195, DC. However, a distinct statement as to who is the publisher as well as to who is the printer may be required: see *Re County Councillors' Elections* supra; *Ex p Jessel* (1910) Times, 21 January; *Re Berry* [1978] Crim LR 357 (name of printer and publisher not on election leaflets). The returning officer would presumably be the publisher of official notices.

34 As to the appointment of an election agent for elections to the National Assembly for Wales see PARA 242 ante; and as to the appointment of the election agent of a registered party or for an individual candidate at a European parliamentary election see PARA 246 ante.

35 See, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 75(3) and, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 74(3); and PARA 706 ante.

36 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 75(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 74(3); and see note 33 supra. The penalty for such a person is a fine not exceeding level 5 on the standard scale: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 75(3); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 74(3). It would appear that such a person cannot claim relief: *Re County Councillors' Elections, De Wette's Case* (1889) 5 TLR 173, DC: and see PARA 696 ante.

UPDATE

751 Failure to display details on election publications

NOTE 4--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

TEXT AND NOTES 26-36--SI 2004/293 reg 74 substituted: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(vi) Offences/752. Failure to display details on election material published by third parties in national election campaigns.

752. Failure to display details on election material published by third parties in national election campaigns.

No election material¹ may be published² unless the following requirements are complied with³:

- 51 (1) where the material is a document consisting (or consisting principally) of a single side of printed matter, the names and addresses of the printer⁴ of the document⁵, of the promoter⁶ of the material⁷ and of any person on behalf of whom the material is being published (and who is not the promoter)⁸ (the 'relevant details') must appear on the face of the document⁹;
- 52 (2) where the material is a printed document other than one to which head (1) above applies, the names and addresses of the printer of the document¹⁰, of the promoter of the material¹¹ and of any person on behalf of whom the material is being published (and who is not the promoter)¹² (the 'relevant details') must appear either on the first or the last page of the document¹³;
- 53 (3) where the material is an advertisement contained in a newspaper or periodical, the name and address of the printer of the newspaper or periodical must appear either on its first or last page¹⁴ and there must be included in the advertisement the names and addresses of the promoter of the material¹⁵ and of any person on behalf of whom the material is being published (and who is not the promoter)¹⁶;
- 54 (4) in the case of any other material, the name and address of the promoter of the material¹⁷ and the name and address of any person on behalf of whom the material is being published (and who is not the promoter)¹⁸ must be included in the material in accordance with requirements imposed by regulations which may be made for these purposes by the Secretary of State after consulting the Electoral Commission¹⁹.

Where any material is published in contravention of these requirements, the promoter of the material and any other person by whom the material is so published (and, in the case of material falling within heads (1) to (3) above, the printer of the material) are guilty of an offence²⁰ and liable on summary conviction to a penalty²¹. It is a defence for a person charged with such an offence to prove that the contravention of the requirements arose from circumstances beyond his control and that he took all reasonable steps, and exercised all due diligence, to ensure that that contravention would not arise²².

1 For these purposes, 'election material' has the meaning given by the Political Parties, Elections and Referendums Act 2000 s 85(3) (controlled expenditure by third parties in national election campaigns: see PARA 318 note 4 ante): s 143(11).

The Political Parties, Elections and Referendums Act 2000 s 143 (as amended) has no effect in relation to any election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007, and in relation to any such election the Election Publications Act 2001 s 1(1), (2)(a) continues to have effect: see the Political Parties, Elections and Referendums Act 2000 (Commencement No 3 and Transitional Provisions) Order 2006, SI 2006/3416, arts 3(a), 4, 5. Under the Election Publications Act 2001 the Political Parties, Elections and Referendums Act 2000 s 143 (as amended) was deemed not to have come into force on the day originally appointed, ie 16 February 2001 (the 'commencement date': see the Political Parties, Elections and Referendums Act 2000 (Commencement No 1 and Transitional Provisions) Order 2001, SI 2001/222, art 2, Sch 1 Pt I). See further the Election Publications Act 2001 ss 1-3.

2 For these purposes, 'publish' means make available to the public at large, or any section of the public, in whatever form and by whatever means: Political Parties, Elections and Referendums Act 2000 s 143(11). See note 1 supra.

3 Ibid s 143(1). See note 1 supra.

4 For these purposes, 'print' means print by whatever means; and 'printer' must be construed accordingly: ibid s 143(11). See note 1 supra.

5 Ibid s 143(1)(a), (2)(a), (3). See note 1 supra.

6 For these purposes, the 'promoter', in relation to any election material, means the person causing the material to be published: ibid s 143(11). See note 1 supra.

7 Ibid s 143(1)(a), (2)(b), (3). See note 1 supra.

8 Ibid s 143(1)(a), (2)(c), (3). See note 1 supra. For the purposes of s 143(2)(c), election material which can be reasonably regarded as promoting, procuring or enhancing the electoral success or standing of two or more candidates standing in the name of a party or included in a list of candidates submitted by the party in connection with the election is not to be regarded as being published on behalf of a candidate merely because it can be regarded as promoting, procuring or enhancing his electoral success or standing, but may be regarded as being published on behalf of the party: s 143(2A), (2B) (added by the Electoral Administration Act 2006 s 66(2)). Any amendment effected by the Electoral Administration Act 2006 s 66(2) has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

9 Political Parties, Elections and Referendums Act 2000 s 143(1)(a), (3). See note 1 supra.

10 Ibid s 143(1)(a), (2)(a), (4). See note 1 supra.

11 Ibid s 143(1)(a), (2)(b), (4). See note 1 supra.

12 Ibid s 143(1)(a), (2)(c), (4). See notes 1, 8 supra.

13 Ibid s 143(1)(a), (4). See note 1 supra.

14 Ibid s 143(1)(a), (5)(a). See note 1 supra.

15 Ibid s 143(1)(a), (2)(b), (5)(b). See note 1 supra.

16 Ibid s 143(1)(a), (2)(c), (5)(b). See notes 1, 8 supra.

17 Ibid s 143(1)(b), (6)(a). See note 1 supra.

18 Ibid s 143(1)(b), (6)(b). See note 1 supra.

19 Ibid ss 143(1)(b), (6), 160(1). Such regulations may in particular specify: (1) the manner and form in which such details must be included in any such material for the purpose of complying with any such requirement (s 143(7)(a)); (2) circumstances in which any such requirement does not have to be complied with by a person of any description specified in the regulations or in which a breach of any such requirement by a person of any description so specified is not to result in the commission of an offence under s 143 (see the text and note 20 infra) by that person or by a person of any such description (s 143(7)(b)); (3) circumstances in which material is, or is not, to be taken for the purposes of the regulations to be published or (as the case may be) published by a person of any description so specified (s 143(7)(c)). At the date at which this volume states the law, no such regulations had been made. As to the Secretary of State see PARA 2 ante. As to the Electoral Commission see PARA 31 et seq ante.

20 Ibid s 143(8), (9). See note 1 supra. Liability for an offence which arises out of the requirement set out in head (4) in the text is subject to regulations made by virtue of s 143(7)(b) (see note 19 supra).

21 Ibid s 150, Sch 20. The penalty is a fine not exceeding level 5 on the standard scale: see s 150, Sch 20. As to the standard scale see PARA 736 note 3 ante.

22 Ibid s 143(10). See note 1 supra.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(vi) Offences/753. Failure to display details on referendum material.

753. Failure to display details on referendum material.

No material wholly or mainly relating to a referendum¹ to which the general framework provisions apply² is to be published³ during the referendum period⁴ unless the following requirements are met:

- 55 (1) where the material is a document consisting (or consisting principally) of a single side of printed matter, the names and addresses of the printer⁵ of the document⁶, of the promoter⁷ of the material⁸ and of any person on behalf of whom the material is being published (and who is not the promoter)⁹ must appear on the face of the document¹⁰;
- 56 (2) where the material is a printed document other than one to which head (1) above applies, the names and addresses of the printer of the document¹¹, of the promoter of the material¹² and of any person on behalf of whom the material is being published (and who is not the promoter)¹³ must appear either on the first or the last page of the document¹⁴;
- 57 (3) where the material is an advertisement contained in a newspaper or periodical, the name and address of the printer of the newspaper or periodical must appear either on its first or last page¹⁵ and there must be included in the advertisement the names and addresses of the promoter of the material¹⁶ and of any person on behalf of whom the material is being published (and who is not the promoter)¹⁷;
- 58 (4) in the case of any other material, the name and address of the promoter of the material¹⁸ and the name and address of any person on behalf of whom the material is being published (and who is not the promoter)¹⁹ must be included in the material in accordance with requirements imposed by regulations which may be made for these purposes by the Secretary of State after consulting the Electoral Commission²⁰.

Where, during the referendum period, any material is published in contravention of these requirements, the promoter of the material and any other person by whom the material is so published (and, in the case of material falling within heads (1) to (3) above, the printer of the document) are guilty of an offence²¹ and liable on summary conviction to a penalty²². It is a defence for a person charged with such an offence to prove that the contravention of the requirements arose from circumstances beyond his control and that he took all reasonable steps, and exercised all due diligence, to ensure that that contravention would not arise²³.

1 For the meaning of 'referendum' for these purposes see PARA 519 ante.

2 Ie the Political Parties, Elections and Referendums Act 2000 Pt VII (ss 101-129) (as amended).

3 For these purposes, 'publish' means make available to the public at large, or any section of the public, in whatever form and by whatever means: *ibid* s 126(11).

4 *Ibid* s 126(1). As to the referendum period see PARA 519 ante. As to the disapplication of s 126 (as amended) in relation to any material published for the purposes of a referendum held by virtue of the Government of Wales Act 2006 s 103(1) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS), where the publication is required under the Order in Council that causes the referendum to be held, see s 103(7), Sch 6 para 9. The

Political Parties, Elections and Referendums Act 2000 s 126(1) does not apply to any material published for the purposes of a referendum if the publication is required under or by virtue of any enactment: s 126(10A) (added by the Electoral Administration Act 2006 s 66(1)).

5 For these purposes, 'print' means print by whatever means; and 'printer' must be construed accordingly: Political Parties, Elections and Referendums Act 2000 s 126(11).

6 Ibid s 126(1)(a), (2)(a), (3).

7 For these purposes, the 'promoter', in relation to any material wholly or mainly relating to a referendum to which the general framework provisions apply, means the person causing the material to be published: ibid s 126(11).

8 Ibid s 126(1)(a), (2)(b), (3).

9 Ibid s 126(1)(a), (2)(c), (3).

10 Ibid s 126(1)(a), (3).

11 Ibid s 126(1)(a), (2)(a), (4).

12 Ibid s 126(1)(a), (2)(b), (4).

13 Ibid s 126(1)(a), (2)(c), (4).

14 Ibid s 126(1)(a), (4).

15 Ibid s 126(1)(a), (5)(a).

16 Ibid s 126(1)(a), (2)(b), (5)(b).

17 Ibid s 126(1)(a), (2)(c), (5)(b).

18 Ibid s 126(1)(b), (6)(a).

19 Ibid s 126(1)(b), (6)(b).

20 Political Parties, Elections and Referendums Act 2000 ss 126(1)(b), (6), 160(1). Such regulations may in particular specify: (1) the manner and form in which such details must be included in any such material for the purpose of complying with any such requirement (s 126(7)(a)); (2) circumstances in which any such requirement does not have to be complied with by a person of any description specified in the regulations or a breach of any such requirement by a person of any description so specified is not to result in the commission of an offence under s 126 (as amended) (see the text and note 21 *infra*) by that person or by a person of any such description (s 126(7)(b)); (3) circumstances in which material is, or is not, to be taken for the purposes of the regulations to be published or (as the case may be) published by a person of any description so specified (s 126(7)(c)). At the date at which this volume states the law, no such regulations had been made. As to the Secretary of State see *PARA 2 ante*. As to the Electoral Commission see *PARA 31 et seq ante*.

21 Ibid s 126(8), (9).

22 Ibid s 150, Sch 20. The penalty is a fine not exceeding level 5 on the standard scale: see s 150, Sch 20. As to the standard scale see *PARA 736 note 3 ante*. As to the punishment of such offences see further *PARA 890 post*.

23 Ibid s 126(10).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(vi) Offences/754. Offences related to contravention of the controls imposed on expenditure incurred during election and referendum campaigns.

754. Offences related to contravention of the controls imposed on expenditure incurred during election and referendum campaigns.

A person commits an offence:

- 59 (1) if he knowingly or recklessly makes a false declaration as to the value of notional election campaign expenditure¹ incurred by or on behalf of a registered party² or as to the value of notional controlled expenditure³ incurred by or on behalf of a third party in a national election campaign⁴, or as to the value of notional referendum expenses⁵ incurred by or on behalf of an individual or body during the referendum period⁶;
- 60 (2) if, without reasonable excuse and in contravention of the restrictions, he incurs any election campaign expenditure without authority by or on behalf of a registered party⁷ or he incurs any controlled expenditure without authority by or on behalf of a recognised third party⁸ or he incurs any referendum expenses without authority⁹;
- 61 (3) if, without reasonable excuse, he makes any payment in contravention of the restrictions on payments made that apply in respect of election campaign expenditure¹⁰ or that apply in respect of controlled expenditure incurred by or on behalf of a third party¹¹ or that apply in respect of referendum expenses¹² or if he contravenes the requirements imposed on such a person regarding delivery of notification and evidence¹³;
- 62 (4) if, without reasonable excuse he pays any claim which by virtue of being statute-barred is not payable or if he makes any payment in respect of a claim after the end of the period allowed for the payment of claims in respect of election campaign expenditure¹⁴ or in respect of controlled expenditure incurred by or on behalf of a recognised third party¹⁵ or in respect of referendum expenses¹⁶;
- 63 (5) if he, as treasurer or deputy treasurer of a registered party, authorised election campaign expenditure to be incurred by or on behalf of the party during the specified period, and he knew or ought reasonably to have known that the expenditure would be incurred in excess of the statutory limitation that applies during that period¹⁷ or if he (or the responsible person, if the third party is not an individual) incurred controlled expenditure in the United Kingdom by or on behalf of a third party during a regulated period (whether that third party was a recognised third party¹⁸ or not¹⁹) and he knew or ought reasonably to have known that the expenditure would be incurred in excess of the statutory limitation that applies during that period²⁰;
- 64 (6) where a permitted participant²¹ or a body or individual who was not a permitted participant at a referendum incurred referendum expenses during the referendum period, and he²² knew, or ought reasonably to have known, that the expenses were being incurred or would be incurred in excess of the statutory limitation that applies during that period²³;
- 65 (7) where, at a local authority referendum, any referendum expenses are incurred in excess of the referendum expenses limit²⁴, and he knew or reasonably ought to have known that that limit would be exceeded, or if he, without reasonable excuse, authorised another person to exceed that limit²⁵;

- 66 (8) if, without reasonable excuse, he: (a) fails to deliver a required return as to expenditure to the Electoral Commission²⁶; or (b) delivers such a return which does not comply with the requirements as to the statements contained therein or as to the accompanying evidence²⁷; or (c) fails to report late payments²⁸, in respect of election campaign expenditure²⁹ or in respect of controlled expenditure incurred by or on behalf of a recognised third party³⁰ or in respect of referendum expenses incurred by or on behalf of a permitted participant³¹;
- 67 (9) if he knowingly or recklessly makes a declaration as to election campaign expenditure falsely or if the requirements as to such a declaration are contravened at a time when he is treasurer of the registered party to which the return relates³² or if he knowingly or recklessly makes a declaration as to controlled expenditure falsely or if the requirements as to such a declaration are contravened at a time when he is the responsible person in the case of the recognised third party to which the return relates³³ or if he knowingly or recklessly makes a declaration as to referendum expenses falsely or if the requirements as to such a declaration are contravened at a time when he is the responsible person in the case of the permitted participant to which the return relates³⁴.

A person guilty of such an offence is liable to a penalty³⁵.

A person also commits an offence if he accepts the office of deputy treasurer of a registered party when³⁶ he is not eligible to be so appointed³⁷; and a person guilty of such an offence is liable to a penalty³⁸.

1 Ie under the Political Parties, Elections and Referendums Act 2000 s 73(6) (see PARA 304 ante), as the treasurer or a deputy treasurer of a registered party appointed under s 74 (as amended) (see PARA 305 ante). For the meaning of 'registered party' see PARA 32 note 3 ante; and for the meaning of 'campaign expenditure' see PARA 304 ante. As to the treasurer of a registered party see PARA 260 ante.

2 Ibid s 73(8).

3 Ie under ibid s 86(6) (see PARA 318 ante), as the responsible person of the third party. For the meaning of 'controlled expenditure' for these purposes see PARA 318 ante; for the meaning of 'third party' for these purposes see PARA 318 note 2 ante; and for the meaning of 'responsible person' for these purposes see PARA 318 note 15 ante.

4 Ibid s 86(8).

5 Ie under ibid s 112(6) (see PARA 527 ante). For the meaning of 'referendum expenses' see PARA 527 ante.

6 Ibid s 112(8). As to the referendum period see PARA 519 ante.

7 Ibid s 75(2). As to the restrictions mentioned in the text see PARA 306 ante.

8 Ibid s 90(2). As to the restrictions mentioned in the text see PARA 320 ante.

9 Ibid s 113(2). As to the restrictions mentioned in the text see PARA 528 ante.

10 Ibid s 76(4). As to the restrictions mentioned in the text see PARA 307 ante.

11 Ibid s 91(4). As to the restrictions mentioned in the text see PARA 321 ante.

12 Ibid s 114(4). As to the restrictions mentioned in the text see PARA 529 ante.

13 Ibid ss 76(4), 91(4), 114(4). As to the requirements mentioned in the text see PARAS 307, 321, 529 ante.

14 Ibid s 77(3). As to the restrictions mentioned in the text see PARA 308 ante.

15 Ibid s 92(3). As to the restrictions mentioned in the text see PARA 322 ante.

16 Ibid s 115(3). As to the restrictions mentioned in the text see PARA 530 ante.

17 Ibid s 79(2). As to the limitation mentioned in the text see PARA 310 ante. In the circumstances set out in the text, the party is also guilty of an offence: see s 79(2). It is a defence for any person or registered party charged with an offence under s 79(2) to show that any code of practice for the time being issued under s 72(2), Sch 8 para 3 (see PARA 304 ante) was complied with in determining the items and amounts of campaign expenditure to be entered in the relevant return as to campaign expenditure under s 80 (see PARA 312 ante) and that the limit would not have been exceeded on the basis of the items and amounts entered in that return: s 79(3).

18 As to the limits imposed on recognised third parties see ibid s 94(1), Sch 10 (as amended); and PARA 324 ante.

19 Ibid s 94(3). The limits imposed on third parties which are not recognised third parties are £10,000 for England and £5,000 for Wales: s 94(5).

20 Ibid s 94(2), (4). In the circumstances set out in the text, if the third party is not an individual, the third party is also guilty of an offence: s 94(2), (4).

21 Ie a registered party falling within ibid s 105(1)(a) (see PARA 521 ante) or an individual falling within s 105(1)(b) (see PARA 521 ante) or a body falling within s 105(1)(b) (see PARA 521 ante): see s 118(2). For the meaning of 'permitted participant' see PARA 521 ante.

22 Ie, in the case of a permitted participant, as the responsible person or any deputy treasurer of a registered party falling within ibid s 105(1)(a) (see PARA 521 ante) or as an individual falling within s 105(1)(b) (see PARA 521 ante) or as the responsible person of a body falling within s 105(1)(b) (see PARA 521 ante) (see s 118(2)) and, in the case of an individual who was not a permitted participant, that individual (see s 117(2)) and, in the case of a body which was not a permitted participant, any person who authorised the expenses to be incurred by or on behalf of the body (see s 117(3)). For the meaning of 'responsible person' in relation to a permitted participant which is a registered party see PARA 521 note 23 ante; and for the meaning of 'responsible person' in relation to a permitted participant which is an individual or body but which is not a registered party see PARA 521 note 32 ante.

23 Ibid ss 117(2), (3), 118(2). As to the limits imposed on a body or individual who is not a permitted participant see PARA 532 ante; and as to the limits imposed on permitted participants see PARA 533 ante. Where the circumstances set out in the text apply to a body who was not a permitted participant, the body in question is also guilty of an offence (s 117(4)); where the circumstances set out in the text apply to a permitted participant who is a registered party falling within s 105(1)(a) (see PARA 521 ante), the party is also guilty of an offence and, where the circumstances set out in the text apply to a permitted participant who is a body falling within s 105(1)(b) (see PARA 521 ante), the body is also guilty of an offence (s 118(2)). It is a defence for a permitted participant or other person charged with an offence under s 118(2) to show that any code of practice for the time being issued under s 111(1), (2), Sch 13 para 3 (see PARA 527 ante) was complied with in determining the items and amounts of campaign expenditure to be entered in the relevant return as to referendum expenses under s 120 (see PARA 534 ante) and that the limit would not have been exceeded on the basis of the items and amounts entered in that return: s 118(3).

24 As to the limit referred to in the text see PARA 580 ante.

25 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 6(3); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 6(3). Where information is given to the Director of Public Prosecutions that an offence as set out in the text has been committed, it is his duty to make such inquiries and institute such prosecutions as the circumstances of the case appear to him to require: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 6(4); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 6(4). Where such an offence which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any other person purporting to act in any such capacity, he, as well as the body corporate, is guilty of that offence and liable to be proceeded against and punished accordingly: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 6(5); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 6(5).

26 Political Parties, Elections and Referendums Act 2000 ss 82(4)(a), 98(4)(a), 122(4)(a). As to the Electoral Commission see PARA 31 et seq ante.

27 Ibid ss 82(4)(b), 98(4)(b), 122(4)(b).

28 Ibid ss 82(4)(c), 98(4)(c), 122(4)(c).

29 Ibid s 82(4). The person liable for such an offence is the treasurer of a registered party but, notwithstanding any criminal liability of any person, the registered party is liable to a civil penalty (see PARA 757 post): ss 82(4), 147(e), (2). As to the requirements that need to be met in the delivery of returns as to election campaign expenditure see PARA 313 ante.

30 Ibid s 98(4). The person liable for such an offence is the responsible person in the case of a recognised third party but, notwithstanding any criminal liability of any person, the recognised third party is liable to a civil penalty (see PARA 757 post): ss 98(4), 147(f), (2). As to the requirements that need to be met in the delivery of returns as to controlled expenditure see PARA 327 ante.

31 Ibid s 122(4). The person liable for such an offence is the responsible person in the case of a permitted participant but, notwithstanding any criminal liability of any person, the permitted participant is liable to a civil penalty (see PARA 757 post): ss 122(4), 147(g), (2). As to the requirements that need to be met in the delivery of returns as to referendum expenses incurred by or on behalf of a permitted participant see PARA 535 ante.

32 Ibid s 83(3). As to the declaration that is required as mentioned in the text see PARA 314 ante.

33 Ibid s 99(4). As to the declaration that is required in respect of controlled expenditure as mentioned in the text see PARA 328 ante.

34 Ibid s 123(4). As to the declaration that is required as mentioned in the text see PARA 536 ante.

35 A person guilty of an offence under head (1) in the text is liable, on conviction on indictment, to a fine or to imprisonment for a term not exceeding one year or, on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months: *ibid* s 150, Sch 20. A person guilty of an offence under any of head (2), (3), (4), (8)(a) or (8)(c) in the text is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale: s 150, Sch 20. A person guilty of an offence under head (5) in the text is liable, on conviction on indictment, to a fine or, on summary conviction, to a fine not exceeding the statutory maximum: s 150, Sch 20. An individual who is guilty of an offence under head (6) in the text is liable, on summary conviction, to a fine not exceeding the statutory maximum or to a term of imprisonment not exceeding six months or both; but a person who is guilty of an offence under head (6) in the text and who acted on behalf of a permitted participant or on behalf of a body which was not a permitted participant is liable, on conviction on indictment, to a fine or to imprisonment for a term not exceeding one year or, on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months: s 150, Sch 20. A person guilty of an offence under any of head (7), (8)(b) or (9) in the text is liable, on summary conviction, to a fine not exceeding the statutory maximum or to a term of imprisonment not exceeding six months or both or, on conviction on indictment, to a fine or to a term of imprisonment not exceeding one year or both: s 150, Sch 20; Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 6(6); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 6(6). As to the statutory maximum, with reference to a fine or penalty on summary conviction for an offence, see PARA 741 note 15 ante. As to the standard scale see PARA 736 note 3 ante. As to the punishment of such offences see further PARA 890 et seq post.

36 *Ie* by virtue of the Political Parties, Elections and Referendums Act 2000 s 74(3) (as amended) (see PARA 305 ante).

37 *Ibid* s 74(4).

38 *Ibid* s 150, Sch 20. Such a person is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale: see s 150, Sch 20.

UPDATE

754 Offences related to contravention of the controls imposed on expenditure incurred during election and referendum campaigns

NOTES 25, 35--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(vi) Offences/755. Offences related to contravention of the controls imposed on donations during election and referendum campaigns.

755. Offences related to contravention of the controls imposed on donations during election and referendum campaigns.

At an election¹, if a person without reasonable excuse fails to comply with the provisions which require principal donors² and agents acting on behalf of donors³ to give the required details of each relevant donation⁴ made to a candidate⁵ or his election agent⁶ or to a recognised third party⁷, as the case may be, he commits an offence⁸. A person guilty of such an offence is liable to a penalty⁹. At a referendum¹⁰, if a person without reasonable excuse fails to comply with the provisions which require principal donors¹¹ and agents acting on behalf of donors¹² to give the required details of each relevant donation¹³ made to a permitted participant¹⁴, he commits an offence¹⁵. A person guilty of such an offence is liable to a penalty¹⁶.

At an election, if a donation made by a person who is not a permissible donor at the time of its receipt by a registered party¹⁷ or by a recognised third party¹⁸ (as the case may be) is not sent back as required, the candidate or his election agent (in relation to the registered party) or the responsible person or the party itself (in relation to the recognised third party) is each guilty of an offence¹⁹; and if the required steps are not taken in relation to a donation where the registered party²⁰ or recognised third party²¹, as the case may be, is unable to ascertain the identity of the person offering it (whether because it is given anonymously or by reason of any deception or concealment or otherwise), the candidate or his election agent (in relation to the registered party) or the responsible person (in relation to the recognised third party) is each guilty of an offence²². In either case, a person found guilty of the offence is liable to a penalty²³. At a referendum, if a donation made by a person who is not a permissible donor at the time of its receipt by a permitted participant²⁴ is not sent back as required, the responsible person in relation to the permitted participant is guilty of an offence²⁵; and if the required steps are not taken in relation to a donation where the permitted participant is unable to ascertain the identity of the person offering it (whether because it is given anonymously or by reason of any deception or concealment or otherwise), the responsible person in relation to the permitted participant is guilty of an offence²⁶. In either case, a person found guilty of the offence is liable to a penalty²⁷.

A person commits an offence if he knowingly enters into, or knowingly does any act in furtherance of, any arrangement which facilitates or is likely to facilitate, whether by means of any concealment or disguise or otherwise, the making of relevant donations to a candidate or his election agent or to a recognised third party (as the case may be) in relation to an election or to a permitted participant at a referendum by any person or body other than a permissible donor²⁸. A person also commits an offence if he knowingly gives the candidate at an election or his election agent (or both) or the responsible person (in relation to a recognised third party at an election or a permitted participant at a referendum) any information relating to the amount of any donation made, or relating to the person or body making such a donation, which is false in a material particular or if, with intent to deceive, he withholds from them any material information relating to any such matter²⁹. A person found guilty of any such offence is liable to a penalty³⁰.

¹ ie at any of a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and PARA 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For

the meaning of 'parliamentary election' see PARA 9 ante; for the meanings of 'Authority election' and 'local government election' see PARA 10 ante; and for the meaning of 'election under the local government Act' see PARA 10 note 2 ante. As to elections in the City of London see PARA 30 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante. As to elections to the National Assembly for Wales generally see PARA 220 et seq ante; and as to European parliamentary elections see PARA 224 et seq ante.

2 le, in the case of a parliamentary or local government election, the Representation of the People Act 1983 s 71A, Sch 2A para 6(5) (as added) or, in the case of a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(4), Sch 6 para 6(5) or, in the case of a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 42(4), Sch 6 para 6(5) (see PARA 293 ante) or, in the case of donations made to recognised third parties, the Political Parties, Elections and Referendums Act 2000 s 95, Sch 11 para 6(5) (see PARA 331 ante).

3 le, in the case of a parliamentary or local government election, the Representation of the People Act 1983 Sch 2A para 6(6) (as added) or, in the case of a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 6(6) or, in the case of a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 6(6) (see PARA 293 ante) or, in the case of donations made to recognised third parties, the Political Parties, Elections and Referendums Act 2000 Sch 11 para 6(6) (see PARA 331 ante).

4 For the meanings of 'donation' and 'relevant donation' in relation to candidates at an election see PARA 292 ante.

5 For the meaning of 'candidate' generally see PARA 237 ante. The reference in the text is to an 'individual candidate' for the purposes of a regional election for the return of members of the National Assembly for Wales and for the purposes of a European parliamentary election. For the meaning of 'individual candidate' in relation to a Welsh Assembly election see PARA 237 note 23 ante; and for the meaning of 'individual candidate' in relation to a European parliamentary election see PARA 237 note 32 ante.

6 As to the appointment of an election agent for parliamentary and local government elections see PARA 238 ante; as to the appointment of an election agent for elections to the National Assembly for Wales see PARA 242 ante; and as to the appointment of the election agent of a registered party or for an individual candidate at a European parliamentary election see PARA 246 ante.

7 For the meaning of 'recognised third party' see PARA 318 note 15 ante; and for these purposes see PARA 330 note 3 ante. For the meanings of 'donation' and 'relevant donation' in relation to a recognised third party see PARA 330 ante.

8 Representation of the People Act 1983 Sch 2A para 6(7) (Sch 2A added by the Political Parties, Elections and Referendums Act 2000 s 130(1)-(4)); Political Parties, Elections and Referendums Act 2000 Sch 11 para 6(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 6(7); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 6(7).

9 Representation of the People Act 1983 Sch 2A para 6(8) (as added: see note 8 supra); Political Parties, Elections and Referendums Act 2000 s 150, Sch 20; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 6(8); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 6(8). Such a person is liable, on summary conviction, to a fine not exceeding the statutory maximum or to a term of imprisonment not exceeding six months or both or, on conviction on indictment, to a fine or to a term of imprisonment not exceeding one year or both: see the Representation of the People Act 1983 Sch 2A para 6(8) (as so added); the Political Parties, Elections and Referendums Act 2000 s 150, Sch 20; the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 6(8); and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 6(8). As to the statutory maximum, with reference to a fine or penalty on summary conviction for an offence, see PARA 741 note 15 ante.

10 For the meaning of 'referendum' for these purposes see PARA 519 ante.

11 le the Political Parties, Elections and Referendums Act 2000 s 119, Sch 15 para 6(6) (see PARA 539 ante).

12 le ibid Sch 15 para 6(7) (see PARA 539 ante).

13 For the meanings of 'donation' and 'relevant donation' for these purposes see PARA 538 ante.

14 For the meaning of 'permitted participant' see PARA 521 ante; and see also PARA 538 note 6 ante.

15 Political Parties, Elections and Referendums Act 2000 Sch 15 para 6(8).

16 Ibid s 150, Sch 20. Such a person is liable, on summary conviction, to a fine not exceeding the statutory maximum or to a term of imprisonment not exceeding six months or both or, on conviction on indictment, to a fine or to a term of imprisonment not exceeding one year or both: see s 150, Sch 20.

17 As to the acceptance or return of donations received by a candidate at an election see PARA 294 ante.

18 As to the acceptance or return of donations made to a recognised third party at an election see PARA 332 ante.

19 Political Parties, Elections and Referendums Act 2000 s 56(3) (s 56 applied and modified by the Representation of the People Act 1983 Sch 2A para 7 (as added: see note 8 supra); the Political Parties, Elections and Referendums Act 2000 Sch 11 para 7; the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 7; and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 7). For the meaning of 'responsible person' in relation to a recognised third party see PARA 318 note 15 ante.

20 As to the steps required to be taken with regard to the acceptance or return of donations received by a candidate at an election see PARA 294 ante.

21 As to the steps required to be taken with regard to the acceptance or return of donations made to a recognised third party at an election see PARA 332 ante.

22 Political Parties, Elections and Referendums Act 2000 s 56(4) (as applied and modified: see note 19 supra).

23 Ibid s 150, Sch 20. Such a person is liable, on summary conviction, to a fine not exceeding the statutory maximum or to a term of imprisonment not exceeding six months or both or, on conviction on indictment, to a fine or to a term of imprisonment not exceeding one year or both: see s 150, Sch 20.

24 As to the acceptance or return of donations received by permitted participants at a referendum see PARA 540 ante.

25 Political Parties, Elections and Referendums Act 2000 s 56(3); applied and modified by s 118, Sch 15 para 7. For the meaning of 'responsible person' in relation to a permitted participant which is a registered party see PARA 521 note 23 ante; and for the meaning of 'responsible person' in relation to a permitted participant which is an individual or body but which is not a registered party see PARA 521 note 32 ante.

26 Ibid s 56(4); applied and modified by Sch 15 para 7.

27 Ibid s 150, Sch 20. Such a person is liable, on summary conviction, to a fine not exceeding the statutory maximum or to a term of imprisonment not exceeding six months or both or, on conviction on indictment, to a fine or to a term of imprisonment not exceeding one year or both: see s 150, Sch 20.

28 Ibid s 61(1) (s 61 applied and modified by the Representation of the People Act 1983 Sch 2A para 9 (as added: see note 8 supra); the Political Parties, Elections and Referendums Act 2000 Sch 11 para 8, Sch 15 para 8; the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 9; and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 9).

29 Political Parties, Elections and Referendums Act 2000 s 61(2) (as applied and modified: see note 28 supra).

30 Ibid s 150, Sch 20. Such a person is liable, on summary conviction, to a fine not exceeding the statutory maximum or to a term of imprisonment not exceeding six months or both or, on conviction on indictment, to a fine or to a term of imprisonment not exceeding one year or both: see s 150, Sch 20.

UPDATE

755 Offences related to contravention of the controls imposed on donations during election and referendum campaigns

NOTES 9, 16, 23, 27, 30--Political Parties, Elections and Referendums Act 2000 Sch 20 amended: Political Parties and Elections Act 2009 s 19(3).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(vi) Offences/756. Offences regarding obstruction of the Electoral Commission in its duties etc.

756. Offences regarding obstruction of the Electoral Commission in its duties etc.

A person commits an offence:

- 68 (1) if he fails, without reasonable excuse, to comply with any requirement imposed under the provisions which relate to the supervisory powers of the Electoral Commission¹;
- 69 (2) if he intentionally obstructs a person who is authorised in writing by the Commission² in the carrying out of that person's functions³;
- 70 (3) if he alters, suppresses, conceals or destroys, or causes or permits the alteration, suppression, concealment or destruction of, any document⁴ or other record⁵ relating to the financial affairs or transactions of a supervised organisation⁶ or individual⁷ which is or is liable to be required to be produced for inspection under the supervisory powers of the Commission⁸, and does so with the intention of falsifying the document or record or enabling that organisation or individual to evade any of the provisions of the Political Parties, Elections and Referendums Act 2000⁹;
- 71 (4) if he is the office-holder in circumstances where the relevant person¹⁰ in the case of a supervised organisation¹¹, or a person acting on his behalf, requests a person holding an office in any such organisation (the 'office-holder') to supply the relevant person with any information which he reasonably requires for the purposes of any of the provisions of the Political Parties, Elections and Referendums Act 2000¹², and the office-holder: (a) without reasonable excuse fails to supply the relevant person with that information as soon as is reasonably practicable¹³; or (b) in purporting to comply with the request, knowingly supplies the relevant person with any information which is false in a material particular¹⁴;
- 72 (5) if, with intent to deceive, he withholds from the relevant person in the case of a supervised organisation¹⁵, or from a supervised individual¹⁶, any information required by the relevant person or that individual for the purposes of any of the provisions of the Political Parties, Elections and Referendums Act 2000¹⁷.

A person guilty of such an offence is liable to a penalty¹⁸.

1 Political Parties, Elections and Referendums Act 2000 s 146(5). The text refers to any requirement imposed under s 146 (as amended) (see PARA 58 ante). As to the Electoral Commission see PARA 31 et seq ante.

2 He authorised as mentioned in ibid s 146(3) to exercise powers for the purposes of carrying out the Commission's functions (see PARA 58 ante).

3 Ibid s 146(6). The text refers to the carrying out of that person's functions under s 146(3) (see PARA 58 ante). As to the meaning of 'functions' see PARA 31 note 2 ante.

4 For the meaning of 'document' see PARA 43 note 1 ante.

5 For the meaning of 'record' see PARA 40 note 2 ante.

6 For these purposes, 'supervised organisation' means a registered party or (in the case of such a party with accounting units) the central organisation of the party or any of its accounting units, a regulated donee which is a members association, a regulated participant which is a members association, a recognised third party other

than an individual, or a permitted participant other than an individual, where 'regulated donee' and 'members association' have the same meanings as in the Political Parties, Elections and Referendums Act 2000 s 71, Sch 7 (as amended) (control of donations to individuals and members associations: see CONSTITUTIONAL LAW AND HUMAN RIGHTS), 'regulated participant' has the same meaning as in Sch 7A (as added) (control of loans and certain other transactions to individuals and members associations: see CONSTITUTIONAL LAW AND HUMAN RIGHTS), 'recognised third party' has the same meaning as in Pt VI (ss 85-100) (as amended) (controls affecting expenditure by recognised third parties in national parliamentary election campaigns: see PARA 318 et seq ante) and 'permitted participant' has the same meaning as in Pt VII (ss 101-129) (as amended) (referendums: see PARA 519 et seq ante): s 148(6) (amended by the Electoral Administration Act 2006 s 74(1), Sch 1 paras 138, 151(1), (3), (5)). Accordingly, for the meaning of 'recognised third party' see PARA 318 note 15 ante; and for the meaning of 'permitted participant' see PARA 521 ante. For the meaning of 'registered party' see PARA 32 note 3 ante; and for the meanings of 'accounting units', 'central organisation' (in relation to a registered party) and 'party with accounting units' see PARA 260 note 15 ante. In the Political Parties, Elections and Referendums Act 2000 s 148(1)-(3), any reference to a supervised organisation includes a reference to a former supervised organisation: s 148(4).

7 For these purposes, 'supervised individual' means an individual who is a regulated donee, regulated participant, a recognised third party or a permitted participant: ibid s 148(6) (definition amended by the Electoral Administration Act 2006 Sch 1 paras 138, 151(1), (2)). In the Political Parties, Elections and Referendums Act 2000 s 148(1)-(3), any reference to a supervised individual includes a reference to a former supervised individual (s 148(4)) and s 148(1)-(3) applies in relation to a person who is (or has been) a candidate at an election or the election agent for such a candidate, as it applies in relation to a supervised individual (or a former supervised individual), except that in its application in relation to any such person any reference to any of the provisions of the Political Parties, Elections and Referendums Act 2000 includes a reference to any other enactment imposing any restriction or other requirement falling within s 145(1)(b) (compliance with restrictions and other requirements imposed in relation to election expenses or donations: see PARA 57 ante) (s 148(5)). For these purposes, 'election' means a relevant election for the purposes of Pt II (ss 22-40) (as amended) (see PARA 260 ante) and 'election agent' includes a sub-agent: s 145(7). As to the nomination of sub-agents see PARA 240 et seq ante.

8 le under ibid s 146(1) (see PARA 58 ante).

9 Ibid s 148(1).

10 For these purposes, 'relevant person' means a person who is (or has been), in relation to a registered party (other than a minor party) or the central organisation of such a party, the treasurer of the party or, in relation to any accounting unit of such a party, the registered treasurer of the unit or, in relation to a regulated donee which is a members association, the responsible person for the purposes of ibid Sch 7 (as amended) or, in relation to a regulated participant which is a members association, the person responsible for the purposes of Sch 7A (as added) or, in relation to a recognised third party, the responsible person for the purposes of Pt VI (as amended) or, in relation to a permitted participant, the responsible person for the purposes of Pt VII (as amended): s 148(6) (definition amended by the Electoral Administration Act 2006 Sch 1 paras 138, 151(1), (4)). For the meaning of 'treasurer' see PARA 45 note 7 ante; for the meaning of 'minor party' see PARA 260 note 8 ante; for the meaning of 'responsible person' in relation to a recognised third party see PARA 318 note 15 ante; for the meaning of 'responsible person' in relation to a permitted participant which is a registered party see PARA 521 note 23 ante; and for the meaning of 'responsible person' in relation to a permitted participant which is an individual or body but which is not a registered party see PARA 521 note 32 ante.

11 See note 6 supra.

12 Political Parties, Elections and Referendums Act 2000 s 148(2).

13 Ibid s 148(2)(a).

14 Ibid s 148(2)(b).

15 See note 6 supra.

16 See note 7 supra.

17 Political Parties, Elections and Referendums Act 2000 s 148(3).

18 Ibid s 150, Sch 20. A person guilty of an offence under any of head (1), (2) or (4)(a) in the text is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale; and a person guilty of an offence under any of head (3), (4)(b) or (5) in the text is liable, on summary conviction, to a fine not exceeding the statutory maximum or to a term of imprisonment not exceeding six months or both or, on conviction on indictment, to a fine or to a term of imprisonment not exceeding one year or both: see s 150, Sch 20. As to the

standard scale see PARA 736 note 3 ante. As to the statutory maximum, with reference to a fine or penalty on summary conviction for an offence, see PARA 741 note 15 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(vii) Civil Liabilities/757. Failure to comply with delivery etc of returns to the Electoral Commission.

(vii) Civil Liabilities

757. Failure to comply with delivery etc of returns to the Electoral Commission.

Where the following statutory requirements are not complied with, namely:

- 73 (1) the requirements¹ in relation to any notification required to be given to the Electoral Commission² by the treasurer of a registered party³;
- 74 (2) the requirements⁴ in relation to any return or auditor's report to the Commission relating to a registered party⁵;
- 75 (3) the requirements⁶ in relation to any return or auditor's report to the Commission relating to a recognised third party⁷; or
- 76 (4) the requirements⁸ in relation to any return or auditor's report to the Commission relating to a permitted participant⁹,

the relevant organisation¹⁰ is liable to a civil penalty¹¹. The amount of the penalty is to be determined by reference to the length of the period between: (a) the end of the period within which the notification mentioned in head (1) above was required to be given to the Commission¹² or within which the document mentioned in heads (2) to (4) above was required to be delivered to it¹³, as the case may be¹⁴; and (b) the day on which the requirements are complied with¹⁵.

Any penalty so imposed is recoverable in proceedings brought by the Commission as a debt due to it¹⁶ and, once so recovered, must be paid by it into the Consolidated Fund¹⁷. Where the relevant organisation is an unincorporated association, any such penalty must be paid out of the funds of the organisation¹⁸.

1 le the requirements of the Political Parties, Elections and Referendums Act 2000 s 74(6) (see PARA 305 ante).

2 As to the Electoral Commission see PARA 31 et seq ante.

3 Political Parties, Elections and Referendums Act 2000 s 147(1)(d). For the meaning of 'registered party' see PARA 32 note 3 ante; and for the meaning of 'treasurer' see PARA 45 note 7 ante.

4 le the requirements of ibid s 82(1), (2), (3) (see PARA 313 ante).

5 Ibid s 147(1)(e).

6 le the requirements of ibid s 98(1), (2), (3) (see PARA 327 ante).

7 Ibid s 147(1)(f). 'Recognised third party' has the same meaning as in Pt VI (ss 85-100) (as amended) (controls affecting expenditure by recognised third parties in national parliamentary election campaigns: see PARA 318 et seq ante): see PARA 318 note 15 ante.

8 le the requirements of ibid s 122(1), (2), (3) (see PARA 535 ante).

9 Ibid s 147(1)(g). 'Permitted participant' has the same meaning as in Pt VII (ss 101-129) (as amended) (referendums: see PARA 519 et seq ante): see PARA 521 ante.

10 le, in a case falling within head (1) or head (2) in the text, the registered party concerned; in a case falling within head (3) in the text, the recognised third party concerned; and, in a case falling within head (4) in the text, the permitted participant concerned: *ibid* s 147(8).

11 *Ibid* s 147(2). This is in addition to any criminal liability of any person under any other provision of the Political Parties, Elections and Referendums Act 2000: s 147(2).

12 *Ibid* ss 147(3)(a)(i), 160(1).

13 *Ibid* s 147(3)(a)(ii).

14 *Ibid* s 147(3)(a).

15 *Ibid* s 147(3)(b). Accordingly, such a period whose length is not more than three months incurs a penalty of £500, such a period of more than three months but not more than six months incurs a penalty of £1,000, and such a period of more than six months but less than 12 months incurs a penalty of £2,000: s 147(3). If the requirements are not complied with by the end of the period of 12 months after the end of the period referred to in head (a) in the text, a penalty of £5,000 is payable in respect of that period of 12 months and in respect of each subsequent period of 12 months during any part of which the requirements are not complied with: s 147(4).

16 *Ibid* ss 147(5)(a), 160(1).

17 *Ibid* s 147(5)(b). As to the Consolidated Fund see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 711 *et seq*; PARLIAMENT vol 78 (2010) PARAS 1028-1031

18 *Ibid* s 147(6).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(2) IRREGULARITIES AND OFFENCES/(vii) Civil Liabilities/758. Financial penalty for sitting or voting in office where no financial returns or declarations are transmitted.

758. Financial penalty for sitting or voting in office where no financial returns or declarations are transmitted.

If, in the case of any candidate at a parliamentary election¹, the return² and declarations³ as to election expenses are not delivered before the expiration of the time limited for the purpose, that candidate must not after the expiration of that time sit or vote in the House of Commons as the member for the constituency⁴ for which the election was held⁵ until either that return and those declarations have been delivered⁶, or until the date of the allowance of an authorised excuse⁷ for the failure to deliver the same⁸, and if he sits or votes in contravention of this provision, he forfeits £100 for every day on which he so sits or votes⁹.

Similarly a candidate at a local government election¹⁰ must not, after the expiration of the expiration of the time limited for the purpose, sit or vote in the council for the local government area for which the election was held¹¹ to which he has been elected until the appropriate return and declaration or declarations¹² have been delivered or until the date of the allowance of an authorised excuse¹³, and, if he does so, he forfeits £50 for every day on which he so sits or votes¹⁴.

At a Welsh Assembly election¹⁵, if the appropriate return and declaration or declarations¹⁶ are not delivered before the expiry of the time limited for the purpose, the candidate must not, after the expiry of that time, sit or vote in the National Assembly for Wales as member for the Assembly constituency¹⁷ or Assembly electoral region¹⁸ for which the election was held until either that return and those declarations (or that declaration, as the case may be) have been delivered¹⁹ or the date of the allowance of an authorised excuse for the failure to deliver that return and those declarations or, as the case may be, that declaration²⁰, and if he sits or votes in contravention of this provision he forfeits £100 for every day on which he so sits or votes²¹.

Civil proceedings for a penalty under these provisions must be commenced within the period of one year beginning with the day in respect of which the penalty is alleged to have been incurred²². In respect of a candidate at a local government election²³, instead of civil proceedings for a penalty, summary proceedings may be instituted²⁴ in a magistrates' court and he is liable on conviction to a fine of an amount not exceeding the amount of the penalty that would be recoverable in civil proceedings²⁵.

1 For the meaning of 'candidate' generally see PARA 237 ante; and for the meaning of 'parliamentary election' see PARA 9 ante.

2 For the meaning of 'return as to election expenses' see PARA 286 note 1 ante. A return which has been duly delivered constitutes a good return for these purposes, even though there is an error in the return: *Mackinnon v Clark* [1898] 2 QB 251 at 257-258, CA, per A L Smith LJ.

3 For the meaning of 'declaration as to election expenses' see PARA 287 note 2 ante.

4 For the meaning of 'constituency' see PARA 9 ante.

5 Representation of the People Act 1983 s 85(1) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 29(a)).

6 Representation of the People Act 1983 s 85(1)(a) (as amended: see note 5 supra).

7 For the meaning of 'date of the allowance of an excuse' for these purposes see PARA 691 ante.

8 Representation of the People Act 1983 s 85(1)(b) (as amended: see note 5 supra). The penalty belongs to the Crown: *Bradlaugh v Clarke* (1883) 8 App Cas 354, HL.

9 Representation of the People Act 1983 s 85(1).

10 For the meaning of 'local government election' see PARA 10 ante. However, *ibid* s 85(1), (2) (as amended) does not apply in relation to a candidate in an election of the Mayor of London (for which separate provision is made by disqualification under s 85A (as added): see PARA 903 post): s 85(2A)(a) (s 85(2A) added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 25).

11 For the meaning of 'local government area' see PARA 18 note 2 ante. The Representation of the People Act 1983 s 85 (as amended) does not apply to an election of parish councillors in England or community councillors in Wales but, by virtue of s 90(1)(b) (as amended), provision is made in relation to a parish council in England and community council in Wales under Sch 4 (as amended). As respects an Authority election, except an election of the Mayor of London (see note 10 supra), the reference to the council for the local government area for which the election was held must be taken as a reference to the London Assembly: s 85(2A)(b) (as added: see note 10 supra). For the meaning of 'Authority election' see PARA 10 ante. As to elections in the City of London see PARA 30 ante.

12 In the case of a candidate included in a list submitted by a registered political party under the Greater London Authority Act 1999 s 4(6), Sch 2 para 5(2) (election of London members of the London Assembly: see PARA 233 ante), the references to returns and declarations in respect of election expenses are references to the declaration as to election expenses by the candidate: s 85(2A)(c) (as added: see note 10 supra).

13 For the meaning of 'date of the allowance of an authorised excuse' in relation to a parish or community council see PARA 692 note 11 ante.

14 Representation of the People Act 1983 s 85(1) (as amended: see note 5 supra); applied by s 85(2); and by s 90(1)(b), Sch 4 para 4(1). This provision does not apply to sitting or voting at meetings of committees of the council: *Nichol v Fearby* [1923] 1 KB 480.

15 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

16 *Ie*, in the case of a candidate at a constituency election or an individual candidate at a regional election, the return and declarations as to election expenses (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 55(1)(a)) or, in the case of a party list candidate, his declaration as to election expenses (art 55(1)(b)). For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante; and for the meaning of 'individual candidate' and 'party list candidate' in relation to a Welsh Assembly regional election see PARA 237 note 23 ante.

17 For the meaning of 'Assembly constituency' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

18 For the meaning of 'Assembly electoral region' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

19 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 55(1)(i), (ii).

20 *Ibid* art 55(1)(iii).

21 *Ibid* art 55(1).

22 Representation of the People Act 1983 s 85(3) (substituted by the Representation of the People Act 1985 Sch 4 para 29(b)); Representation of the People Act 1983 Sch 4 para 4(2) (substituted by the Representation of the People Act 1985 Sch 4 para 89(b)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 55(2). For these purposes, where the service or execution of legal process on or against the alleged offender is prevented by the absconding or concealment or act of the alleged offender, the issue of legal process is deemed to be a commencement of a proceeding; but, where this does not apply, the service or execution of legal process on or against the alleged offender, and not its issue, is deemed to be the commencement of the proceeding: Representation of the People Act 1983 s 85(4) (amended by the Political Parties, Elections and Referendums Act 2000 s 138(1), Sch 18 para 1, 19(2)); Representation of the People Act 1983 Sch 4 para 4(3) (amended by the Representation of the People Act 1985 Sch 4 para 89(b); and the Political Parties, Elections and Referendums Act 2000 Sch 18 para 1, 19(7)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 55(3). On any proceedings for a penalty under the Representation of the People Act 1983 s 85 (as amended) or Sch 4 para 4 (as amended) the certificate of the

returning officer at an election that the election mentioned in the certificate was duly held, and that the person named in the certificate was a candidate at the election, is sufficient evidence of the facts stated in it: s 180.

23 See note 10 *supra*.

24 As to the time within which the proceedings must be instituted see PARA 881 *post*.

25 See the Representation of the People Act 1983 s 85(2)(b); and Sch 4 para 4(1)(b).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(i) Method and Regulation of Procedure/759. Questioning parliamentary elections.

(3) QUESTIONING ELECTIONS AND REFERENDUMS

(i) Method and Regulation of Procedure

759. Questioning parliamentary elections.

No parliamentary election¹ and no return to Parliament² may be questioned except by a petition (a 'parliamentary election petition')³ complaining of an undue election or undue return, which is presented in accordance with the statutory provisions⁴.

The Representation of the People Act 1983 does not define what is meant by an undue election or undue return, but a number of the provisions of that Act provide that a parliamentary election may be avoided for corrupt or illegal practices or similar offences⁵. The occurrence of these offences may form the ground for bringing an election petition. Further, certain persons are disqualified from being candidates at parliamentary elections⁶, and if such a person is elected, his election can only be questioned by an election petition⁷. A returning officer's decision that a nomination paper is invalid can be questioned on an election petition⁸. Other objections to a candidate's nomination can also be considered on an election petition⁹. When the result of the poll has been ascertained it is the returning officer's duty forthwith to declare the candidate to whom the majority of votes have been given to be elected¹⁰. If it is alleged that there has been a miscount, a petition may be brought demanding a recount¹¹; if it is contended that votes were wrongly admitted or rejected, a petition may claim the seat for an unsuccessful candidate on the ground that he had a majority of lawful votes¹². No parliamentary election is to be declared invalid by reason of any act or omission by the returning officer or any other person in breach of his official duty in connection with the election or otherwise of the parliamentary elections rules if it appears to the tribunal having cognisance of the question that the election was so conducted as to be substantially in accordance with the law as to elections and the act or omission did not affect the result¹³.

A petition complaining of no return is deemed to be a parliamentary election petition, and the High Court may make such order on the petition as it thinks expedient for compelling a return to be made or it may allow the petition to be heard by an election court¹⁴ as provided with respect to ordinary election petitions¹⁵.

1 For the meaning of 'parliamentary election' see PARA 9 ante.

2 The distinction drawn by the statute between a petition questioning a parliamentary election and one questioning a return to Parliament does not appear in relation to a petition questioning an election under the Local Government Act 1972: see PARA 760 post.

3 For these purposes, 'election petition' means a petition presented in pursuance of the Representation of the People Act 1983 Pt III (ss 120-186) (as amended) (legal proceedings): s 202(1).

4 Ibid s 120(1). The text refers to the provisions of Pt III (as amended).

5 As to illegal practices (including those which are also offences) see PARA 674 et seq ante; as to corrupt practices (including those which are also offences) see PARA 707 et seq ante, and as to the consequences of such practices see PARA 885 et seq post. As to corruption generally see PARA 893 post; and as to employment of a corrupt agent see PARA 894 post.

6 As to disqualification for membership of the House of Commons (and therefore for candidacy at parliamentary elections) see PARA 231 ante.

7 See eg *Galway County Case* (1872) 2 O'M & H 46; *Tipperary County Case* (1875) 3 O'M & H 19. The returning officer cannot hold a nomination paper invalid on the ground of the candidate's disqualification unless the rules so provide: see PARA 271 ante. As to votes regarded as thrown away see PARA 843 post.

8 See the Representation of the People Act 1983 s 23(1), Sch 1 r 12(6); and PARA 271 ante. See also *R v Dublin Town Clerk* (1909) 43 ILT 169. A returning officer's decision that a nomination paper is valid is final: see the Representation of the People Act 1983 Sch 1 r 12(5); and PARA 271 ante.

9 See ibid Sch 1 r 12(6); and PARA 271 ante. Notwithstanding the different statutory wording on which the cases were decided, see *Monks v Jackson* (1876) 1 CPD 683; *Brown v Benn* (1889) 53 JP 167, DC; *Boyce v White* (1905) 92 LT 240, DC.

10 See the Representation of the People Act 1983 Sch 1 r 50(1); and PARA 478 ante.

11 See eg *Renfrew County Case* (1874) 2 O'M & H 213; *Halifax Case* (1893) 9 TLR 563, 4 O'M & H 203; *Lancaster County, North Lonsdale Division Case* (1910) 6 O'M & H 97; *Wiltshire, North Western Chippenham Division Case* (1911) 6 O'M & H 99; *Mile End Division, Tower Hamlets, Case* (1911) 6 O'M & H 100; *Gloucester Borough Case, Lynch v Terrell* (1911) 6 O'M & H 101; *St Pancras, West Division Case* (1911) 6 O'M & H 102. As to applications for a recount see PARAS 853-854 post.

12 *Taunton Case, Williams and Mellor v Cox* (1869) 21 LT 169 at 173, 1 O'M & H 181 at 186; *York County West Riding, Southern Division Case* (1869) 1 O'M & H 213 at 215. As to the rejection of ballot papers see PARA 434 et seq ante.

13 See the Representation of the People Act 1983 s 23(3); and PARA 355 ante.

14 For these purposes, 'election court' means, in relation to a parliamentary election petition, the judges presiding at the trial: ibid s 202(1).

15 Ibid s 120(2).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(i) Method and Regulation of Procedure/760. Questioning local elections.

760. Questioning local elections.

An election under the Local Government Act 1972¹ may be questioned on the following grounds: (1) that the person whose election is questioned was, at the time of the election, disqualified²; or (2) that the person whose election is questioned was not duly elected³; or (3) that the election was avoided by corrupt or illegal practices⁴; or (4) that corrupt or illegal practices or illegal payments, employments or hirings, committed with reference to the election for the purpose of promoting or procuring the election of any person, have so extensively prevailed that they may be reasonably supposed to have affected the result⁵; or (5) that the candidate or his election agent personally engaged, as a canvasser or agent for the conduct or management of the election, any person whom he knew or had reasonable grounds for supposing to be subject to an incapacity to vote at the election by reason of his having been convicted of certain corrupt or illegal practices⁶. An election under the Local Government Act 1972 must not be questioned on any of these grounds except by an election petition⁷. A returning officer's decision that a nomination paper is invalid⁸ can be questioned on an election petition⁹. Other objections to a candidate's nomination have also been considered on an election petition¹⁰. An election under the Local Government Act 1972 can be declared invalid on the ground of irregularities on the part of election officials if it appears to the court that the election was not so conducted as to be substantially in accordance with the law as to elections or that the irregularities affected the result¹¹.

1 For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante. As to elections in the City of London see PARA 30 ante.

2 Representation of the People Act 1983 s 127(a). As to disqualification for being elected to local government office see LOCAL GOVERNMENT vol 69 (2009) PARA 119.

3 Ibid s 127(b). This covers claims for a scrutiny (see PARA 837 et seq post) or for a recount (see PARAS 853-854 post): see *Greenock Case* (1892) Day 20.

4 Representation of the People Act 1983 s 127. As to the avoidance of elections where the elected candidate has been reported guilty of corrupt or illegal practices see PARA 892 post.

5 See ibid s 164; and PARA 893 post (provisions applied by s 127).

6 See ibid s 165; and PARA 894 post (provisions applied by s 127).

7 Ibid s 127; *R v Morton* [1892] 1 QB 39. The seat or office is, however, vacated if the successful candidate is convicted of a corrupt practice: see PARA 904 post.

8 As to questioning the validity of nomination papers see PARA 271 ante.

9 See the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 8(8); the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 8(8); and PARA 271 ante.

10 See *Brown v Benn* (1889) 53 JP 167; *Boyce v White* (1905) 92 LT 240, DC. The wording of the statutory provisions on which those cases were decided was, however, different from that of the current provisions (as to which see note 9 supra).

11 See the Representation of the People Act 1983 s 48(1); and PARA 359 ante. See also *Morgan v Simpson* [1975] QB 151, [1974] 3 All ER 722, CA; *Ruffle v Rogers* [1982] QB 1220, [1982] 3 All ER 157, CA.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(i) Method and Regulation of Procedure/761. Application of provisions relating to questioning parliamentary and local elections to other polls.

761. Application of provisions relating to questioning parliamentary and local elections to other polls.

The statutory provisions relating to parliamentary and local election petitions¹, so far as they apply to the election of parish or community councillors or of the chairman of a parish or community council², have effect subject to such adaptations, modifications and exceptions as may be made by rules made by the Secretary of State³. The statutory provisions relating to the questioning of elections⁴ apply also to the election of the chairman of a parish meeting, and to a poll consequent on a parish or community meeting relating to appointment to any other office, as though they were polls for elections of parish or community councillors, subject to certain modifications and adaptations⁵.

No return of an elected mayor or elected executive member at an election⁶ is to be questioned except by an election petition under the provisions of the Representation of the People Act 1983⁷ as applied by or incorporated in regulations made for the purpose⁸.

The provision made for the questioning of an election under the Local Government Act 1972 is applied and modified also for the purpose of questioning a local authority referendum⁹.

1 le the provisions of the Representation of the People Act 1983 Pt III (ss 120-186) (as amended) (legal proceedings).

2 As to the election of councillors for parish or community councils and of the chairman for parish meetings generally see PARA 207 ante. As to parish meetings see further the text and notes 4-5 infra. As to elections in the City of London see PARA 30 ante.

3 Representation of the People Act 1983 s 187(1) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 64). As to the Secretary of State see PARA 2 ante. The reference in the text is to rules under the Representation of the People Act 1983 s 36 (as amended) (see PARA 388 ante). The only modifications so made under the current rules are, in the case of parish or community elections, a reduction in the amount of the security which a petitioner must give for costs (see PARA 794 post) and the substitution of references to the returning officer for references to the proper officer of the authority: see the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 6. As to the returning officer at a parish or community council election see PARA 359 ante. As to the Secretary of State see PARA 2 ante.

4 See note 1 supra.

5 Representation of the People Act 1983 s 187(1) (as amended: see note 3 supra); Local Government Act 1972 s 99, Sch 12 paras 18(5), 34(5) (amended by the Representation of the People Act 1983 s 206, Sch 8 para 14); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6. The provisions referred to in the Representation of the People Act 1983 s 187(1) (as amended) are applied to such an election and to such polls as are mentioned in the text subject to the modifications that: (1) references to the proper officer of the authority for which the election was held are to be taken as references to the returning officer (Parish and Community Meetings (Polls) Rules 1987 r 6(b)); (2) references to the authority for which the election was held are to be taken as references to the parish and references to the area thereof are to be construed accordingly, except in the Representation of the People Act 1983 s 130(6) (place of trial of petition: see PARA 804 post) (Parish and Community Meetings (Polls) Rules 1987 r 6(c)); (3) the amount of security for costs is reduced (see PARA 794 post) (r 6(f)); and (4) references to an election under the local government Act are to be deemed to include a reference to a poll consequent on a parish or community meeting (r 6(g)). As to the rules for polls consequent on a parish or community meeting generally see PARA 388 ante. For the meaning of 'election under the local government Act' see PARA 10 note 2 ante.

Although all polls consequent on a parish or community meeting must be conducted by ballot (see the Local Government Act 1972 Sch 12 para 18(5), 34(5) (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 638),

not all such polls relate to the election of officials, to which alone the statutory provisions as to the questioning of elections apply and the provisions do not apply to polls on a question other than a question of appointment to an office: Parish and Community Meetings (Polls) Rules 1987 r 6(a). As to the election of the chairman of a parish meeting see the Local Government Act 1972 ss 15(10), 88(3), Sch 12 paras 17, 33; and see PARA 207 ante. Although Sch 12 para 17(3) refers to the appointment of the chairman of a parish meeting and Sch 12 para 17(2) to the chairman being chosen, it is submitted that it is not intended to draw a distinction between his election and his being appointed or chosen: see the Representation of the People Act 1983 s 187(1). A parish or community meeting may have the right to elect to other offices, such as that of a charity trustee: see CHARITIES vol 8 (2010) PARA 265.

6 For the meanings of 'elected executive member' and 'elected mayor' see LOCAL GOVERNMENT vol 69 (2009) PARA 320. As to elections for the return of a local authority mayor see PARA 205 et seq ante. At the date at which this volume states the law, no provision had been made in relation to the return of executive members in England and Wales.

7 See note 1 supra.

8 See the Local Government Act 2000 s 44(4); and LOCAL GOVERNMENT vol 69 (2009) PARA 320. Accordingly, for the purposes of s 44(4), the Representation of the People Act 1983 Pt III (as amended) has effect in relation to the questioning of an election for the return of an elected mayor as it has effect in relation to the questioning of an election under the local government Act: Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 6.

9 See PARA 764 post.

UPDATE

761 Application of provisions relating to questioning parliamentary and local elections to other polls

NOTE 5--Local Government Act 1972 s 99 further amended: see PARA 388.

NOTE 8--SI 2002/185 reg 6 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 5.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(i) Method and Regulation of Procedure/762. Questioning elections to the National Assembly for Wales.

762. Questioning elections to the National Assembly for Wales.

No Welsh Assembly election¹ and no return² to the National Assembly for Wales may be questioned except by a petition complaining of an undue election or undue return (an 'Assembly election petition')³ presented in accordance with the statutory provisions⁴.

A petition complaining of no return is deemed to be an Assembly election petition and the High Court may make such order on the petition as it thinks expedient for compelling a return to be made⁵ or may allow the petition to be heard by an election court⁶ as provided with respect to ordinary Assembly election petitions⁷. A Welsh Assembly election can be declared invalid on the ground of irregularities on the part of election officials if it appears to the court that the election was not so conducted as to be substantially in accordance with the law as to elections or that the irregularities affected the result⁸.

1 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

2 For these purposes, the expression 'return' as the context requires refers to a return following an Assembly election or to a return under the Government of Wales Act 1998 s 9 (election to fill a vacancy in an electoral region seat: see PARA 222 ante): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 85(3). The provisions of the Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes after that date see the Government of Wales Act 2006 s 11; and PARA 222 ante.

3 'Assembly election petition' includes a petition complaining of an undue return under the Government of Wales Act 1998 s 9 (election to fill a vacancy in an electoral region seat: see PARA 222 ante): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 85(1). See note 2 supra.

4 Ibid art 85(1). The text refers to the provisions of Pt IV (arts 85-137) (as amended) (see also PARA 765 et seq post).

5 Ibid art 85(2)(a).

6 For these purposes, 'election court' means the judges presiding at the trial of an Assembly election petition: ibid art 2(1).

7 Ibid art 85(2)(b).

8 See ibid art 16(3); and PARA 362 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(i) Method and Regulation of Procedure/763. Questioning European parliamentary elections.

763. Questioning European parliamentary elections.

No European parliamentary election¹ and no declaration of the result by the returning officer² may be questioned except by a petition complaining of an undue election or undue declaration (a 'European parliamentary election petition') presented in accordance with the statutory provisions³.

A petition complaining that no declaration of the result has been given by the returning officer is deemed to be a European parliamentary election petition and the High Court may make such order on the petition as it thinks expedient for compelling a declaration of the result to be made⁴ or it may allow the petition to be heard by an election court as provided with respect to ordinary European parliamentary election petitions⁵.

No European parliamentary election petition may be brought on the grounds of the commission of corrupt or illegal practices, except on grounds of personation or other voting offences⁶, or where an application may be made⁷ for a declaration that a person who purports to be a member of the European Parliament ('MEP') for a particular electoral region is disqualified or was so disqualified at the time when, or at some time since, he was returned as an MEP⁸. A European parliamentary election can be declared invalid on the ground of irregularities on the part of election officials if it appears to the court that the election was not so conducted as to be substantially in accordance with the law as to elections or that the irregularities affected the result⁹.

1 As to European parliamentary elections see PARA 224 et seq ante.

2 Ie under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 56 (see PARA 491 ante).

3 Ibid reg 88(1). The text refers to the provisions of Pt 4 (regs 86-122) (as amended) (see PARA 765 et seq post).

4 Ibid reg 88(2)(a).

5 Ibid reg 88(2)(b).

6 Ibid reg 88(3). The text refers to the grounds of the commission of corrupt or illegal practices set out in reg 23 (personation: see PARA 733 ante) and reg 24 (as amended) (voting offences which are illegal practices: see PARA 703 ante).

7 Ie under the European Parliamentary Elections Act 2002 s 11 (as amended) (see PARA 235 ante).

8 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 88(4).

9 See ibid reg 9(5); and PARA 365 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(i) Method and Regulation of Procedure/764. Questioning local authority referendums.

764. Questioning local authority referendums.

A local authority referendum¹ may be questioned by petition (a 'referendum petition'): (1) on the ground that the result of the referendum was not in accordance with the votes cast²; (2) on the ground that the referendum was avoided by corrupt or illegal practices³; (3) on the grounds that corrupt or illegal practices or illegal payments, employments or hirings, committed with reference to the referendum for the purpose of promoting or procuring a particular result in the referendum, have so extensively prevailed that they may be reasonably supposed to have affected the result⁴; or (4) subject to head (3) above, on the ground that a payment of money or other reward has been made or promised since the referendum in pursuance of a corrupt or illegal practice relevant to local authority referendums⁵. Certain provisions of the Representation of the People Act 1983⁶ which apply to the questioning of an election under the Local Government Act 1972⁷ have effect, subject to minor modification, in relation to the questioning of a local authority referendum⁸.

Where a referendum petition is presented on any of the grounds specified in heads (1) to (3) above (or where leave is granted for the presentation of a referendum petition) in relation to a local authority referendum at which the question asked relates to proposals involving a leader and cabinet executive⁹ and in which the majority of the votes cast are 'yes' votes¹⁰, then: (a) if the petition is presented before the authority has passed the resolution required enabling it to operate the executive arrangements that were the subject of the referendum¹¹, the authority must take no further steps in consequence of the referendum until the election court has certified its determination in the matter of the referendum petition¹²; and (b) if the petition is presented after the authority has passed the resolution so required¹³, the authority must continue to operate the executive arrangements that are the subject of that resolution¹⁴.

Where a referendum petition is presented on any of the grounds specified in heads (1) to (3) above (or where leave is granted for the presentation of a referendum petition) in relation to a local authority referendum at which the question asked relates to proposals involving either a mayor and cabinet executive¹⁵ or a mayor and council manager executive¹⁶ and in which the majority of the votes cast are 'yes' votes¹⁷, and without an election for the return of an elected mayor having taken place in consequence of the referendum¹⁸, the local authority must take no further steps in consequence of the referendum until the election court has certified its determination in the matter of the referendum petition¹⁹. Where leave is granted for the presentation of a referendum petition at which the question asked relates to proposals involving either a mayor and cabinet executive²⁰ or a mayor and council manager executive²¹ and in which the majority of the votes cast are 'yes' votes²², and after an election for the return of an elected mayor has taken place in consequence of the referendum²³, the elected mayor must continue in office²⁴.

Where a referendum petition is presented on any of the grounds specified in heads (1) to (3) above (or where leave is granted for the presentation of a referendum petition) in relation to a local authority referendum in which the majority of the votes cast are 'no' votes²⁵, and where the local authority's outline fall-back proposals²⁶ are based on the executive or alternative arrangements²⁷ which it was operating at the date of the referendum²⁸, it must continue to operate those arrangements²⁹. However, where a referendum petition is presented on any of the grounds specified in heads (1) to (3) above (or where leave is granted for the presentation of a referendum petition) in relation to a referendum in which the majority of the votes cast are

'no' votes³⁰: (i) if the petition is presented before the local authority has passed the resolution required enabling it to operate either the executive arrangements that were the subject of the referendum³¹ or the existing alternative arrangements³², the local authority must take no further steps in consequence of the referendum until the election court has certified its determination in the matter of the referendum petition³³; and (ii) if the petition is presented after the local authority has passed either such resolution³⁴, the local authority must continue to operate the executive arrangements or, as the case may be, the alternative arrangements that are the subject of that resolution³⁵.

1 Ie a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(1)(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(1)(a).

3 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(1)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(1)(b). The text refers to such corrupt or illegal practices within the meaning of the Representation of the People Act 1983 as are relevant to referendums by virtue of, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, regs 8, 19(8) and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, regs 8, 15(8) (see the text and notes 6-8 infra).

4 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(1)(c); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(1)(c). The text refers to the grounds provided by the Representation of the People Act 1983 s 164 (avoidance of election for general corruption etc: see PARA 893 post), as applied for these purposes, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(8) and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(8) (see the text and notes 6-8 infra).

5 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(1)(d); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(1)(d). The text refers to a corrupt or illegal practice relevant to referendums by virtue of, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, regs 8, 19(8) and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, regs 8, 15(8) (see the text and notes 6-8 infra).

6 Ie certain provisions of the Representation of the People Act 1983 Pt III (ss 120-186) (as amended) (legal proceedings) as set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(8), Sch 6 and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(8), Sch 5.

7 As to the questioning of an election under the Local Government Act 1972 see PARA 760 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

8 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(8); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(8). The text refers to specified provisions of the Representation of the People Act 1983 (as to which see note 6 supra) having effect subject to the modifications set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8(1)(a)-(p) and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8(1)(a)-(p) and subject to the substitution for 'an election petition', wherever that term appears, of 'a referendum petition' (plus the words, in relation to England, 'under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298' and, in relation to Wales 'under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870') and subject to the further modifications set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 6 and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 5: see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(8); and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(8).

9 Ie if the question was in the form set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 1 Pt I para 3 or, in relation to Wales, in the Local

Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 1 Pt I para 3 (see PARA 577 ante). For the meaning of 'leader and cabinet executive' see LOCAL GOVERNMENT vol 69 (2009) PARA 327.

10 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(1)(a), (2) (a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(1)(a), (2)(a).

11 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(1)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(1)(b). The text refers to the resolution required under the Local Government Act 2000 s 29 (as to which see LOCAL GOVERNMENT vol 69 (2009) PARA 309): see PARA 659 ante.

12 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(1).

13 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(2)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(2)(b).

14 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(2); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(2).

15 Ie if the question was in the form set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 1 Pt I para 1 and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 1 Pt I para 1 (see PARA 577 ante). For the meaning of 'mayor and cabinet executive' see LOCAL GOVERNMENT vol 69 (2009) PARA 327.

16 Ie if the question was in the form set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 1 Pt I para 2 and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 1 Pt I para 2 (see PARA 577 ante). For the meaning of 'mayor and council manager executive' see LOCAL GOVERNMENT vol 69 (2009) PARA 327.

17 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(3)(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(3)(a).

18 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(3)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(3)(b).

19 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(3); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(3).

20 See note 15 supra.

21 See note 16 supra.

22 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(4)(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(4)(a).

23 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(4)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(4)(b).

24 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(4); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(4).

25 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(5)(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(5)(a).

26 For the meaning of 'outline fall-back proposals' in relation to England and Wales see PARA 576 note 8 ante.

27 For the meaning of 'existing executive arrangements' see PARA 563 note 10 ante. As to alternative arrangements see LOCAL GOVERNMENT vol 69 (2009) PARA 364.

28 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(5)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(5)(b).

29 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(5); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(5).

30 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(6)(a), (7) (a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(6)(a), (7)(a).

31 le the resolution required under the Local Government Act 2000 s 29 (as to which see LOCAL GOVERNMENT vol 69 (2009) PARA 309): see PARA 659 ante.

32 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(6)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(6)(b). The text refers to the resolution required under the Local Government Act 2000 s 33: see LOCAL GOVERNMENT vol 69 (2009) PARA 366.

33 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(6); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(6).

34 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(7)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(7)(b).

35 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(7); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(7).

UPDATE

764 Questioning local authority referendums

TEXT AND NOTES--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(i) Method and Regulation of Procedure/765. Election petition rules.

765. Election petition rules.

The authority having power to make rules of court for the Supreme Court may make rules for the purposes of election petitions¹. The power is exercisable by statutory instrument² which is subject to annulment in pursuance of a resolution of either House of Parliament³.

Subject to the provisions of the Representation of the People Act 1983⁴ (and, in relation to a Welsh Assembly election, the rules provided as to the conduct of elections for the return of Assembly members⁵ and, in relation to a European parliamentary election, the European parliamentary elections rules⁶) and subject to the rules governing the procedure for petitions⁷, the practice and procedure of the High Court apply to a petition as if it were an ordinary claim within the High Court's jurisdiction, notwithstanding any different practice, principle or rule on which the committees of the House of Commons used to act in dealing with such petitions⁸.

1 Representation of the People Act 1983 s 182(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 133(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 120(1). Rules of court mean either election petition rules made or rules having effect as if made under the Representation of the People Act 1983 s 182 (prospectively amended) or rules of the Supreme Court made or having effect as if made under the Supreme Court Act 1981 s 84 (as amended) (see COURTS vol 10 (Reissue) PARAS 577-578): see the Interpretation Act 1978 s 5, Sch 1.

As from a day to be appointed under the Constitutional Reform Act 2005 s 148(1), the reference in the Representation of the People Act 1983 s 182(1) to the Supreme Court is replaced by a reference to the Senior Courts: see s 182(1) (prospectively amended by the Constitutional Reform Act 2005 s 59(5), Sch 11 para 28(1), (3)(a)). At the date at which this volume states the law, no such day had been appointed.

2 For the purposes of the Statutory Instruments Act 1946 (see STATUTES vol 44(1) (Reissue) PARA 1503), this power is to be treated as if conferred on a Minister of the Crown: Representation of the People Act 1983 s 182(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 133(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 120(2)(a).

3 Representation of the People Act 1983 s 182(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 133(2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 120(2)(b). As respects parliamentary elections (see PARA 759 ante) and elections under the Local Government Act 1972 (see PARA 760 ante), the current rules are the Election Petition Rules 1960, SI 1960/543 (as amended). Those rules have effect in relation to a Welsh Assembly election petition (as to which see PARA 762 ante) as if made in the exercise of the power conferred by the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 133(1), subject to the modifications set out in Sch 9: art 133(3). The Election Petition Rules 1960, SI 1960/543 (as amended) also have effect in relation to a local authority referendum petition (as to which see PARA 764 ante) as they have effect in relation to a local election petition within the meaning of those rules subject to the modifications set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 7 (see reg 19(9)) and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 6 (see reg 15(9)). As respects European parliamentary elections (see PARA 763 ante), the current rules are, by virtue of the Interpretation Act 1978 s 17(2)(b), the European Parliamentary Election Petition Rules 1979, SI 1979/521 (as amended).

4 Ie including those provisions applied and modified for the purposes of a local authority referendum (see PARA 764 ante).

5 Ie the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended) (see PARA 388 ante).

6 For the meaning of 'European parliamentary elections rules' see PARA 388 ante.

7 See note 3 *supra*.

8 Election Petition Rules 1960, SI 1960/543, r 2(4) (amended by SI 1999/1352); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 2(3) (amended by SI 1999/1398; SI 2004/1415); and see note 3 *supra*. As to the relevance of the principles, practice and rules on which committees of the House of Commons used to act see PARAS 769, 777, 815 *post*.

UPDATE

765 Election petition rules

NOTE 1--Appointed day is 1 October 2009: SI 2009/1604.

NOTE 3--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(i) Method and Regulation of Procedure/766. Mandatory time limits.

766. Mandatory time limits.

Where the day or last day on which anything is required or permitted to be done by, or in pursuance of, the provisions governing the questioning of elections and referendums¹ is a Saturday or Sunday, Christmas Eve, Christmas Day, Good Friday, a bank holiday² or any day appointed for public thanksgiving or mourning, the requirement or permission is deemed to relate to the first day after that which is not one of those days³. In computing any period of not more than seven days, any of those days is to be disregarded⁴.

Any period of time prescribed by the rules governing the procedure for petitions⁵ for the purposes of: (1) applications made by the petitioner to fix the amount of security for costs which he is to give⁶; (2) service by the petitioner on the respondent⁷ and on the Director of Public Prosecutions of a notice of the presentation of the petition and of the nature and amount of the security which he has given⁸; and (3) service by the respondent on the petitioner of any notice of his objection to a recognisance⁹ and the issue and service on the petitioner of an application notice to determine the validity or otherwise of the objection¹⁰, must be computed in accordance with the provisions set out above¹¹ and must not be varied by order or otherwise¹². Accordingly, there is no scope available for a court to order service out of time under these provisions whose mandatory nature cannot be avoided¹³ despite the draconian regime as regards time for service to which this gives rise¹⁴.

Otherwise (that is, except for the purposes set out in heads (1) to (3) above) the relevant provisions of the Civil Procedure Rules¹⁵ apply to any period of time prescribed by the rules which govern the procedure for petitions as if it were prescribed by the Civil Procedure Rules¹⁶.

1 I.e., in relation to a parliamentary or local government election, the Representation of the People Act 1983 Pt III (ss 120-186) (as amended) (including those provisions as applied and modified) or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Pt IV (arts 85-137) (as amended) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, Pt 4 (regs 86-122) (as amended) (see PARA 759 et seq ante).

2 For the meaning of 'bank holiday' for these purposes see PARA 237 note 11 ante.

3 Representation of the People Act 1983 s 186, applying s 119(1)(a), (2) (s 119(2) substituted by the Representation of the People Act 1985 s 19(4); and amended by the Electoral Administration Act 2006 ss 20, 74(2), Sch 1 paras 49, 51(1), Sch 2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 art 137, applying art 84(1)(a), (2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 87, applying reg 32(1)(a), (2).

Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 49, 51 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. Accordingly, until that date, Maundy Thursday also appears in the days listed for the purposes of the Representation of the People Act 1983 s 119(2) (as amended).

4 Ibid s 186, applying s 119(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 art 137, applying art 84(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 87, applying reg 32(1)(b); and see note 3 supra.

5 As to the current rules see PARA 765 note 3 ante.

6 le for the purposes of the Election Petition Rules 1960, SI 1960/543, r 5 (as substituted and amended) or, in relation to a European parliamentary election, the European Parliamentary Election Petition Rules 1979, SI 1979/521, r 5 (as substituted and amended) (see PARA 794 post). The text refers to the amount of security for costs which the petitioner is to give pursuant to the Representation of the People Act 1983 s 136 (as amended) or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 91 or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 94 (see PARA 794 post).

7 le within the meaning of the Representation of the People Act 1983 s 121(2) (parliamentary election petition: see PARA 780 post) or s 128(2) (local election petition: see PARA 789 post) or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 86(2), (3) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 89(2) (see PARA 780 post).

8 le for the purposes of the Election Petition Rules 1960, SI 1960/543, r 6 (as substituted and amended) or, in relation to a European parliamentary election, the European Parliamentary Election Petition Rules 1979, SI 1979/521, r 6 (as substituted and amended) (see PARA 796 post).

9 le on any ground mentioned in the Representation of the People Act 1983 s 136(4) (as amended) or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 91(4) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 94(4) (see PARA 797 post).

10 le for the purposes of the Election Petition Rules 1960, SI 1960/543, r 7 (as amended) or, in relation to a European parliamentary election, the European Parliamentary Election Petition Rules 1979, SI 1979/521, r 7 (as amended) (see PARA 797 post).

11 le in accordance with the Representation of the People Act 1983 s 119 (as amended) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 87.

12 Election Petition Rules 1960, SI 1960/543, r 19(1) (amended by SI 1985/1278; SI 1999/1352; SI 2003/972); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 18(1) (amended by SI 1988/557; SI 1999/1398; SI 2003/971; SI 2004/1415). Where any period of time limited by the Representation of the People Act 1983 (or, in relation to a European parliamentary election, by the European parliamentary elections rules) for presenting a petition or filing any document expires on a day (not being a day mentioned in the Representation of the People Act 1983 s 119 (as amended) or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 32, as the case may be) on which the election petitions office is closed, the petition or document is deemed to be duly presented or filed if it is placed in the letter box provided for the purpose at that office and an affidavit stating the time at which this was done is filed on the next day on which the office is open: Election Petition Rules 1960, SI 1960/543, r 19(2) (amended by SI 1985/1278); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 18(2) (amended by SI 2004/1415). 'Election petitions office' means the office of the Queen's Bench Masters' Secretary's Department at the Central Office of the Royal Courts of Justice: Election Petition Rules 1960, SI 1960/543, r 2(2) (amended by SI 1985/1278); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 2(1). For the meaning of 'European parliamentary elections rules' see PARA 388 ante. The Election Petition Rules 1960, SI 1960/543 (as amended) have been applied for the purposes of Welsh Assembly election petitions and local authority referendum petitions: see PARA 765 note 3 ante.

13 *Ahmed v Kennedy*, *Ullah v Pagel* [2002] EWCA Civ 1793, [2003] 2 All ER 440, [2003] 1 WLR 1820. The prescribed time mentioned in the Representation of the People Act 1983 s 136(3) (as substituted) (see PARA 796 post) is that prescribed by the Election Petition Rules 1960, SI 1960/543, r 6 (as substituted and amended) (see PARA 796 post); and r 19 (as amended) prohibits any enlargement of the time limit so prescribed (see head (2) in the text), the Election Petition Rules 1960, SI 1960/543, having primacy over the Civil Procedure Rules in this respect (as to which see the text and notes 15-16 infra): *Ahmed v Kennedy*, *Ullah v Pagel* supra, applying *Williams v Tenby Corp'n* (1879) 5 CPD 135 (service of notice within the prescribed time was a condition precedent to the trial of an election petition) and approving *Absalom v Gillett* [1995] 2 All ER 661, [1995] 1 WLR 128 (petition served in relation to a City of London election). In the latter case, Laws J at 670, 136-137 cited *Carter v Griffiths* (28 July 1981, unreported) (rejecting a submission that the predecessor provisions to the Representation of the People Act 1983 s 136 were directory only), and noted that Ralph Gibson J in *Carter v Griffiths* supra cited *Devan Nair v Yong Kuan Teik* [1967] 2 AC 31 at 44-45, [1967] 2 All ER 34 at 40, PC, in a case concerning similar rules in respect of election petitions in Malaysia, where *Williams v Tenby Corp'n* supra was stated to be 'plainly rightly decided'. *Devan Nair v Yong Kuan Teik* supra was considered to be highly persuasive in *Ahmed v Kennedy*, *Ullah v Pagel* supra, which also overruled *Young v Figgins*, *The Shrewsbury Petition* (1869) 19 LT 499 (in which a failure to serve a respondent was characterised as a 'formal objection' to be ignored under a rule in the Election Petition Rules 1868 (no equivalent to which survives in the Election Petition Rules 1960, SI 1960/543)). See also PARA 796 note 5 post.

14 *Absalom v Gillett* [1995] 2 All ER 661 at 672, [1995] 1 WLR 128 at 138 per Laws J (incompetent petition served in relation to a City of London election could not be amended and served again out of time although the petitioner's case had at least arguable merits; the public interest in the speedy determination of election disputes was readily acknowledged). Where a notice has been timeously served by a petitioner but it does not satisfy all the requirements of the Representation of the People Act 1983 s 136(3) (as substituted) (see PARA 796 post), the court will regard it as a complete failure to give the required notice within the prescribed time, and the petition will be struck out as being a nullity: *Ahmed v Kennedy*, *Ullah v Pagel* [2002] EWCA Civ 1793, [2003] 2 All ER 440, [2003] 1 WLR 1820, approving and applying *Absalom v Gillett* supra. Minor defects (such as those arising from typographical errors or mistakes in photocopying) might be remediable but the question of which errors are fatal, and which are remediable, will depend on the facts of each case: see *Ahmed v Kennedy* supra at [28] per Simon Brown LJ (obiter). *Ahmed v Kennedy* supra was applied in *Saghir v Najib* [2005] EWHC 417 (QB), [2005] All ER (D) 353 (Mar), where the petitioners' failure to place an amended petition on the court file was held to constitute a failure to serve properly notice of the petition together with a copy, and their failure to state, in the notice as to the nature and amount of security, the date on which security had actually been given also constituted a failure properly to serve that notice. In *Hussein v Khan* [2006] EWHC 262 (QB), [2006] All ER (D) 348 (Feb), a request for an extension of time was determined by considering not only the reasons for the delay but also the strength and merit of the case which the petition disclosed, an approach which was justified on the basis that two competing public interests were considered to be in play: firstly, that of ensuring the propriety and freedom from corruption of elections; and, secondly, that of ensuring that election petitions were dealt with speedily. On the facts of the case, however, the application was dismissed as disclosing no cause of action and because, given the time the petitioners had already had, it would not have been appropriate to permit them even more time to produce an amended petition.

15 *le* CPR 2.8-2.11 (calculation of time for doing any act specified by the Civil Procedure Rules: see CIVIL PROCEDURE vol 11 (2009) PARAS 88-89, 248) and CPR 3.1(2)(a) (court's power to extend or shorten time for compliance: see CIVIL PROCEDURE vol 11 (2009) PARAS 247, 249, 1665). As to the Civil Procedure Rules generally see CIVIL PROCEDURE vol 11 (2009) PARA 24 et seq.

16 Election Petition Rules 1960, SI 1960/543, r 19(1) (amended by SI 1999/1352; SI 2003/972); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 18(1) (amended by SI 1999/1398; SI 2003/971); and see note 12 supra.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(ii) Election Court/A. PARLIAMENTARY, NATIONAL ASSEMBLY FOR WALES AND EUROPEAN PARLIAMENTARY ELECTIONS/767. Constitution of the court.

(ii) Election Court

A. PARLIAMENTARY, NATIONAL ASSEMBLY FOR WALES AND EUROPEAN PARLIAMENTARY ELECTIONS

767. Constitution of the court.

A parliamentary, Welsh Assembly or European parliamentary election petition¹ is tried by two judges on the rota for the trial of parliamentary election petitions². The judges to be placed on this rota in each year are to be selected, in such manner as may be provided by rules of court, from the judges of the Queen's Bench Division of the High Court exclusive of any who are members of the House of Lords³. A judge on the rota is eligible again in the succeeding or any subsequent year⁴. Notwithstanding the expiry of the year for which a judge has been placed on the rota he may act as if that year had not expired for the purpose of continuing to deal with, giving judgment in, or dealing with any ancillary matter relating to, any case with which he may have been concerned during that year⁵.

The judges for the time being on the rota try the election petitions standing for trial according to their seniority unless they otherwise agree⁶.

The judges presiding at the trial of an election petition are called 'the election court'⁷.

1 As to parliamentary election petitions see PARA 759 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European Parliamentary election petitions see PARA 763 ante.

2 Representation of the People Act 1983 s 123(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 88(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 91(1). As to the appointment of judges of the Supreme Court of Gibraltar for the trial of an election petition relating to the election of members of the European Parliament ('MEPs') in the combined region see the European Parliament (Representation) Act 2003 s 23. As to the combined region see PARA 76 ante.

3 Supreme Court Act 1981 s 142(1) (amended by the Representation of the People Act 1983 s 206, Sch 8 para 26). As from a day to be appointed, the Supreme Court Act 1981 is renamed the Senior Courts Act 1981: see the Constitutional Reform Act 2005 s 59(5), Sch 11 para 1. At the date at which this volume states the law, no such day had been appointed.

4 Supreme Court Act 1981 s 142(3). see note 3 supra.

5 Ibid s 142(2).

6 Representation of the People Act 1983 s 123(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 88(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 91(1).

7 Representation of the People Act 1983 s 123(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 88(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 91(1).

UPDATE

767 Constitution of the court

NOTE 3--Appointed day is 1 October 2009: SI 2009/1604.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(ii) Election Court/A. PARLIAMENTARY, NATIONAL ASSEMBLY FOR WALES AND EUROPEAN PARLIAMENTARY ELECTIONS/768. Appointment of masters.

768. Appointment of masters.

The duties to be performed in relation to parliamentary, Welsh Assembly or European parliamentary elections¹ by the prescribed officer² are to be performed by such one or more masters of the Supreme Court (Queen's Bench Division) as the Lord Chief Justice may determine³.

The master of the Queen's Bench division who is for the time being so nominated⁴ as the prescribed officer in relation to parliamentary elections is also to be the prescribed officer in relation to elections under the local government Act⁵ and in relation to European parliamentary elections⁶.

1 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante; and for the meaning of 'parliamentary election' see PARA 9 ante. As to European parliamentary elections see PARA 224 et seq ante.

2 I.e., in relation to a parliamentary election, under the Representation of the People Act 1983 Pt III (ss 120-186) (as amended) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Pt IV (arts 85-137) (as amended) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Pt 4 (regs 86-122) (as amended) (see PARA 759 et seq ante).

3 Representation of the People Act 1983 s 157(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 106(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 106(3).

As from a day to be appointed under the Constitutional Reform Act 2005 s 148(1), the reference in the Representation of the People Act 1983 s 157(4) to the Supreme Court (Queen's Bench Division) is replaced by a reference to the Senior Courts (Queen's Bench Division): see s 157(4) (prospectively amended by the Constitutional Reform Act 2005 s 59(5), Sch 11 para 28(1), (2)(a)). At the date at which this volume states the law, no such day had been appointed.

4 I.e. under the Representation of the People Act 1983 s 157(4) (prospectively amended) (see the text and notes 1-3 supra).

5 See PARA 790 post.

6 Election Petition Rules 1960, SI 1960/543, r 2(3) (amended by SI 1985/1278); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 2(2) (amended by virtue of the European Communities (Amendment) Act 1986 s 3; and by SI 1988/557; SI 2004/1415). References to the prescribed officer in the rules governing the procedure for petitions must be construed accordingly: Election Petition Rules 1960, SI 1960/543, r 2(3); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 2(2). The Election Petition Rules 1960, SI 1960/543 (as amended) have been applied for the purposes of Welsh Assembly election petitions: see PARA 765 note 3 ante.

UPDATE

768 Appointment of masters

NOTE 3--Appointed day is 1 October 2009: SI 2009/1604.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(ii) Election Court/A. PARLIAMENTARY, NATIONAL ASSEMBLY FOR WALES AND EUROPEAN PARLIAMENTARY ELECTIONS/769. Jurisdiction, status and practice of the election court.

769. Jurisdiction, status and practice of the election court.

Subject to the relevant provisions governing elections¹, the election court has the same powers, jurisdiction and authority as a High Court judge; and the election court² is a court of record³. Subject to those provisions and the rules made thereunder⁴, the principles, practice and rules on which committees of the House of Commons used to act in dealing with election petitions are to be observed, so far as may be, by the High Court and election court in the case of parliamentary or Welsh Assembly election petitions⁵.

Where the petition alleges the commission of corrupt or illegal practices, the election court has quasi-inquisitorial as well as judicial duties, as the court must investigate and report whether any corrupt or illegal practices have been committed by, or with the consent of, the candidate, or by any other person, or whether they have extensively prevailed⁶.

1 I.e., in relation to a parliamentary election, the Representation of the People Act 1983 or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293.

2 For the meaning of 'election court' for these purposes see PARA 767 ante.

3 Representation of the People Act 1983 s 123(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 88(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 91(2). It is uncertain whether judicial review is available as respects the determination of an election court. In *R v Election Court, ex p Sheppard* [1975] 2 All ER 723 at 725, [1975] 1 WLR 1319 at 1323, DC, Lord Widgery CJ said (obiter) that 'it is quite clear that the election court which deals with parliamentary elections, consisting, as it will do, of a Queen's Bench judge, is a superior court and it is clear that no question of the prerogative orders could be available'. In *R v Cripps, ex p Muldoon* [1984] QB 68 at 88, [1983] 3 All ER 72 at 83, DC, Robert Goff LJ left open this question but doubted (obiter) whether the fact that the court consists of a High Court judge was conclusive of the question; however, on appeal, this question was left open (see [1984] QB 686 at 698, [1984] 2 All ER 705 at 712, CA, per Sir John Donaldson MR). See also PARA 777 note 3 post.

4 As to the current rules see PARA 765 note 3 ante.

5 Representation of the People Act 1983 s 157(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 106(2). As to parliamentary election petitions see PARA 759 ante; and as to Welsh Assembly election petitions see PARA 762 ante. There is no equivalent provision for the purposes of European parliamentary election petitions because corrupt and illegal practices may be cited in such petitions only when they are related to personation and other voting offences: see PARA 763 ante.

6 See PARA 857 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(ii) Election Court/A. PARLIAMENTARY, NATIONAL ASSEMBLY FOR WALES AND EUROPEAN PARLIAMENTARY ELECTIONS/770. Jurisdiction of judges on rota and master.

770. Jurisdiction of judges on rota and master.

An application for leave to pay claims for election expenses sent in too late¹, and an application for an injunction to restrain the publication of false statements about a candidate², must, in so far as application is made to the High Court, be heard by one of the judges on the rota or by a master³. An application to amend a parliamentary election petition⁴ and an application for the remission of incapacities on the ground that the evidence was perjured⁵ must be heard by one of the judges on the rota or by a master. Certain other matters may, in so far as application is made to the High Court⁶, be heard only by one of the judges on the rota and not by a master. They are as follows: an application for relief in respect of failure to make the return and declaration as to election expenses⁷; and an application to except an innocent act from being an illegal practice, payment, employment or hiring⁸. In all the foregoing cases the jurisdiction is subject to rules of court⁹.

If practicable, any jurisdiction conferred on a judge by the Election Petition Rules 1960¹⁰ or the European Parliamentary Election Petition Rules 1979¹¹ is to be exercised by a rota judge, and, if not, by some other judge of the Queen's Bench Division¹², and any jurisdiction conferred by those rules on a master is to be exercised by the prescribed officer¹³ or in his absence by some other master of the Queen's Bench Division¹⁴. If practicable, matters relating to the trial of a petition, and most questions of an interim nature, should be heard by one of the judges on the rota¹⁵.

1 See PARA 281 ante.

2 See PARA 669 ante.

3 As to the rota see PARA 767 ante. Application may be made to the county court instead: see PARAS 281, 669 ante.

4 See PARA 792 post.

5 As to the mitigation and remission of incapacities see PARA 907 post.

6 As to applications to the county court in these matters see PARAS 691, 693 ante.

7 See PARA 691 ante.

8 See PARA 693 ante.

9 Rules of court mean either election petition rules made or having effect as if made under the Representation of the People Act 1983 s 182 (prospectively amended) (see PARA 765 ante), or rules of the Supreme Court made or having effect as if made under the Supreme Court Act 1981 s 84 (as amended) (see COURTS vol 10 (Reissue) PARAS 577-578): see the Interpretation Act 1978 s 5, Sch 1. The rules of the Supreme Court provide that proceedings in the High Court under the Representation of the People Acts are to be assigned to the Queen's Bench Division (CPR Sch 1 RSC Ord 94 r 5(1)) and the jurisdiction of the High Court under those Acts in matters relating to parliamentary and local government elections is in general to be exercised by a Divisional Court (CPR Sch 1 RSC Ord 94 r 5(2)), but this does not take away from a single judge or master any jurisdiction under those Acts which would be otherwise exercisable by a single judge or, as the case may be, by a master (CPR Sch 1 RSC Ord 94 r 5(3)). Where the jurisdiction of the High Court is by a provision of any of those Acts made exercisable in matters relating to parliamentary elections by a single judge, that jurisdiction in matters relating to local government elections is also to be exercisable by a single judge: CPR Sch 1 RSC Ord 94 r 5(4). For the meaning of 'the Representation of the People Acts' see PARA 3 note 1 ante.

As from a day to be appointed, the Supreme Court is renamed the Senior Courts, and the Supreme Court Act 1981 is renamed the Senior Courts Act 1981: see the Constitutional Reform Act 2005 s 59(1), (5), Sch 11 para 1. At the date at which this volume states the law, no such day had been appointed.

10 Ie the Election Petition Rules 1960, SI 1960/543 (as amended).

11 Ie the European Parliamentary Election Petition Rules 1979, SI 1979/521 (as amended).

12 Election Petition Rules 1960, SI 1960/543, r 3(1); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 3(1). The Election Petition Rules 1960, SI 1960/543 (as amended) have been applied for the purposes of Welsh Assembly election petitions: see PARA 765 note 3 ante.

13 As to the prescribed officer see PARA 768 ante.

14 Election Petition Rules 1960, SI 1960/543, r 3(2) (amended by SI 1985/1278); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 3(2) (amended by the European Communities (Amendment) Act 1986 s 3; and by SI 1988/557); and see note 12 supra.

15 See *Shaw v Reckitt (Pontefract Election Petition)* [1893] 1 QB 779; on appeal [1893] 2 QB 59, CA (parliamentary election petition). See also PARA 784 note 3 post.

UPDATE

770 Jurisdiction of judges on rota and master

NOTE 9--Appointed day is 1 October 2009: SI 2009/1604.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(ii) Election Court/A. PARLIAMENTARY, NATIONAL ASSEMBLY FOR WALES AND EUROPEAN PARLIAMENTARY ELECTIONS/771. Registrar.

771. Registrar.

The rota judge¹ fixing the time and place of trial of a parliamentary, Welsh Assembly or European parliamentary election petition² must also appoint an officer of the Supreme Court to act as registrar of the election court³ for the purposes of the trial⁴.

1 As to the rota see PARA 767 ante.

2 As to parliamentary election petitions see PARA 759 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante. As to the fixing of the time and place of trial see PARA 804 post.

3 For the meaning of 'election court' for these purposes see PARA 767 ante.

4 Election Petition Rules 1960, SI 1960/543, r 9(5) (amended by SI 1985/1278); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 9(4) (amended by the European Communities (Amendment) Act 1986 s 3). The Election Petition Rules 1960, SI 1960/543 (as amended) have been applied for the purposes of Welsh Assembly election petitions: see PARA 765 note 3 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(ii) Election Court/A. PARLIAMENTARY, NATIONAL ASSEMBLY FOR WALES AND EUROPEAN PARLIAMENTARY ELECTIONS/772. Payment of expenses.

772. Payment of expenses.

The travelling and other expenses of the judges trying a parliamentary, Welsh Assembly or European parliamentary election petition¹, and all expenses properly incurred in providing them with necessary accommodation and with a proper court, are defrayed by the Treasury² (or, in the case of a Welsh Assembly election, the Secretary of State³) out of money provided by Parliament⁴.

1 As to parliamentary election petitions see PARA 759 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante. As to the fixing of the time and place of trial see PARA 804 post.

2 As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 512-517.

3 As to the Secretary of State see PARA 2 ante.

4 Representation of the People Act 1983 s 124 (amended by the Representation of the People Act 1985 ss 24, 28, Sch 4 para 45, Sch 5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 89; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 92.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(ii) Election Court/B. LOCAL GOVERNMENT ELECTIONS AND LOCAL AUTHORITY REFERENDUMS/773. Constitution of the court.

B. LOCAL GOVERNMENT ELECTIONS AND LOCAL AUTHORITY REFERENDUMS

773. Constitution of the court.

A petition questioning a local authority referendum¹ or an election under the Local Government Act 1972² is tried by an election court consisting of a person qualified and appointed as follows³.

A person is not qualified to constitute an election court⁴: (1) unless he has a 10-year High Court qualification⁵; or (2) if the court is for the trial of an election or referendum petition (as the case may be) relating to any local government area⁶ in which he resides⁷.

The judges for the time being on the rota for the trial of parliamentary election petitions⁸, or any two of those judges⁹: (a) may annually appoint as many qualified persons, not exceeding five, as they may think necessary as commissioners for the trial of petitions questioning a local authority referendum or elections under the Local Government Act 1972 (as the case may be)¹⁰; and (b) must from time to time assign the petitions to be tried by each commissioner¹¹.

If a commissioner to whom the trial of a petition is assigned dies, or becomes incapable of acting or declines to act, the rota judges (or two of them) may assign the trial to be conducted or continued by another of the commissioners so appointed¹².

1 I.e. a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

2 As to the questioning of an election in England and Wales under the Local Government Act 1972 see PARA 760 ante.

3 Representation of the People Act 1983 s 130(1) (s 130(1)-(3) amended by the Courts and Legal Services Act 1990 s 71(2), Sch 10 para 50); Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(7); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(7).

4 Representation of the People Act 1983 s 130(2) (as amended: see note 3 supra); and see note 1 supra.

5 Ibid s 130(2)(a) (substituted by the Courts and Legal Services Act 1990 Sch 10 para 50(2)); and see note 1 supra. The text refers to a High Court qualification within the meaning of the Courts and Legal Services Act 1990 s 71 (as amended) (see COURTS vol 10 (Reissue) PARA 515).

6 For the meaning of 'local government area' see PARA 18 note 2 ante.

7 Representation of the People Act 1983 s 130(2)(b) (amended by the Political Parties, Elections and Referendums Act 2000 s 137(a), Sch 17 paras 1, 2); and see note 1 supra.

8 As to the rota for the trial of parliamentary election petitions see PARA 767 ante.

9 Representation of the People Act 1983 s 130(3); and see note 1 supra.

10 Ibid s 130(3)(a) (as amended: see note 3 supra); and see note 1 supra.

11 Ibid s 130(3)(b); and see note 1 supra.

12 Ibid s 130(4); and see note 1 supra.

UPDATE

773 Constitution of the court

NOTES 1, 3--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

TEXT AND NOTE 5--1983 Act s 130(2)(a) substituted: Tribunals, Courts and Enforcement Act 2007 Sch 10 para 14.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(ii) Election Court/B. LOCAL GOVERNMENT ELECTIONS AND LOCAL AUTHORITY REFERENDUMS/774. Court officers.

774. Court officers.

The election court may employ officers and clerks as prescribed¹. The rota judge fixing the time and place of trial of a petition questioning a local authority referendum² or an election under the Local Government Act 1972³ must appoint an officer of the Supreme Court to act as registrar of the election court for the purposes of the trial⁴.

A shorthand writer must also attend the trial of a local election or local authority referendum petition⁵. This officer is appointed by the commissioner to whom the trial is assigned and he is entitled to be paid expenses on the same scale as a shorthand writer attending the trial of an action in the Queen's Bench Division⁶. The commissioner may also appoint a proper person to act as his clerk for the purposes of the trial⁷.

1 Representation of the People Act 1983 s 131(2); and see note 2 infra. 'Prescribed' means prescribed by rules of court: s 185. As to the current rules see PARA 765 note 3 ante.

2 I.e. a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante. As to the rota see PARA 767 ante.

3 As to the questioning of an election in England and Wales under the Local Government Act 1972 see PARA 760 ante.

4 Election Petition Rules 1960, SI 1960/543, r 9(5) (amended by SI 1985/1278). The Election Petition Rules 1960, SI 1960/543 (as amended) have been applied and modified for the purposes of a local authority referendum petition: see PARA 765 note 3 ante.

5 Representation of the People Act 1983 s 131(3); and see note 2 supra. As to the shorthand writer's expenses see PARA 776 post; and as to his duties see PARA 816 post.

6 Election Petition Rules 1960, SI 1960/543, r 18(1) (amended by SI 1985/1278); and see note 4 supra.

7 Ibid r 18(2); and see note 4 supra.

UPDATE

774 Court officers

NOTE 2--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(ii) Election Court/B. LOCAL GOVERNMENT ELECTIONS AND LOCAL AUTHORITY REFERENDUMS/775. Court accommodation and attendance; repayment of expenses.

775. Court accommodation and attendance; repayment of expenses.

The proper officer¹ of the authority for which the local government election² or local authority referendum³ was held (or, in the case of a parish or community election, the returning officer at that election⁴) must provide suitable accommodation for holding the election court⁵, and any expenses incurred by him for this purpose must be paid by that authority⁶.

The election court appointed for the trial of a petition questioning a local authority referendum or an election under the Local Government Act 1972⁷ may, in its discretion, order that the expenses incurred by the proper officer of the authority in receiving the election court, be repaid wholly or in part to the proper officer⁸: (1) by the petitioner, if in the opinion of the election court the petition is frivolous and vexatious⁹; or (2) by the respondent, when in the opinion of the election court he has been personally guilty of corrupt practices at the election or referendum (as the case may be)¹⁰. Such an order may be enforced as an order for payment of costs¹¹, but a deposit made or a security given¹² is not to be applied for any such repayment to the proper officer until all costs and expenses payable by the petitioner or respondent to any party to the petition have been satisfied¹³.

All constables and bailiffs must give their assistance to the court in the execution of its duties¹⁴.

1 For the meaning of 'proper officer' see PARA 155 note 2 ante.

2 For the meaning of 'local government election' see PARA 10 ante.

3 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

4 See the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 6(a). The returning officer at a parish or community election is an officer of the council of the district in which the parish or community is situated (see PARA 359 ante), but it is submitted that this does not result in a shift of the financial burden of the expenses from the parish or community to the district. As to the application of the provisions questioning local elections to parish or community elections see PARA 761 ante.

5 As constituted under the Representation of the People Act 1983 s 130 (as amended) (see PARA 773 ante), including that provision as applied (see note 3 supra).

6 Ibid s 131(1); and see note 3 supra.

7 As to the questioning of an election in England and Wales under the Local Government Act 1972 see PARA 760 ante.

8 Representation of the People Act 1983 s 133(1); and see note 3 supra.

9 Ibid s 133(1)(i); and see note 3 supra.

10 Ibid s 133(1)(ii); and see note 3 supra.

11 Ibid s 133(2); and see note 3 supra. As to the recovery of costs see PARA 878 post.

12 As to the making of deposits or the giving of security for costs see PARAS 794-796 post.

- 13 Representation of the People Act 1983 s 133(2); and see note 3 *supra*.
- 14 *Ibid* s 131(2); and see note 3 *supra*.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(ii) Election Court/B. LOCAL GOVERNMENT ELECTIONS AND LOCAL AUTHORITY REFERENDUMS/776. Remuneration of commissioner and staff; repayment of expenses.

776. Remuneration of commissioner and staff; repayment of expenses.

The remuneration and allowances to be paid to the commissioner for his services in respect of the trial of a petition questioning a local authority referendum¹ or an election under the Local Government Act 1972², and to any officers, clerks or shorthand writers³ employed in relation to the trial, are fixed by a scale, which is made and may be varied by the judges on the rota for the trial of parliamentary election petitions⁴, with Treasury approval⁵. The remuneration and allowances are paid in the first instance by the Treasury, but they must be repaid to the Treasury on its certificate by the authority for which the election or referendum (as the case may be) was held⁶.

The election court appointed for the trial of a petition questioning a local authority referendum or an election under the Local Government Act 1972⁷ may, in its discretion, order that the remuneration and allowances payable to the commissioner in respect of the trial of an election or referendum petition (as the case may be), and to any officers, clerks or shorthand writers be repaid wholly or in part to the Treasury⁸: (1) by the petitioner, if in the opinion of the election court the petition is frivolous and vexatious⁹; or (2) by the respondent, when in the opinion of the election court he has been personally guilty of corrupt practices at the election or referendum (as the case may be)¹⁰. Such an order may be enforced as an order for payment of costs¹¹, but a deposit made or a security given¹² is not to be applied for any such repayment to the Treasury until all costs and expenses payable by the petitioner or respondent to any party to the petition have been satisfied¹³.

1 In a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

2 As to the questioning of an election in England and Wales under the Local Government Act 1972 see PARA 760 ante.

3 As to the appointment of the shorthand writer see PARA 774 ante. His expenses are treated as part of the expenses in receiving the election court: Representation of the People Act 1983 s 131(3); and see note 1 supra.

4 As to the rota for the trial of parliamentary election petitions see PARA 767 ante.

5 Representation of the People Act 1983 s 132(1); and see note 1 supra. As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 512-517.

6 Ibid s 132(2); and see note 1 supra. Application is made to the Treasury Commissioners and should be accompanied by an account setting out the remuneration earned.

7 As to the constitution of the court see PARA 773 ante.

8 Representation of the People Act 1983 s 133(1); and see note 1 supra.

9 Ibid s 133(1)(i); and see note 1 supra.

10 Ibid s 133(1)(ii); and see note 1 supra.

- 11 Ibid s 133(2); and see note 1 supra. As to the recovery of costs see PARA 878 post.
- 12 As to the making of deposits or the giving of security for costs see PARAS 794-796 post.
- 13 Representation of the People Act 1983 s 133(2); and see note 1 supra.

UPDATE

776-777 Remuneration of commissioner and staff; repayment of expenses, Election court's jurisdiction

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(ii) Election Court/B. LOCAL GOVERNMENT ELECTIONS AND LOCAL AUTHORITY REFERENDUMS/777. Election court's jurisdiction.

777. Election court's jurisdiction.

For the purposes of the trial of a petition questioning a local authority referendum¹ or an election under the Local Government Act 1972², the election court has the same powers and privileges as a judge on the trial of a parliamentary election petition³. However, it is probable that these powers are inapplicable once the trial has been concluded⁴.

Where the petition alleges the commission of corrupt or illegal practices, the election court has quasi-inquisitorial, as well as judicial, duties, as the court must investigate and report whether any corrupt or illegal practices have been committed (and by whom) or whether they have extensively prevailed⁵.

Any jurisdiction conferred on a judge by the Election Petition Rules 1960⁶ should, where practicable, be exercised by a judge on the rota for the trial of parliamentary election petitions⁷ and, if not, by some other judge of the Queen's Bench Division⁸. Any such jurisdiction conferred by those rules on a master is exercised by the prescribed officer⁹ or, in his absence, by some other master of the Queen's Bench Division¹⁰.

Subject to the provisions of the Representation of the People Act 1983 and of the rules made under it¹¹, the principles, practice and rules on which committees of the House of Commons used to act in dealing with election petitions must be observed, so far as may be, by the High Court and election court in the case of petitions questioning elections under the Local Government Act 1972¹².

1 le a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

2 As to the questioning of an election in England and Wales under the Local Government Act 1972 see PARA 760 ante.

3 Representation of the People Act 1983 s 130(5); and see note 1 supra. As to the trial of parliamentary election petitions see PARA 767 et seq ante. It was on the basis of this provision in an earlier enactment that it was held that the local election court was a court of record: *R v Maidenhead Corpn* (1882) 9 QBD 494 at 500, CA, per Jessell MR. That case was not referred to in the judgment in *R v Cripps, ex p Muldoon* [1984] QB 68, [1983] 2 All ER 72, DC, where it was held that the election court was an inferior court subject to judicial review by the High Court; however, on appeal, this point was left open since, on the facts of the case, the High Court could exercise jurisdiction anyway in respect of an order as to costs, and it was said that it was 'unnecessary to reach any decision as to the jurisdiction of the Divisional Court in relation to the work of a local election court. That jurisdiction depends on the local election court being an 'inferior court' and not a 'superior court of record' (see [1984] QB 686 at 698, [1984] 2 All ER 705 at 712, CA, per Sir John Donaldson MR). More recently, it has become accepted that the decision of an election commissioner sitting as a local election court is susceptible to judicial review: see eg *R v Rowe, ex p Mainwaring* [1992] 4 All ER 821, [1992] 1 WLR 1059, CA (a case on appeal from the Divisional Court which had judicially reviewed the decision of an election commissioner); and see *R (on the application of Afzal) v Election Court* [2005] EWCA Civ 647, [2005] LGR 823.

4 *R v Cripps, ex p Muldoon* [1984] QB 686 at 697, [1984] 2 All ER 705 at 712, CA, per Sir John Donaldson MR. These remarks were in the context of the exercise of the 'slip rule' power of the High Court which, in the view of the Court of Appeal, had been imported by virtue of the Representation of the People Act 1983 s 130(5). But the

variation in the order as to costs which the commissioner had purported to make after the trial of the local election petition in that case had been concluded did not in any event fall within the slip rule because it made a substantial alteration and did not correct an ambiguity. The Court of Appeal pointed to a judge's power to reconsider or vary prior to the conclusion of a trial apart from the slip rule: *R v Cripps, ex p Muldoon* supra at 695 and 710 per Sir John Donaldson MR. However, 'once the order has been perfected the trial judge is *functus officio* and in his capacity as the trial judge has no further power to reconsider or vary his decision whether under the slip rule or otherwise': *R v Cripps, ex p Muldoon* supra at 695 and 710 per Sir John Donaldson MR.

5 See PARAS 818, 860 post.

6 Ie the Election Petition Rules 1960, SI 1960/543 (as amended).

7 As to the rota for the trial of parliamentary election petitions see PARA 767 ante.

8 Election Petition Rules 1960, SI 1960/543, rr 2(2), 3(1). The Election Petition Rules 1960, SI 1960/543 (as amended) have been applied and modified for the purposes of a local authority referendum petition: see PARA 765 note 3 ante.

9 As to the prescribed officer see PARA 768 ante.

10 Election Petition Rules 1960, SI 1960/543, r 3(2) (as amended by SI 1985/1278); and see note 8 supra.

11 Ie the Election Petition Rules 1960, SI 1960/543 (see PARA 765 ante), including those rules as applied (see note 8 supra). As to practice and procedure on the hearing see further PARA 815 post.

12 Representation of the People Act 1983 s 157(2); and see note 1 supra.

UPDATE

776-777 Remuneration of commissioner and staff; repayment of expenses, Election court's jurisdiction

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(iii) Petitions/A. PARLIAMENTARY, NATIONAL ASSEMBLY FOR WALES AND EUROPEAN PARLIAMENTARY ELECTIONS/778. Form and contents of election petition.

(iii) Petitions

A. PARLIAMENTARY, NATIONAL ASSEMBLY FOR WALES AND EUROPEAN PARLIAMENTARY ELECTIONS

778. Form and contents of election petition.

A parliamentary, Welsh Assembly or European parliamentary election petition¹ must be in the prescribed form², and must state: (1) in which capacity the petitioner or each of the petitioners presents the petition³; (2) the date and result of the election to which the petition relates, and, in the case of a parliamentary or Welsh Assembly election petition, the date on which the return was made to the Clerk of the Crown or to the National Assembly for Wales (as the case may be) of the member declared to have been elected⁴; (3) in the case of a petition alleging corrupt or illegal practices⁵, the date from which the time for the presentation of the petition is to be calculated⁶; and (4) the grounds on which relief is sought, setting out with sufficient particularity the facts relied on but not the evidence by which they are to be proved⁷. It is sufficient for the petition to allege the grounds generally, and a petition alleging that the respondent and his agents are charged with bribery, corruption and undue influence, and also with illegal practices, would in form be sufficient⁸. A general allegation in a petition must not, however, be so worded as effectively to include acts not committed until after the presentation of the petition, and if the petitioner proposes to proceed upon charges of any such acts, he must amend the petition⁹. The petition must conclude with a prayer setting out particulars of the relief claimed¹⁰, and must be signed by the petitioner or all the petitioners if more than one¹¹.

1 As to parliamentary election petitions see PARA 759 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante.

2 Representation of the People Act 1983 s 121(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 86(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 89(3). In the case of a parliamentary election, the petition must be in the form set out in the Election Petition Rules 1960, SI 1960/543, Schedule (amended by SI 1985/1278), or a form to the like effect with such variations as the circumstances may require: Election Petition Rules 1960, SI 1960/543, r 4(1). In the case of a European parliamentary election, the petition must be in the form set out in the European Parliamentary Election Petition Rules 1979, SI 1979/521, Schedule (amended by SI 2004/1415), or a form to the like effect with such variations as the circumstances may require: European Parliamentary Election Petition Rules 1979, SI 1979/521, r 4(1). The Election Petition Rules 1960, SI 1960/543 (as amended) have been applied for the purposes of Welsh Assembly election petitions: see PARA 765 note 3 ante.

3 Election Petition Rules 1960, SI 1960/543, r 4(1)(a) (amended by SI 1985/1278); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 4(1)(a) (amended by SI 2004/1415); and see note 2 supra. As to the persons who may present a petition see PARA 779 post.

4 Election Petition Rules 1960, SI 1960/543, r 4(1)(b); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 4(1)(b); and see note 2 supra. In the case of a Welsh Assembly election, provision is made also for a petition relating to a return under the Government of Wales Act 1998 s 9(6) (vacancy in electoral region seat: see PARA 222 ante), in which case the date on which the person was treated as declared to be returned as an Assembly member must be specified: Election Petition Rules 1960, SI 1960/543, r 4(1)(ba) (r 4 as applied and modified: see note 2 supra). As to the making of the return to the Clerk of the Crown see PARA 479 ante; and as to the return made to the National Assembly for Wales see PARA 487 ante. The provisions of the

Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes after that date see the Government of Wales Act 2006 s 11(6); and PARA 222 ante.

5 le a petition mentioned in the Representation of the People Act 1983 s 122(2), (3) (see PARA 783 post). There is no provision equivalent to head (3) in the text for the purposes of European parliamentary election petitions because corrupt and illegal practices may be cited in such petitions only when they are related to personation and other voting offences: see PARA 763 ante.

6 Election Petition Rules 1960, SI 1960/543, r 4(1)(c) (amended by SI 1985/1278); and see note 2 supra. As to the time for the presentation of an election petition in such a case see PARA 783 post.

7 Election Petition Rules 1960, SI 1960/543, r 4(1)(d); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 4(1)(d); and see note 2 supra. As to the ordering of particulars see PARAS 806-808 post.

8 *Beal v Smith* (1869) LR 4 CP 145; *Greenock Election Petition* (1868) reported in footnote to *Beal v Smith* supra at 150; *Lancaster County, Lancaster Division Case* (1896) 5 O'M & H 39 at 41 per Bruce J, who at 41-42 expressed an opinion in favour of the general character of the offences charged being set out in separate paragraphs instead of a general allegation of corrupt and illegal practices. Such a form has the advantage of not affording occasion for an order for the immediate service of particulars.

9 *Cremer v Lowles* [1896] 1 QB 504, CA; and see PARA 784 note 13 post.

10 Election Petition Rules 1960, SI 1960/543, r 4(1); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 4(1); and see note 2 supra.

11 Representation of the People Act 1983 s 121(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 86(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 89(3).

UPDATE

778 Form and contents of election petition

NOTE 8--See also *Scarth v Amin* [2008] EWHC 2886 (QB), [2008] All ER (D) 265 (Nov).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(iii) Petitions/A. PARLIAMENTARY, NATIONAL ASSEMBLY FOR WALES AND EUROPEAN PARLIAMENTARY ELECTIONS/779. Who may present an election petition.

779. Who may present an election petition.

A parliamentary, Welsh Assembly or European parliamentary election petition¹ may be presented by any one or more of the following persons: (1) a person who voted as an elector, or who had a right so to vote, at the election to which the petition relates²; or (2) a person claiming to have had a right to be returned or elected at the election³; or (3) a person alleging himself to have been a candidate at the election⁴.

1 As to parliamentary election petitions see PARA 759 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante.

2 Representation of the People Act 1983 s 121(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 86(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 89(1)(a). The reference in the Representation of the People Act 1983 s 121(1)(a) to a person who voted as an elector at a parliamentary election or who had the right so to vote does not include a person who had an anonymous entry in the register of electors: s 121(1A) (added by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 2, 11). For the meaning of 'anonymous entry' in relation to a register of electors see PARA 174 ante.

The words set out in head (1) in the text *prima facie* include a person who has voted without being entitled to do so. In *Harford v Linskey* [1899] 1 QB 852, DC, at 859 and 862, Wright J (quoting the Municipal Corporations Act 1882 s 88 (repealed), the words of which are, as regards this point, substantially the same) expressed the view that those words would cover the case of a voter who had no right to vote. The point seems never to have been decided. The fact of the mention of the alternative in the section tends to show that such a case is included, as otherwise, it is submitted, it would have been sufficient to say merely 'some person who had a right to vote'. The question was raised but not decided in *Walsall Case* (1892) cited in Day 1.

3 Representation of the People Act 1983 s 121(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 86(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 89(1)(b). A person who is incapable of being duly elected because he is too young could not be a person claiming the right to be elected for the purposes of this provision: *Hobson v Fishburn* (1988) Times, 21 November, DC (but see note 4 *infra*). In relation to a Welsh Assembly election, it is provided that a person claiming to have had a right to be returned under the Government of Wales Act 1998 s 9(6) (vacancy in electoral region seat: see PARA 222 ante) also may present a petition: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 86(1)(d). The provisions of the Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes after that date see the Government of Wales Act 2006 s 11(6); and PARA 222 ante.

4 Representation of the People Act 1983 s 121(1)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 86(1)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 89(1)(c). For the meaning of 'candidate' see PARA 237 ante. As to the nomination of a candidate see PARA 262 et seq ante. In *Hobson v Fishburn* (1988) Times, 21 November DC, a person who was too young to be duly elected but who had been nominated as a candidate could have brought an election petition under the provision set out in head (3) in the text (but see note 3 *supra*). See also *Harford v Linskey* [1899] 1 QB 852 at 859 per Wright J (who said, quoting the Municipal Corporations Act 1882 s 88 (repealed) (the words of which are, as regards this point, substantially the same), that the words of the statute seem designed to express something wider than absolutely valid candidature).

UPDATE

779 Who may present an election petition

NOTE 2--SI 2004/293 reg 89(1A) added: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(iii) Petitions/A. PARLIAMENTARY, NATIONAL ASSEMBLY FOR WALES AND EUROPEAN PARLIAMENTARY ELECTIONS/780. Respondent.

780. Respondent.

The respondent to a parliamentary, Welsh Assembly or European parliamentary election petition¹ is the member of Parliament or Welsh Assembly member or member of the European Parliament ('MEP') whose election or return is complained of². Where, however, a parliamentary or Welsh Assembly election petition complains of the conduct of a returning officer³, he is deemed to be a respondent for the purposes of the provisions⁴ as to election petitions⁵. The allegation against the returning officer need not necessarily be one of wilful misconduct, and he may be joined as a respondent where the acts or omissions or negligence complained of are not personal but are those of his subordinates⁶.

An unsuccessful candidate cannot be made a respondent to an election petition against his will⁷. However, a petition may be presented complaining of the election or return of a member who has since died⁸.

¹ As to parliamentary election petitions see PARA 759 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante.

² Representation of the People Act 1983 s 121(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 86(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 89(2).

³ As to returning officers for parliamentary elections see PARA 355 et seq ante. For the purposes of Welsh Assembly elections, the reference, in relation to a constituency election, is to a constituency returning officer and, in relation to a regional election, is to a regional returning officer (for the meanings of which see PARA 18 note 2 ante): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 86(2). For these purposes, art 86(2) also applies if the petition complains of the conduct of a constituency returning officer in the exercise of his functions in relation to a regional election: art 86(3). For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante. In relation to a European parliamentary election, the returning officer and any local returning officer are both specified and, accordingly, subsequent references to the 'officer' or to the 'respondent' are taken to be references to the 'officer (or officers) in question' and the 'respondent (or respondents)' respectively: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 89(2). As to the designation of returning officers and local returning officers at European parliamentary elections see PARA 365 et seq ante.

⁴ I.e., in relation to a parliamentary election, under the Representation of the People Act 1983 Pt III (ss 120-186) (as amended) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Pt IV (arts 85-137) (as amended) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Pt 4 (regs 86-122) (as amended) (see PARA 759 et seq ante).

⁵ Representation of the People Act 1983 s 121(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 86(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 89(2). If it is proposed to give evidence at the hearing of an election petition to implicate the returning officer, he should be made a respondent: *Tamworth Case, Hill and Walton v Peel and Bulwer* (1869) 20 LT 181, 1 O'M & H 75 (it being proposed to offer evidence implicating the returning officer, Willes J refused leave to have him called as a witness, as no charge had been made against him in the petition). It seems that a returning officer who is so deemed to be a respondent is entitled to the same notices as to presentation of the petition, the proposed security, etc, as an ordinary respondent: see *Young v Figgins* (1868) 19 LT 499.

⁶ *Islington, West Division Case* (1901) 5 O'M & H 120; *Drogheda Borough Case* (1874) 2 O'M & H 201; *Warrington Case, Crozier v Rylands* (1869) 19 LT 812, 1 O'M & H 42; but see, contra, *Harmon v Park* (1880) 6 QBD 323, CA; *Cirencester Case* (1893) cited in Day 3. In the latter case, on a summons being taken out by a respondent for leave to serve the petition on the returning officer, Mathew J refused it on the ground that it was

unnecessary, as by the fact of the returning officer's conduct being complained of he was already deemed to be a respondent; but on a summons being subsequently taken out by the returning officer for particulars of the charges against him, Cave J held that he was not a party, as wilful misconduct was not alleged against him. It is submitted that the view expressed by Mathew J is the correct view of the position of a returning officer against whose conduct of the election complaint is made in the petition. Cf the judgment of Lord Selbourne LC in *Harmon v Park* supra at 328-329; and see *Haverfordwest Case*, *Davies v Lord Kensington* (1874) LR 9 CP 720, DC; *Athlone Borough Election Petition* (1874) 2 O'M & H 186; *Clare, Eastern Division Case* (1892) 4 O'M & H 162.

7 *Maidenhead Case*, *Lovering v Dawson (No 1)* (1875) LR 10 CP 711, DC. See also *Yates v Leach* (1874) LR 9 CP 605, DC.

8 *Tipperary County Case* (1875) IR 9 CL 173; *Mitchell's Case* (1696) cited in 1 Lud EC 456; *Peterborough City Case* (1728) 21 Commons Journals 162; *Durham City Case* (1853) 108 Commons Journals 562, 596. The reason for this is that the proceeding is not of a personal nature against a dead man. It is the assertion of a right in rem: *Tipperary County Case* supra. Where it is alleged that the votes given for the successful candidate were votes thrown away (see PARA 843 post), there might be advantages in proceeding with the petition.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(iii) Petitions/A. PARLIAMENTARY, NATIONAL ASSEMBLY FOR WALES AND EUROPEAN PARLIAMENTARY ELECTIONS/781. Notice of respondent's intention not to oppose.

781. Notice of respondent's intention not to oppose.

Not less than seven days before the day fixed for the trial¹, a respondent who does not intend to oppose a parliamentary, Welsh Assembly or European parliamentary election petition² must serve notice to that effect on the petitioner and the Director of Public Prosecutions³. The giving of notice by a respondent of his intention not to oppose the petition does not of itself cause him to cease to be a respondent⁴.

¹ As to the computation of this period see PARA 766 ante; and as the fixing of the time and place of trial see PARA 804 post.

² As to parliamentary election petitions see PARA 759 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante.

³ Election Petition Rules 1960, SI 1960/543, r 15; European Parliamentary Election Petition Rules 1979, SI 1979/521, r 15. The Election Petition Rules 1960, SI 1960/543 (as amended) have been applied for the purposes of Welsh Assembly election petitions: see PARA 765 note 3 ante.

⁴ *Yates v Leach* (1874) LR 9 CP 605.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(iii) Petitions/A. PARLIAMENTARY, NATIONAL ASSEMBLY FOR WALES AND EUROPEAN PARLIAMENTARY ELECTIONS/782. Mode of presentation of election petition.

782. Mode of presentation of election petition.

A parliamentary, Welsh Assembly or European parliamentary election petition¹ must be presented to the High Court if the constituency² or the electoral region³ to which it relates is in England or Wales⁴. The petition is presented by delivering it to the prescribed officer⁵ or otherwise by dealing with it in the prescribed manner⁶, that is by filing it in the election petitions office⁷ and at the same time leaving three copies there⁸. It is the duty of the prescribed officer to send a copy of the election petition to the returning officer of the constituency or electoral region (as the case may be) to which the petition relates⁹, and the returning officer must forthwith publish it in that constituency or electoral region¹⁰.

1 As to parliamentary election petitions see PARA 759 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante.

2 Ie the parliamentary constituency in the case of a parliamentary election or the Assembly constituency in the case of a Welsh Assembly constituency election. For the meanings of 'Assembly constituency election' and 'Assembly constituency' in the context of Welsh Assembly elections see PARA 3 note 1 ante; and for the meanings of 'parliamentary election', and 'constituency' in relation to a parliamentary election, see PARA 9 ante.

3 Ie the Assembly electoral region in the case of a Welsh Assembly regional election, or the combined region or any European parliamentary electoral region wholly in England and Wales in the case of a European parliamentary election. For the meanings of 'Assembly electoral region' and 'Assembly regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante. As to European parliamentary elections see PARA 224 et seq ante; and as to the establishment of electoral regions for the purpose of elections to the European Parliament (including the combined region) see PARA 76 ante.

4 Representation of the People Act 1983 s 121(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 86(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 89(3).

5 As to the prescribed officer see PARA 768 ante.

6 Representation of the People Act 1983 s 121(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 86(5); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 89(4).

7 For the meaning of 'election petitions office' see PARA 766 note 12 ante.

8 Election Petition Rules 1960, SI 1960/543, rr 2(5), 4(2); European Parliamentary Election Petition Rules 1979, SI 1979/521, rr 2(4), 4(2) (r 2(4) substituted, and r 4(2) amended, by SI 2004/1415). The Election Petition Rules 1960, SI 1960/543 (as amended) have been applied for the purposes of Welsh Assembly election petitions: see PARA 765 note 3 ante.

9 As to returning officers for parliamentary elections see PARA 355 et seq ante. For the purposes of Welsh Assembly elections, the reference, in relation to a constituency election, is to a constituency returning officer and, in relation to a regional election, is to a regional returning officer (for the meanings of which see PARA 18 note 2 ante). As to the designation of returning officers at European parliamentary elections see PARA 365 et seq ante. As to the constituencies and electoral regions referred to in the text see notes 2, 3 supra.

10 Representation of the People Act 1983 s 121(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 86(5); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 89(4). Where, by any provision of the Election Petition Rules 1960, SI 1960/543, or the European Parliamentary Election Petition Rules 1979, SI 1979/521, as the case may be, a petition or notice is required to be published by the returning officer, the cost of publication must be paid in the first instance by the petitioner.

or, as the case may be, by the person by whom the notice was given, without prejudice to the manner in which such cost is ultimately to be borne by one or more of the parties to the petition: Election Petition Rules 1960, SI 1960/543, r 20; European Parliamentary Election Petition Rules 1979, SI 1979/521, r 19; and see note 8 *supra*.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(iii) Petitions/A. PARLIAMENTARY, NATIONAL ASSEMBLY FOR WALES AND EUROPEAN PARLIAMENTARY ELECTIONS/783. Time for presentation of election petition.

783. Time for presentation of election petition.

In general, a parliamentary election petition¹ must be presented within 21 days² after the return of the member to whose election it relates has been made to the Clerk of the Crown³. The return of a member at a parliamentary election is not made until the writ with the returning officer's certificate endorsed on it reaches the Clerk of the Crown so that he may act on it⁴, and the period of 21 days does not begin to run until then⁵. In general, a Welsh Assembly election petition⁶ must be presented within 21 days after the day on which the name of any member to whose election or return the petition relates has been returned⁷. In general, a European parliamentary election petition⁸ must be presented within 21 days after the day on which the relevant result was declared in accordance with the European parliamentary elections rules⁹.

If, at a parliamentary or Welsh Assembly election, the return or the election is challenged on an allegation of corrupt practices¹⁰, and the petition specifically alleges a payment of money or other reward¹¹ to have been made by the member or on his account or with his privity since the time of the return in pursuance or in furtherance of the alleged corrupt practice, it may be presented within 28 days after the date of such payment¹². A parliamentary or Welsh Assembly election petition questioning a return or an election upon an allegation of an illegal practice may, so far as respects the illegal practice, be presented not later than the expiration of 21 days after the specified day¹³. The specified day for this purpose is the tenth day after the end of the time allowed for delivering to the returning officer returns as to election expenses at the election or, if later¹⁴: (1) that on which the returning officer receives the return and declarations as to election expenses by the member to whose election the petition relates and his election agent¹⁵; or, (2) where the return and declarations are received on different days, the last of those days¹⁶; or (3) where there is an authorised excuse for failing to make the return and declarations, the date of the allowance of the excuse or, if there was a failure as regards two or more of them and the excuse was allowed at different times, the date of the allowance of the last excuse¹⁷. Moreover, if the petition specifically alleges a payment of money to have been made or some other act to have been done since the specified day by the member or an agent of the member, or with the privity of the member or his election agent, in pursuance or in furtherance of the illegal practice alleged in the petition, the petition may be presented within 28 days after the date of the payment or other act¹⁸.

1 As to parliamentary election petitions see PARA 759 ante.

2 As to calculation of these times limits and as to the circumstances in which presentation might be deemed see PARA 766 ante.

3 Representation of the People Act 1983 s 122(1). 'Clerk of the Crown' means Clerk of the Crown in Chancery: s 202(1). As to the Clerk of the Crown see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 921.

4 See PARAS 478-479 ante.

5 *Re Poole Case, Hurdle v Waring* (1874) LR 9 CP 435.

6 As to Welsh Assembly election petitions see PARA 762 ante.

7 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 87(1). The text refers to an election or return at a Welsh Assembly election in accordance with either art 16(1), Sch 5 (as amended) (see PARA 487 et seq ante) or the Government of Wales Act 1998 s 9(6) (vacancy in electoral region seat: see PARA 222 ante): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 87(1). The provisions of the Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes after that date see the Government of Wales Act 2006 s 11(6); and PARA 222 ante.

8 As to European parliamentary election petitions see PARA 763 ante.

9 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 90. For the meaning of 'European parliamentary elections rules' see PARA 388 ante. The text refers to the day on which the result of the election was declared under reg 9(1), Sch 1 para 56 (see PARA 491 ante).

10 This includes a petition complaining that corrupt or illegal practices, or illegal payments, employments or hirings, have extensively prevailed even though the alleged offences are or include offences other than corrupt practices: Representation of the People Act 1983 s 122(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 87(7). There is no equivalent provision for the purposes of European parliamentary election petitions because corrupt and illegal practices may be cited in such petitions only when they are related to personation and other voting offences: see PARA 763 ante.

11 'Payment' includes any pecuniary or other reward; and 'pecuniary reward' and 'money' include any office, place or employment and any valuable security or equivalent for money and any valuable consideration: Representation of the People Act 1983 s 185; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 136.

12 Representation of the People Act 1983 s 122(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 87(2). As to European parliamentary election petitions see note 10 supra. The payment, unlike a payment in furtherance of an illegal practice, may have been made at any time since the election. However, in *Kidderminster Case* (1874) 2 O'M & H 170 at 172, Mellor J (on the previous, but similar, statutory wording) expressed the opinion that the case must be confined to payments made within the 28 days and may not embrace those made within the 21 days after the return. There is nothing in the Representation of the People Act 1983 s 122(2) corresponding to the words 'so far as respects that illegal practice' in s 122(3) (see the text and note 13 infra). It would seem, however, that the corresponding limitation is to be implied: see *Kidderminster Case* supra at 172 per Mellor J; *Brecon Borough Case, Watkins and Watkins v Holford* (1871) 2 O'M & H 43.

It would seem that extended time would not be allowed if another petition had already been heard and dismissed: see PARA 856 post; and cf paras 791, 859 post. This would seem to be the case where the petition was against a candidate first declared to be successful on the hearing of a petition against another candidate: cf *Taunton Case, Waygood v James* (1869) LR 4 CP 361.

13 Representation of the People Act 1983 s 122(3)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 87(3)(a). As to European parliamentary election petitions see note 10 supra.

14 Representation of the People Act 1983 s 122(4) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 44); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 87(4). As to European parliamentary election petitions see note 10 supra.

15 Representation of the People Act 1983 s 122(4)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 87(4)(a). As to European parliamentary election petitions see note 10 supra. As to the time for delivering the return and the declaration to the returning officer see PARAS 285-286 ante. In relation to a Welsh Assembly election, head (1) in the text refers to a member who was an individual candidate: art 87(4)(a). Where the member was a party list candidate, the day specified is that on which the National Assembly for Wales receives the return and declaration as to election expenses by the registered political party's registered nominating officer and the declaration as to election expenses by that member: art 87(4)(b). For the meaning of references to a group of party list candidates and for the meaning of 'individual candidate' for these purposes see PARA 237 note 23 ante. For the meaning of 'registered political party' for these purposes see PARA 263 ante. As to the appointment of an election agent for parliamentary and local government elections see PARA 238 ante; and as to the appointment of an election agent for elections to the National Assembly for Wales see PARA 242 ante. As to a registered political party's nominating officer see PARA 260 ante.

16 Representation of the People Act 1983 s 122(4)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 87(4)(c). As to European parliamentary election petitions see note 10 supra.

17 Representation of the People Act 1983 s 122(4)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 87(4)(d). As to European parliamentary election petitions see note 10 *supra*. As to authorised excuses see *PARA 691 et seq ante*.

18 Representation of the People Act 1983 s 122(3)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 87(3)(b). As to European parliamentary election petitions see note 10 *supra*.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(iii) Petitions/A. PARLIAMENTARY, NATIONAL ASSEMBLY FOR WALES AND EUROPEAN PARLIAMENTARY ELECTIONS/784. Amendment of election petition.

784. Amendment of election petition.

If a parliamentary or Welsh Assembly election petition¹ has been presented within the period of 21 days from the making of the return or, where the petition contains an allegation of corrupt practice and a specific allegation of payment, within 28 days after that payment², then, for the purpose of questioning the return or the election upon an allegation of an illegal practice, the petition may be amended with the leave of the High Court³ within the time within which a petition questioning the election upon the allegation of that illegal practice could be presented⁴. The provisions as to the time of presentation of a petition alleging an illegal practice⁵ or the amendment of such a petition⁶ apply whether or not the act constituting the alleged illegal practice amounted to a corrupt practice, and they apply also to the corrupt practices of incurring or aiding, abetting, counselling or procuring the incurring of certain expenses not authorised by the election agent, or making a false declaration about such expenses⁷, as if they were illegal practices⁸. An affidavit in support of the application is desirable⁹.

The High Court has no jurisdiction to allow an amendment of a petition after the time prescribed by statute by the introduction of a fresh substantive charge¹⁰; nor to allow a petitioner to change the grounds on which he claims he has capacity to bring the petition¹¹; nor to convert an offence charged under one statutory provision into an offence against another related provision, although the facts might support the latter offence¹². It is submitted that there is no jurisdiction to allow an amendment introducing a fresh charge, whether the charge sought to be added is one of a fresh nature, or whether it is one only of a fresh instance not covered by the allegations in the petition as standing¹³.

The objection to adding a charge after the time for presenting a petition has elapsed does not apply to withdrawing a charge, and it would seem that this may be done. The withdrawal of that portion of a petition which claims the seat cannot, however, be effected by way of amendment because the rights of the electors would be affected by their not having the opportunity of substituting another petitioner¹⁴.

Allegations which disclose no offence or which are otherwise immaterial may be struck out¹⁵.

1 As to parliamentary election petitions see PARA 759 ante; and as to Welsh Assembly election petitions see PARA 762 ante. There is no equivalent provision for the purposes of European parliamentary election petitions because corrupt and illegal practices may be cited in such petitions only when they are related to personation and other voting offences: see PARA 763 ante.

2 As to the time limited for presentation of an election petition see PARA 783 ante.

3 Leave ought not to be given on an application without notice: *Shaw v Reckitt (Pontefract Election Petition)* [1893] 2 QB 59, CA.

4 Representation of the People Act 1983 s 122(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 87(5). The power of amendment given by this provision applies, it has been held, where it is sought to amend by alleging an illegal payment, employment, or hiring which is not an illegal practice: *York County, East Riding, Buckrose Division Case* (1886) 4 O'M & H 110 at 116. As to the withdrawal of petitions see PARA 811 et seq post.

5 See PARA 783 ante.

6 le, in relation to a parliamentary election, under the Representation of the People Act 1983 s 122(5) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 87(5) (see the text and notes 1-4 supra).

7 le the matters which are corrupt practices, in relation to a parliamentary election, under the Representation of the People Act 1983 s 75 (as amended) and, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44 (see PARA 284 ante).

8 Representation of the People Act 1983 s 122(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 87(6).

9 *Great Yarmouth Borough Case* (1906) 5 O'M & H 176; *Cornwall, Bodmin Division Case* (1906) 5 O'M & H 225.

10 *Maude v Lowley* (1874) LR 9 CP 165 (municipal), which was followed in *Clark v Wallond* (1883) 52 LJQB 321 (municipal); *Norwich Case, Birbeck v Bullard* (1886) 2 TLR 273; *Cremer v Lowles* [1896] 1 QB 504, CA; *Lancaster County, Lancaster Division Case* (1896) 5 O'M & H 39 at 40. See also the doubt expressed as to the court having such jurisdiction in *Youghal Borough Case* (1869) 1 O'M & H 291 at 296 per O'Brien J. The peculiar nature of the jurisdiction and the importance in the public interest of securing an early determination of the matter are, it seems relevant considerations in regard to extensions of time: see *Senanayake v Navaratne* [1954] AC 640 at 851, [1954] 2 All ER 805 at 810, PC (Ceylon election).

11 *Hobson v Fishburn* (1988) Times, 21 November, DC. The petitioner had claimed capacity to bring the petition under the Representation of the People Act 1983 s 121(1)(b) (see PARA 779 ante); he was refused leave to amend the petition out of time to claim capacity under s 121(1)(a) or (c) (see PARA 779 ante); and he was also refused leave to withdraw the petition so that another petitioner could be substituted (see PARA 811 note 2 post).

12 See *Cork, Eastern Division Case* (1911) 6 O'M & H 318 at 337; *Manchester, Eastern Division Case* (1892) 4 O'M & H 120.

13 In *Cremer v Lowles* [1896] 1 QB 504, CA, there was a general allegation in the petition that the respondent had been guilty of 'other corrupt and illegal practices before, during, and after the election', but on his seeking to include in his particulars offences committed after the presentation of his petition and after the time limited for amendment, such particulars were struck out.

14 *Aldridge v Hurst* (1876) 1 CPD 410.

15 *Stevens v Tillett* (1870) LR 6 CP 147; *Brecon Borough Case* (1871) 2 O'M & H 170n; *Sheffield, Attercliffe Division Case* (1906) 5 O'M & H 218 at 220; *Northumberland, Berwick-upon-Tweed Division Case* (1923) 7 O'M & H 1 at 3.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(iii) Petitions/A. PARLIAMENTARY, NATIONAL ASSEMBLY FOR WALES AND EUROPEAN PARLIAMENTARY ELECTIONS/785. Supplemental petition.

785. Supplemental petition.

A supplemental petition, founded on new matter discovered since the original petition was presented, may be filed to cure some defect in the original petition¹ or to meet some difficulty as to the time at which the original petition was presented².

1 *Poole Case, Hurdle and Stark v Waring* (1874) 31 LT 171 at 177. Supplemental petitions which are founded on new matter discovered since the original petition was presented may be presented within the time within which the original petition could have been presented: see 2 *Roe on Elections* (2nd Edn) 148, 191.

2 *Poole Case, Hurdle and Stark v Waring* (1874) as reported in 2 O'M & H 123 at 127. However, the usual course is to amend the original petition as it avoids the necessity of giving security under the supplemental petition. As to the giving of security for costs see PARA 794 et seq post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(iii) Petitions/A. PARLIAMENTARY, NATIONAL ASSEMBLY FOR WALES AND EUROPEAN PARLIAMENTARY ELECTIONS/786. Service of petition.

786. Service of petition.

A parliamentary, Welsh Assembly or European parliamentary election petition¹ must be served in such manner as may be prescribed².

¹ As to parliamentary election petitions see PARA 759 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante.

² Representation of the People Act 1983 s 121(5) (amended by the Political Parties, Elections and Referendums Act 2000 s 138, Sch 18 paras 1, 19(3)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 86(6); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 89(5). As to the service of documents for these purposes see PARA 802 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(iii) Petitions/B. LOCAL GOVERNMENT ELECTIONS AND LOCAL AUTHORITY REFERENDUMS/787. Form and contents of petition.

B. LOCAL GOVERNMENT ELECTIONS AND LOCAL AUTHORITY REFERENDUMS

787. Form and contents of petition.

A petition questioning a local authority referendum¹ or an election under the Local Government Act 1972² must be in the prescribed form³. The petition must state: (1) (except in the case of a local authority referendum petition) in which capacity the petitioner or each of the petitioners presents the petition⁴; (2) the date and result of the election or referendum (as the case may be) to which the petition relates⁵; (3) in the case of a petition alleging a corrupt or illegal practice at an election⁶ or in the case of any referendum petition, the date from which the time for the presentation of the petition is to be calculated⁷; and (4) the grounds on which relief is sought, setting out with sufficient particularity the facts relied on but not the evidence by which they are to be proved⁸.

The petition must conclude with a prayer setting out particulars of the relief claimed⁹, and must be signed by the petitioner¹⁰.

1 I.e. a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante. The provision made for the questioning of an election under the Local Government Act 1972 is applied and modified for the purpose of questioning a local authority referendum: see PARA 764 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

2 As to the questioning of an election in England and Wales under the Local Government Act 1972 see PARA 760 ante.

3 Representation of the People Act 1983 s 128(3); and see note 1 supra. The petition must be in the form set out in the Election Petition Rules 1960, SI 1960/543, Schedule (amended by SI 1985/1278), or a form to the like effect with such variations as the circumstances may require: Election Petition Rules 1960, SI 1960/543, r 4(1). The Election Petition Rules 1960, SI 1960/543 (as amended) have been applied and modified for the purposes of a local authority referendum petition: see PARA 765 note 3 ante.

4 Ibid r 4(1)(a) (amended by SI 1985/1278). As to the persons who may present a petition see PARA 788 post.

5 Election Petition Rules 1960, SI 1960/543, r 4(1)(b); and see note 3 supra.

6 I.e. a petition mentioned in the Representation of the People Act 1983 s 129(2), (3) or (4): see PARA 791 post.

7 Election Petition Rules 1960, SI 1960/543, r 4(1)(c) (amended by SI 1985/1278); and see note 3 supra. As to the time for presentation in such a case see PARA 791 post.

8 Election Petition Rules 1960, SI 1960/543, r 4(1)(d); and see note 3 supra. As to allegations in the petition see further PARA 778 ante.

9 Ibid r 4(1); and see note 3 supra.

10 Representation of the People Act 1983 s 128(3); and see note 1 supra.

UPDATE

787-792 Form and contents of petition ... Amendment of petition

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(iii) Petitions/B. LOCAL GOVERNMENT ELECTIONS AND LOCAL AUTHORITY REFERENDUMS/788. Who may present a petition.

788. Who may present a petition.

A petition questioning a local authority referendum¹ or an election under the Local Government Act 1972² may be presented by four or more persons who voted or had a right to vote³ as electors at the election or referendum (as the case may be)⁴. A petition questioning an election under the Local Government Act 1972 may be presented alternatively by a person alleging himself to have been a candidate at the election⁵.

1 le a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante. The provision made for the questioning of an election under the Local Government Act 1972 is applied and modified for the purpose of questioning a local authority referendum: see PARA 764 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

2 As to the questioning of an election in England and Wales under the Local Government Act 1972 see PARA 760 ante.

3 As to the meaning of 'persons who voted or had a right to vote' see PARA 779 note 2 ante.

4 Representation of the People Act 1983 s 128(1); and see note 1 supra. The reference in s 128(1) to a person who voted as an elector at an election or who had the right so to vote does not include a person who had an anonymous entry in the register of electors: s 128(1A) (added by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 2, 12). For the meaning of 'anonymous entry' in relation to a register of electors see PARA 174 ante.

5 Representation of the People Act 1983 s 128(1). For the meaning of 'candidate' generally see PARA 237 ante. See also *Re Cambridge County Council Election Petition*, *Fordham v Webber* [1925] 2 KB 740, DC.

UPDATE

787-792 Form and contents of petition ... Amendment of petition

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(iii) Petitions/B. LOCAL GOVERNMENT ELECTIONS AND LOCAL AUTHORITY REFERENDUMS/789. Who may be respondent.

789. Who may be respondent.

A person whose election under the Local Government Act 1972¹ is questioned by a petition may be made a respondent to it². Additionally, in the case of such an election, or in the case of any local authority referendum³, any returning officer of whose conduct a petition complains may be made a respondent to the petition⁴. Two or more candidates (in the case of an election) or two or more persons (in the case of a referendum) may be made respondents to the same petition, but the petition is deemed to be a separate petition against each respondent⁵. A petition may be presented complaining of the election of a person who has since died⁶.

Where the ground on which a petition seeks to avoid the respondent's election applies equally to another candidate elected at the same election (but who is not a respondent to the petition), it is not a necessary condition to the hearing and determining of the respondent's petition that the other candidate should be joined as a respondent⁷, the underlying premise being that a petition is not competent for the purpose of obtaining relief whose effect would be to unseat an elected candidate unless the person whose election is being questioned has been joined as a respondent to the election petition⁸.

1 For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante. As to the questioning of an election in England and Wales under the Local Government Act 1972 see PARA 760 ante.

2 Representation of the People Act 1983 s 128(2). However, an unsuccessful candidate cannot be made a respondent to an election petition against his will: *Maidenhead Case*, *Lovering v Dawson (No 1)* (1875) LR 10 CP 711; *Yates v Leach* (1874) LR 9 CP 605.

3 In a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante. The provision made for the questioning of an election under the Local Government Act 1972 is applied and modified for the purpose of questioning a local authority referendum: see PARA 764 ante.

4 Representation of the People Act 1983 s 128(2); and see note 3 supra. In *Absalom v Gillett* [1995] 2 All ER 661, [1995] 1 WLR 128, it was held that the presiding officer may be presumed to be the returning officer for the purposes of the Representation of the People Act 1983 s 128(2) in relation to an uncontested election. However, this case may have application only to City of London elections (within which context the point arose), as such elections are governed by local Acts which do not provide an equivalent remedy to that contained in the Representation of the People Act 1983 s 35 (as amended) (returning officers for local elections in England and Wales: see PARA 359 ante).

5 Ibid s 138(3); and see note 3 supra. The petitions are tried together: see PARA 803 post. The court in *Pease v Norwood* (1869) LR 4 CP 235 seemed to doubt whether the provision by which the petition is deemed to be a separate petition against each respondent had any substantial effect. As to security for costs in such cases see PARA 794 post.

6 See PARA 780 ante.

7 *Line v Warren* (1884) 14 QBD 73; on appeal (1885) 14 QBD 548, CA.

8 *Absalom v Gillett* [1995] 2 All ER 661 at 671, [1995] 1 WLR 128 at 138 per Laws J, in the context of a petition questioning a City of London election, applying *Line v Warren* (1885) 14 QBD 548 at 552-554, CA, per Brett MR. Common justice dictates that a successful candidate whose election and status as a democratic representative is impugned by litigation ought to be heard; because the Representation of the People Act 1983 s 128(2) defines the potential respondents to a petition under s 128(1), the subjunctive 'may' is a word of

limitation rather than permission and the requirement to serve a petition is mandatory: *Absalom v Gillett* supra. In *Absalom v Gillett* supra at 670-671 and 137, Laws J noted that *Copeland v Jackson* (July 1933, unreported) supported the view that a successful candidate cannot be unseated without his being a party to the petition.

UPDATE

787-792 Form and contents of petition ... Amendment of petition

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(iii) Petitions/B. LOCAL GOVERNMENT ELECTIONS AND LOCAL AUTHORITY REFERENDUMS/790. Mode of presentation of petition.

790. Mode of presentation of petition.

The presentation of a petition questioning a local authority referendum¹ or an election under the Local Government Act 1972² is made to the High Court in the Queen's Bench Division in a similar manner to that in which the presentation of a parliamentary election petition is made³. The master who is for the time being nominated as the prescribed officer in relation to parliamentary election petitions⁴ is also the prescribed officer in relation to petitions questioning elections under the Local Government Act 1972⁵ or local authority referendums⁶. The master must send forthwith a copy of the petition to the proper officer⁷ of the authority for which the election or referendum (as the case may be) was held, who must forthwith publish it in that authority's area⁸.

1 Ie a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante. The provision made for the questioning of an election under the Local Government Act 1972 is applied and modified for the purpose of questioning a local authority referendum: see PARA 764 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

2 As to the questioning of an election in England and Wales under the Local Government Act 1972 see PARA 760 ante.

3 As to the presentation of parliamentary election petitions see PARA 782 ante.

4 See PARA 768 ante.

5 Ie under the Representation of the People Act 1983 Pt III (ss 120-186) (as amended).

6 Ibid s 157(6); Election Petition Rules 1960, SI 1960/543, r 2(3) (amended by SI 1985/1278); and see note 1 supra. The Election Petition Rules 1960, SI 1960/543 (as amended) have been applied and modified for the purposes of a local authority referendum petition: see PARA 765 note 3 ante.

7 Ie the officer appointed by the local authority for the purpose or, at a parish or community council election, the returning officer: see PARA 775 ante.

8 Representation of the People Act 1983 s 128(4); and see note 1 supra. As to the costs of publication by the returning officer see PARA 782 note 10 ante.

UPDATE

787-792 Form and contents of petition ... Amendment of petition

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(iii) Petitions/B. LOCAL GOVERNMENT ELECTIONS AND LOCAL AUTHORITY REFERENDUMS/791. Time for presentation of petition.

791. Time for presentation of petition.

In general, a petition questioning a local authority referendum¹ or an election under the Local Government Act 1972² must be presented within 21 days³ after the day on which the election or referendum (as the case may be) was held⁴.

If the petition complains of the election or referendum (as the case may be) on the ground of a corrupt practice⁵ and specifically alleges that a payment of money or other reward⁶ has been made or promised either since the election by a candidate elected at the election or since the referendum by any person (as the case may be), or on his account or with his privity, in pursuance or furtherance of that corrupt practice, it may be presented within 28 days⁷ after the date of the alleged payment or promise, whether or not any other petition against that person has been previously presented or tried⁸.

A petition complaining of the election or referendum (as the case may be) on the ground of an illegal practice and specifically alleging a payment of money or other act made or done either since the election by the candidate elected at the election (or by the candidate's agent or with the privity of the candidate or his election agent⁹) or since the referendum by any person (as the case may be), in pursuance or in furtherance of that illegal practice, may be presented at any time within 28 days¹⁰ after the date of that payment or act, whether or not any other petition against that person has been previously presented or tried¹¹.

A petition complaining of an election where election expenses are allowed on the ground of an illegal practice may be presented at any time before the expiration of 14 days¹² after a specified day¹³, this day being: (1) that on which the appropriate officer¹⁴ receives the return and declarations as to election expenses by the candidate to whose election the petition relates and his election agent¹⁵; or (2) where the return and declarations are received on different days, the last of those days¹⁶; or (3) where there is an authorised excuse for failing to make the return and declarations, the date of the allowance of the excuse, or, if there was a failure as regards two or more of them and the excuse was allowed at different times, the date of the allowance of the last excuse¹⁷.

The provisions as to the time within which an election petition alleging, either originally¹⁸ or by amendment¹⁹, an illegal practice may be presented apply whether or not the act constituting the alleged illegal practice amounted to a corrupt practice, and they apply also to the corrupt practices of incurring certain election expenses not authorised by the election agent or making a false declaration about such expenses²⁰ as if they were illegal practices²¹. Similarly, the provisions as to the time within which a referendum petition alleging, either originally²² or by amendment²³, an illegal practice may be presented apply whether or not the act constituting the alleged illegal practice amounted to a corrupt practice²⁴.

¹ ie a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante. The provision made for the questioning of an election under the Local Government Act 1972 is applied and modified for the purpose of questioning a local authority referendum: see PARA 764 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

2 As to the questioning of an election in England and Wales under the Local Government Act 1972 see PARA 760 ante.

3 As to calculation of these times limits and as to the circumstances in which presentation might be deemed see PARA 766 ante.

4 Representation of the People Act 1983 s 129(1); Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(2); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(2); and see note 1 supra. For a case where an election petition was presented before the day of election because the petitioner's nomination was rejected by the returning officer see *Re Grangemellon Case* [1909] 2 IR 90 at 103.

5 This includes a petition complaining that corrupt or illegal practices or illegal payments, employments or hirings have extensively prevailed, notwithstanding that the offences alleged are or include offences other than corrupt practices: Representation of the People Act 1983 s 129(8); and see note 1 supra.

6 This includes any office, place or employment and any valuable security or equivalent for money and any valuable consideration: *ibid* s 185; and see note 1 supra. In the case of a local authority referendum, the reference is to the ground mentioned, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(1)(d) and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(1)(d) (see PARA 764 ante).

7 As to calculation of time for these purposes see note 3 supra. A local authority referendum petition, on the ground that a payment of money or other reward has been made or promised since the referendum in pursuance of a corrupt or illegal practice, may be presented only with the leave of the High Court: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(3); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(3). An application for leave must be made, not later than 28 days after the date of the alleged payment or promise, by application notice to the court at such time and place as the court may appoint: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(4); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(4). Not less than seven days before the day so appointed, the applicant must serve the application notice, stating the grounds on which the application is made, on the respondent and the Director of Public Prosecutions and lodge a copy in the election petitions office and publish notice of the intended application in at least one newspaper circulating in the voting area for the referendum to which the application relates: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(5), (6); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(5), (6). For the meaning of 'voting area' see PARA 582 note 2 ante. For the meaning of 'election petitions office' see PARA 766 note 12 ante.

8 Representation of the People Act 1983 s 129(2); Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(3), (4); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(3), (4); and see note 1 supra.

9 As to the appointment of an election agent for local government elections see PARA 238 ante. In relation to an election where candidates are not required to have election agents (see PARA 238 note 3 ante), the reference to an election agent is to be omitted: Representation of the People Act 1983 s 129(9).

10 See note 7 supra.

11 Representation of the People Act 1983 s 129(3); Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(3), (4); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(3), (4); and see note 1 supra.

12 See note 3 supra.

13 Representation of the People Act 1983 s 129(4).

14 For the meaning of 'appropriate officer' see PARA 238 note 5 ante.

15 Representation of the People Act 1983 s 129(5)(a). As to the reference to an election agent see note 9 supra. As to the return and declarations as to expenses see PARA 285 et seq ante.

16 *Ibid* s 129(5)(b); and see note 17 infra.

17 *Ibid* s 129(5)(c). As to authorised excuses see PARA 691 et seq ante. Heads (2) and (3) in the text do not apply in relation to an election where candidates are not required to have an election agent (see PARA 238 note 3 ante): s 129(9).

- 18 le *ibid* s 129(3)-(5) (see the text and notes 9-17 *supra*).
- 19 le *ibid* s 129(6) (see *PARA* 792 *post*).
- 20 le the matters which are corrupt practices, in relation to an election, under *ibid* s 75 (as amended) (see *PARA* 284 *ante*).
- 21 *Ibid* s 129(7).
- 22 le *ibid* s 129(3) (as applied and modified) (see the text and notes 9-11 *supra*).
- 23 le *ibid* s 129(6) (as applied and modified) (see *PARA* 792 *post*).
- 24 *Ibid* s 129(7); and see note 1 *supra*.

UPDATE

787-792 Form and contents of petition ... Amendment of petition

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(iii) Petitions/B. LOCAL GOVERNMENT ELECTIONS AND LOCAL AUTHORITY REFERENDUMS/792. Amendment of petition.

792. Amendment of petition.

If a petition questioning a local authority referendum¹ or an election under the Local Government Act 1972² has been presented within the period of 21 days from the day of election or referendum (as the case may be)³, or within 28 days after the payment where there is an allegation of a corrupt practice and a specific allegation of payment⁴, then, for the purpose of complaining of the election or referendum (as the case may be) on an allegation of an illegal practice, the petition may be amended with the leave of the High Court within the time within which a petition complaining of the election or referendum (as the case may be) on the ground of that illegal practice could be presented⁵.

1 I.e. a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante. The provision made for the questioning of an election under the Local Government Act 1972 is applied and modified for the purpose of questioning a local authority referendum: see PARA 764 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

2 As to the questioning of an election in England and Wales under the Local Government Act 1972 see PARA 760 ante.

3 I.e. within the time limited by the Representation of the People Act 1983 s 129(1) (including that provision as applied and modified: see note 1 supra): see PARA 791 ante.

4 I.e. within the time limited by *ibid* s 129(2) (including that provision as applied and modified: see note 1 supra): see PARA 791 ante.

5 *Ibid* s 129(6); and see note 1 supra. It will be noticed that the High Court's jurisdiction does not have to be exercised by a judge on the rota for the trial of parliamentary election petitions. The statute in this respect follows *Ex p Haseldine* (1895) 59 JP 71, DC; and *Nichol v Fearby* [1923] 1 KB 480. As to the time for presenting a petition complaining of illegal practices see PARA 791 ante. As to case law regarding the amendment of an election petition see PARA 784 ante.

UPDATE

787-792 Form and contents of petition ... Amendment of petition

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/ (iv) Service of Notices and Security for Costs/793. Service of notices on respondent etc.

(iv) Service of Notices and Security for Costs

793. Service of notices on respondent etc.

Any notice required to be served on a respondent to a petition¹ may be served by delivering it or sending it by post to any solicitor who has given notice of his appointment to act for the respondent². A solicitor who has been so appointed must forthwith give notice of his appointment to the petitioner and lodge a copy of the notice in the elections petition office³. If no such notice has been given, any notice required to be served on the respondent may be served in the manner provided⁴.

Any notice required to be served on the returning officer or the Director of Public Prosecutions in election petition proceedings may be served by delivering it or sending it by post to him⁵.

¹ I.e. a parliamentary election petition or a petition questioning an election under the Local Government Act 1972 (Election Petition Rules 1960, SI 1960/543, r 2(2) (amended by SI 1985/1278)), a Welsh Assembly election petition (Election Petition Rules 1960, SI 1960/543, r 2(2) (as applied: see PARA 765 note 3 ante)), a petition questioning an election under the European Parliamentary Elections Act 2002 (European Parliamentary Election Petition Rules 1979, SI 1979/521, r 2(1) (amended by the European Communities (Amendment) Act 1986 s 3; and by SI 2004/1415)) or a local authority referendum petition (Election Petition Rules 1960, SI 1960/543, r 2(2) (as applied: see PARA 765 note 3 ante)). As to parliamentary election petitions see PARA 759 ante; as to the questioning of an election under the Local Government Act 1972 see PARA 760 ante; as to Welsh Assembly election petitions see PARA 762 ante; as to European parliamentary election petitions see PARA 763 ante; and as to the questioning of a local authority referendum see PARA 764 ante. As to the application and modification of the Election Petition Rules 1960, SI 1960/543 (as amended) for the purposes of Welsh Assembly election petitions and for the purposes of a local authority referendum petition see PARA 765 note 3 ante. As to respondents see PARAS 780, 789 ante.

² Election Petition Rules 1960, SI 1960/543, r 21(2)(a); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 20(2)(a); and see note 1 supra.

³ Election Petition Rules 1960, SI 1960/543, r 21(1); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 20(1); and see note 1 supra. For the meaning of 'election petitions office' see PARA 766 note 12 ante.

⁴ Election Petition Rules 1960, SI 1960/543, r 21(2)(b) (amended by SI 1985/1278); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 20(2)(b) (amended by SI 2004/1415); and see note 1 supra. As to the manner of service see PARA 802 post.

⁵ Election Petition Rules 1960, SI 1960/543, r 21(3); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 20(3); and see note 1 supra.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/ (iv) Service of Notices and Security for Costs/794. Amount and form of security for costs.

794. Amount and form of security for costs.

At the time of presenting an election¹ or referendum petition², or within three days³ afterwards, the petitioner must give security for all costs that may become payable by him to any witness summoned on his behalf or to any respondent⁴. Within three days after the presentation of the petition, the petitioner must apply without notice being served on any respondent to a master to fix the amount of security for costs which he is to give⁵. In the case of a parliamentary, Welsh Assembly or European parliamentary election petition, the security must be such amount not exceeding £5,000 as the High Court or a judge of the High Court directs on an application made by the petitioner⁶. In the case of a petition questioning a local authority referendum⁷ or an election under the Local Government Act 1972⁸, other than a parish or community council election, it must be such amount not exceeding £2,500 as is directed on such an application made by the petitioner⁹; in the case of a parish or community council election or a poll consequent on a parish or community meeting, it must be such amount not exceeding £1,500 as is so directed¹⁰. The security must be given in the prescribed¹¹ manner by recognisance or by a deposit of money, or partly in one way and partly in the other¹². Deposit by way of security is made by payment into court in accordance with the general rules relating to security for costs¹³.

If Parliament is dissolved after a parliamentary election petition has been lodged but before it is heard, the High Court will order the security deposited by the petitioner to be returned to him¹⁴.

1 As to parliamentary election petitions see PARA 759 ante; as to the questioning of an election under the Local Government Act 1972 see PARA 760 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante.

2 Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante.

3 As to the calculation of time limits for these purposes see PARA 766 ante.

4 Representation of the People Act 1983 s 136(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 91(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 94(1); and see note 2 supra. As to respondents see PARAS 780, 789 ante. The time for giving security cannot be extended: see PARA 766 ante.

5 Election Petition Rules 1960, SI 1960/543, r 5(1) (substituted by SI 1985/1278; and amended by SI 1999/1352); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 5(1) (substituted by SI 1988/557; and amended by SI 1999/1398; SI 2004/1415). As to the application and modification of the Election Petition Rules 1960, SI 1960/543 (as amended) for the purposes of Welsh Assembly election petitions and for the purposes of a local authority referendum petition see PARA 765 note 3 ante. The text refers to the giving of security pursuant to the Representation of the People Act 1983 s 136 (as amended) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 94. Although such provision is not made in the applied provisions as currently modified, it is submitted that it should be understood that, in relation to a Welsh Assembly election petition, security is given pursuant to the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 91.

6 Representation of the People Act 1983 s 136(2)(a) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 48(a); and the Political Parties, Elections and Referendums Act 2000 s 138, Sch 18 paras 1, 19(4)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 91(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 94(2); and see note 2 supra.

7 le a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870.

8 For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

9 Representation of the People Act 1983 s 136(2)(b) (amended by the Representation of the People Act 1985 Sch 4 para 48(b); and the Political Parties, Elections and Referendums Act 2000 Sch 18 paras 1, 19(4)).

10 Representation of the People Act 1983 s 136(2)(b) (as amended: see note 9 supra) (applied with modifications by the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 6(b); and by the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(f)).

11 le prescribed by rules of court: Representation of the People Act 1983 s 185 (including that provision as applied see note 2 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 136(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 86. See the rules referred to in note 5 supra; and PARAS 795-798 post.

12 Representation of the People Act 1983 s 136(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 91(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 94(2); and see note 2 supra. As to recognisances as security for costs see further PARA 795 post.

13 See the Election Petition Rules 1960, SI 1960/543, r 2(4) (as amended), the European Parliamentary Election Petition Rules 1979, SI 1979/521, r 2(3) (as amended); note 5 supra; and PARA 765 ante. As to the general rules of court relating to security for costs see CPR 25.12-25.13; and CIVIL PROCEDURE vol 11 (2009) PARAS 745-748. In relation to a European parliamentary election petition and without prejudice to the rule that is set out in the text and note 5 supra, a petitioner when making a payment into court on account of his security for costs may do so (if a petition relates to an electoral region other than the combined region) at the election petitions office: European Parliamentary Election Petition Rules 1979, SI 1979/521, r 5(4)(a) (r 5(4) added by SI 2004/1415). As to European parliamentary election petitions which relate to the combined region see the European Parliamentary Election Petition Rules 1979, SI 1979/521, r 5(4)(b) (as so added). For the meaning of 'election petitions office' see PARA 766 note 12 ante. As to the combined region see PARA 76 ante.

14 *Carter v Mills* (1874) LR 9 CP 117.

UPDATE

794 Amount and form of security for costs

NOTE 7--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

NOTE 11--SI 2004/293 reg 86 amended: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/ (iv) Service of Notices and Security for Costs/795. Recognisances as security for costs.

795. Recognisances as security for costs.

In the case of an election¹ or referendum petition², a recognisance as security for costs may be entered into by any number of sureties not exceeding four³. A recognisance must be acknowledged before a person authorised to take affidavits under the Commissioners for Oaths Acts 1889 to 1891 or the Solicitors Act 1974⁴, and must be filed forthwith after being acknowledged⁵. The recognisance must be accompanied by an affidavit sworn by each surety, stating that after payment of all his debts he is worth a sum not less than that for which he is bound by his recognisance⁶.

1 As to parliamentary election petitions see PARA 759 ante; as to the questioning of an election under the Local Government Act 1972 see PARA 760 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante.

2 Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante.

3 Representation of the People Act 1983 s 136(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 91(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 94(2); and see note 2 supra. As to the amount and form of security for costs generally see PARA 794 ante. A security given by a petitioner may be liable to objection as insufficient: see PARA 797 post.

4 As to the powers referred to in the text under the Commissioners for Oaths Acts 1889 and 1891 see CIVIL PROCEDURE VOL 11 (2009) PARAS 1026-1027.

5 Election Petition Rules 1960, SI 1960/543, r 5(2) (substituted by SI 1985/1278); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 5(2) (substituted by SI 2004/1415). As to European parliamentary election petitions which relate to the combined region see the European Parliamentary Election Petition Rules 1979, SI 1979/521, r 5(2) (as so substituted). As to the combined region see PARA 76 ante. As to the application and modification of the Election Petition Rules 1960, SI 1960/543 (as amended) for the purposes of Welsh Assembly election petitions and for the purposes of a local authority referendum petition see PARA 765 note 3 ante.

6 Election Petition Rules 1960, SI 1960/543, r 5(3) (as substituted: see note 5 supra); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 5(3) (substituted by SI 1988/557); and see note 5 supra.

UPDATE

795 Recognisances as security for costs

NOTE 5--SI 1979/521 r 5(2) amended: SI 2009/1118.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/ (iv) Service of Notices and Security for Costs/796. Notice of presentation of petition and of security.

796. Notice of presentation of petition and of security.

Within five days¹ after giving the security for costs pursuant to an election or referendum petition², the petitioner must serve on the respondent³ and the Director of Public Prosecutions a notice of the presentation of the petition and of the nature and amount of the security he has given, together with a copy of the petition and of the affidavit⁴ accompanying any recognisance⁵. Service must be effected in the manner in which a claim form is served and a certificate of service must be filed as soon as practicable after service has been effected⁶.

1 As to the calculation of time limits for these purposes see PARA 766 ante. See also note 5 infra.

2 As to security for costs see PARAS 794-795 ante. As to parliamentary election petitions see PARA 759 ante; as to the questioning of an election under the Local Government Act 1972 see PARA 760 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante.

3 As to respondents see PARAS 780, 789 ante.

4 As to the affidavit see PARA 795 ante.

5 Representation of the People Act 1983 s 136(3) (substituted by the Representation of the People Act 1985 s 24, Sch 4 para 48(d)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 91(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 94(3); Election Petition Rules 1960, SI 1960/543, r 6(1) (r 6 substituted by SI 1985/1278); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 6(1) (substituted by SI 1988/557; and amended by SI 2004/1415); and see note 2 supra. As to the application and modification of the Election Petition Rules 1960, SI 1960/543 (as amended) for the purposes of Welsh Assembly election petitions and for the purposes of a local authority referendum petition see PARA 765 note 3 ante.

Any enlargement of the time limit prescribed for the purposes set out in the text is absolutely prohibited under the rules relating to election petitions, which have primacy over the Civil Procedure Rules in this respect: *Ahmed v Kennedy*, *Ullah v Pagel* [2002] EWCA Civ 1793, [2003] 2 All ER 440, [2003] 1 WLR 1820, applying *Williams v Tenby Corp* (1879) 5 CPD 135 (service of notice within the prescribed time was a condition precedent to the trial of an election petition) and approving *Absalom v Gillett* [1995] 2 All ER 661, [1995] 1 WLR 128 (incompetent petition served in relation to a City of London election could not be amended and served again out of time, despite the draconian effect). In the latter case, Laws J at 670 and 136-137 cited *Carter v Griffiths* (28 July 1981, unreported) as being to like effect (rejecting a submission that the similar provisions that preceded the Representation of the People Act 1983 s 136 were directory only), and noted that Ralph Gibson J in so holding cited *Devan Nair v Yong Kuan Teik* [1967] 2 AC 31 at 44, [1967] 2 All ER 34 at 40, PC (a case concerning similar rules in respect of election petitions in Malaysia, where *Williams v Tenby Corp* supra was stated to be 'plainly rightly decided'). *Devan Nair v Yong Kuan Teik* supra was considered to be highly persuasive in *Ahmed v Kennedy*, *Ullah v Pagel* supra, which also overruled *Young v Figgins, The Shrewsbury Petition* (1869) 19 LT 499 (in which a failure to serve a respondent had been characterised as a 'formal objection' which could be ignored under a rule in the Election Petition Rules 1868, no equivalent of which survives in the Election Petition Rules 1960, SI 1960/543 (as amended)). See *Saghir v Najib* [2005] EWHC 417 (QB), [2005] All ER (D) 353 (Mar) (the petitioners, in leaving an unamended copy of the petition on the court's files and in purporting to serve amended copies to the respondents, had failed within the prescribed time to serve notice of the presentation of the petition or to serve a copy of the petition, and their failure to state, in the notice as to the nature and amount of security, the date on which security had actually been given constituted a failure to serve, within the time prescribed, any notice of the nature and amount of the security which they had given). See also *Ali v Haques* [2006] All ER (D) 113 (Oct) (regarding the interaction between the Election Petition Rules 1960, SI 1960/543, r 6 (as substituted and amended) and the European Parliamentary Election Petition Rules 1979, SI 1979/521, r 6 (as substituted and amended) and the more generalised provisions of the Representation of the People Act 1983 s 184 (as amended) (as to which see PARA 802 post)). See further PARA 766 ante.

6 Election Petition Rules 1960, SI 1960/543, r 6(2) (as substituted (see note 5 *supra*); and amended by SI 1999/1352); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 6(2) (substituted by SI 1988/557; and amended by SI 1999/1398); and see note 5 *supra*.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/ (iv) Service of Notices and Security for Costs/797. Objections to recognisances.

797. Objections to recognisances.

A respondent to an election or referendum petition¹ may object in writing to any recognisance as security for costs² on the ground that any surety is insufficient³ or is dead or cannot be found or ascertained for want of a sufficient description in the recognisance, or that a person named in the recognisance has not duly acknowledged it⁴. Within 14 days⁵ after service on him of the notice of presentation of the petition and of the nature of the proposed security⁶, a respondent who intends to object to a recognisance on any of those grounds must serve on the petitioner notice of his objection, stating his grounds, and issue and serve on the petitioner an application notice to determine the validity or otherwise of the objection⁷.

1 As to respondents see PARAS 780, 789 ante. As to parliamentary election petitions see PARA 759 ante; as to the questioning of an election under the Local Government Act 1972 see PARA 760 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante.

2 As to recognisances as security for costs see PARAS 795-796 ante.

3 A security given by a petitioner is not invalid in itself, but is liable to rejection as insufficient: *Pease v Norwood* (1869) LR 4 CP 235.

4 Representation of the People Act 1983 s 136(4) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 48(e)(i)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 91(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 94(4); and see note 1 supra.

5 As to the calculation of time limits for these purposes see PARA 766 ante.

6 As to this notice see PARA 796 ante.

7 Election Petition Rules 1960, SI 1960/543, r 7(1) (amended by SI 1985/1278; SI 1999/1352); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 7(1) (amended by SI 1988/557; SI 1999/1398; SI 2004/1415). As to the application and modification of the Election Petition Rules 1960, SI 1960/543 (as amended) for the purposes of Welsh Assembly election petitions and for the purposes of a local authority referendum petition see PARA 765 note 3 ante.

As to the possibility of objecting to a recognisance on grounds other than those set out in the text see *Cobett v Hibbert* (1868) 19 LT 501; however, the contrary view is that the Representation of the People Act 1983 s 136(4) (as amended) is exhaustive as to the grounds of objection.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/ (iv) Service of Notices and Security for Costs/798. Hearing of objections.

798. Hearing of objections.

An application notice to determine the validity, or otherwise, of an objection to a recognisance as security for costs pursuant to an election or referendum petition¹ must be heard in chambers by a master, subject to an appeal to a judge within five days² after the master's decision³. If the objection is allowed, the master or judge having cognisance of the matter must at the same time determine what sum of money will make the security sufficient, and the petitioner may within five days thereafter remove the objection by deposit of that sum⁴.

The costs of and incidental to hearing and deciding objections made to the security given on the presentation of an election petition are in the court's discretion⁵.

1 As to recognisances as security for costs and the application notice referred to in the text see PARAS 795-796 ante. As to parliamentary election petitions see PARA 759 ante; as to the questioning of an election under the Local Government Act 1972 see PARA 760 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante.

2 As to the calculation of time limits for these purposes see PARA 766 ante.

3 Representation of the People Act 1983 ss 136(6), 185; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, arts 91(5), 136(1); European Parliamentary Elections Regulations 2004, SI 2004/293, regs 86, 94(5); Election Petition Rules 1960, SI 1960/543, r 7(2) (amended by SI 1999/1352); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 7(2) (amended by SI 1999/1398); and see note 1 supra. As to the application and modification of the Election Petition Rules 1960, SI 1960/543 (as amended) for the purposes of Welsh Assembly election petitions and for the purposes of a local authority referendum petition see PARA 765 note 3 ante.

4 Representation of the People Act 1983 s 136(7) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 48(e)(iii)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 91(6); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 94(6); Election Petition Rules 1960, SI 1960/543, r 7(3); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 7(3); and see notes 1, 3 supra.

5 See the Supreme Court Act 1981 s 51(1) (as substituted); and CIVIL PROCEDURE vol 12 (2009) PARA 1732. See also PARA 765 ante. As from a day to be appointed, the Supreme Court Act 1981 is renamed the Senior Courts Act 1981: see the Constitutional Reform Act 2005 s 59(5), Sch 11 para 1. At the date at which this volume states the law, no such day had been appointed.

UPDATE

798 Hearing of objections

NOTE 5--Appointed day is 1 October 2009: SI 2009/1604.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/ (iv) Service of Notices and Security for Costs/799. Time when petition is at issue.

799. Time when petition is at issue.

An election or referendum petition¹ is at issue²: (1) where the petitioner gives the security for costs as required³ by a deposit of money equal to the amount of the security so required, at the time when the security is so given⁴; and (2) in any other case, on the expiry of the time limited for objections to a recognisance as security for costs⁵ or, if an objection is made, on that objection being disallowed or removed⁶, whichever happens last⁷.

1 As to parliamentary election petitions see PARA 759 ante; as to the questioning of an election under the Local Government Act 1972 see PARA 760 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante.

2 Representation of the People Act 1983 s 137(1) (s 137 substituted by the Political Parties, Elections and Referendums Act 2000 s 137(a), Sch 17 paras 1, 3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 92(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 95(1); and see note 1 supra.

3 As to the requirement to give security for costs see PARAS 794-795 ante.

4 Representation of the People Act 1983 s 137(2)(a) (as substituted: see note 2 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 92(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 95(2)(a); and see note 1 supra.

5 As to objections to a recognisance see PARA 797 ante.

6 See PARA 798 ante.

7 Representation of the People Act 1983 s 137(2)(b) (as substituted: see note 2 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 92(2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 95(2)(b); and see note 1 supra.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(v) Matters Preliminary to Hearing/A. JURISDICTION AND SERVICE/800. In general.

(v) Matters Preliminary to Hearing

A. JURISDICTION AND SERVICE

800. In general.

With respect to an election or referendum petition¹ and the proceedings on it, and subject to the provisions which regulate the conduct of elections and referendums², the High Court has the same powers, jurisdiction and authority as if the petition were an ordinary claim within its jurisdiction³.

1 As to parliamentary election petitions see PARA 759 ante; as to the questioning of an election under the Local Government Act 1972 see PARA 760 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante.

2 I.e., in relation to a parliamentary election or election under the Local Government Act 1972, the Representation of the People Act 1983 (including those provisions as applied and modified for the purposes of a local authority referendum: see note 1 supra), in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293.

3 Representation of the People Act 1983 s 157(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 106(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 106(2); and see note 1 supra.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(v) Matters Preliminary to Hearing/A. JURISDICTION AND SERVICE/801. Notice of interim application.

801. Notice of interim application.

At least two clear days before the making of any interim application to the High Court, notice of it should be given at the election petitions office¹ and to the other side².

1 For the meaning of 'election petitions office' see PARA 766 note 12 ante.

2 This is the practice. See also Day's Election Cases 23.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(v) Matters Preliminary to Hearing/A. JURISDICTION AND SERVICE/802. Service of documents.

802. Service of documents.

Any notice, legal process or other document required to be served on any person with reference to any proceeding respecting an election¹ or referendum² for the purpose of causing him to appear before the High Court, the county court or any election court, or otherwise, or of giving him an opportunity of making a statement, or showing cause, or being heard by himself before any court for any purpose of the provisions governing legal proceedings in relation to election or referendums³, may be served⁴: (1) by delivering it to that person or by leaving it at, or sending it by post by a registered letter or the recorded delivery service to, his last known place of abode in the parliamentary⁵ or Welsh Assembly constituency⁶, the area of the authority⁷, the voting area⁸, or the Welsh Assembly⁹ or European parliamentary electoral region¹⁰ (as the case may be) for which the election or referendum was held¹¹; or (2) if the proceeding is one before any court, in such other manner as the court may direct¹². In proving such service by post it is sufficient to prove that the letter was pre-paid, properly addressed, and registered or recorded with the postal operator concerned¹³.

1 Ie a parliamentary election, election under the Local Government Act 1972, Welsh Assembly election or European parliamentary election. For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante; for the meaning of 'parliamentary election' see PARA 9 ante; and for the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante. As to European parliamentary elections see PARA 224 et seq ante.

2 Ie a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante. The provision made for the questioning of an election under the Local Government Act 1972 is applied and modified for the purpose of questioning a local authority referendum: see PARA 764 ante.

3 Ie, in relation to a parliamentary election or election under the Local Government Act 1972, the Representation of the People Act 1983 Pt III (ss 120-186) (as amended) (including that Part as applied and modified for the purposes of a local authority referendum: see note 2 supra), in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Pt IV (arts 85-137) (as amended) and, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, Pt 4 (regs 86-122) (as amended) (see PARA 759 et seq ante).

4 Representation of the People Act 1983 s 184(1) (amended by the Political Parties, Elections and Referendums Act 2000 s 138, Sch 18 paras 1, 19(5)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 135(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 122(1); and see note 2 supra. The appropriate procedure for the service of the petition, the notice of presentation of the petition and of the amount of the security for costs is that laid down by the Election Petition Rules 1960, SI 1960/543, r 6 (as substituted and amended) or, in relation to a European parliamentary election, the European Parliamentary Election Petition Rules 1979, SI 1979/521, r 6 (as substituted and amended) (see PARAS 766, 796 ante), and thus they prevail over the more generalised provisions of the Representation of the People Act 1983 s 184 (as amended) regarding the service of those particular documents: see *Ali v Haques* [2006] All ER (D) 113 (Oct).

5 For the meaning of 'parliamentary constituency' see PARA 9 ante.

6 For the meaning of 'Assembly constituency' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

7 As to the area of the authority for which a local government election is held see PARA 10 ante.

8 For the meaning of 'voting area' see PARA 582 note 2 ante.

9 For the meaning of 'Assembly electoral region' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

10 As to the establishment of electoral regions for the purpose of elections to the European Parliament see PARA 76 ante. As to service in the combined region see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 122(3), (4).

11 Representation of the People Act 1983 s 184(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 135(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 122(1)(a); and see note 2 supra.

12 Representation of the People Act 1983 s 184(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 135(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 122(1)(b); and see note 2 supra.

13 Representation of the People Act 1983 s 184(2) (amended by the Postal Services Act 2000 (Consequential Modifications No 1) Order 2001, SI 2001/1149, art 3(1), Sch 1 para 57(1), (3)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 135(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 122(2); and see note 2 supra. The text refers to the postal operator within the meaning of the Postal Services Act 2000 (see POST OFFICE).

UPDATE

802 Service of documents

NOTE 2--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(v) Matters Preliminary to Hearing/B. ORDER, PLACE AND TIME OF TRIAL/803. List of petitions.

B. ORDER, PLACE AND TIME OF TRIAL

803. List of petitions.

The prescribed officer¹ must, as soon as may be, make out a list of all parliamentary² or Welsh Assembly election petitions³ or all referendum petitions⁴ (as the case may be) at issue in the order of their presentation⁵; the petitions questioning elections under the Local Government Act 1972 must be in a separate list⁶. The list of petitions at issue must be conspicuously displayed in the election petitions office⁷ and be available for inspection by the public during office hours⁸. Where there are two or more petitions relating to the same parliamentary election or to elections under the Local Government Act 1972 or to the same Assembly election or return to fill a vacancy in an electoral region seat⁹ or to the same referendum or to referendums (as the case may be) held at the same time for more than one electoral area in the same local government area¹⁰, they are to be bracketed together in the list of petitions and dealt with as one petition, but they are to take their place in the list where the last of them would have stood if it had been the only petition, unless the High Court directs otherwise¹¹.

1 See PARA 768 ante.

2 As to parliamentary election petitions see PARA 759 ante.

3 As to Welsh Assembly election petitions see PARA 762 ante.

4 Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante. As to the questioning of an election under the Local Government Act 1972 see PARA 760 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

5 Representation of the People Act 1983 s 138(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 93(1)(a); and see note 4 supra. There is no equivalent provision under the European Parliamentary Elections Regulations 2004, SI 2004/293.

6 Representation of the People Act 1983 s 138(1) (amended by the Political Parties, Elections and Referendums Act 2000 ss 137, 158(2), Sch 17 paras 1, 4, Sch 22).

7 For the meaning of 'election petitions office' see PARA 766 note 12 ante.

8 Representation of the People Act 1983 ss 138(1)(b), 185; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, arts 93(1)(b), 136(1); Election Petition Rules 1960, SI 1960/543, r 8 (amended by SI 1985/1278); and see note 4 supra.

9 Ie under the Government of Wales Act 1998 s 9 (election to fill a vacancy in an electoral region seat: see PARA 222 ante). The provisions of the Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes after that date see the Government of Wales Act 2006 s 11; and PARA 222 ante.

10 For the meaning of 'electoral area' see PARA 10 ante; and for the meaning of 'local government area' see PARA 18 note 2 ante.

11 Representation of the People Act 1983 s 138(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 93(3); and see note 4 supra. Two or more candidates (in the case of an

election) or two or more persons (in the case of a referendum) may be made respondents to the same petition, but the petition is deemed to be a separate petition against each respondent although the petitions may be tried together: see the Representation of the People Act 1983 s 138(3) (including that provision as applied and modified for the purposes of a local authority referendum: see note 4 *supra*); and PARA 789 ante. Whether two election petitions, of which one claims the seat while the other does not, may properly be tried together seems doubtful (*Maldon Case* (1853) 2 Pow R & D 143); but in *Cashel Borough Case* (1869) 1 O'M & H 286, where there were two petitions against the same respondent, of which one claimed the seat, Fitzgerald B decided that he would allow them to be opened together, but reserved his decision as to the further course. In *York County West Riding, Southern Division Case* (1869) 1 O'M & H 213, there were two petitions, one against two respondents, which also claimed the seat, and the other claiming the seat against one of these two respondents; they appear to have been treated as two separate cases. In *Stafford Borough Case* (1869) 21 LT 210, 1 O'M & H 228, there were two petitions, in each of which the petitioner and the respondent were different; they were treated as two different cases, although at 232 Blackburn J said that he would treat the evidence in the one case as applicable to both, except where application was made to examine or re-examine witnesses. In *Poole Case, Hurdle and Stark v Waring* (1874) 2 O'M & H 123, two petitions against the same respondent were heard together.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(v) Matters Preliminary to Hearing/B. ORDER, PLACE AND TIME OF TRIAL/804. Time and place of trial.

804. Time and place of trial.

So far as convenient, election and referendum petitions¹ are to be tried in the order in which they stand in the list of petitions². Within 28 days³ after the first day on which a petition is at issue⁴ the petitioner must apply by application notice to a rota judge to fix the time and place of trial and if the petitioner fails to do so, any respondent may, within a further period of 28 days, apply in the same manner as the petitioner could have done⁵. If no application is made in accordance with these provisions, the prescribed officer⁶ must refer the matter to a rota judge who must thereupon fix such a time and place⁷.

In general, the place of trial must be within the parliamentary⁸ or Assembly constituency⁹, the area of the authority¹⁰, or the Welsh Assembly electoral region¹¹ (as the case may be) for which the election or referendum was held¹². If, however, the High Court is satisfied that special circumstances exist which render it desirable that the trial should be held elsewhere, the court may appoint some other convenient place for the trial¹³.

The special circumstances which must exist in order that the court may exercise its power of changing the venue of the trial must be such as to render the trial of the petition elsewhere not merely more convenient but more conducive to the ends of justice, and convenience or inconvenience is not in itself a special circumstance¹⁴. Without such special circumstances the High Court has no power to change the place of trial¹⁵. Applications for a change of venue should be made to the High Court and not to a judge in chambers¹⁶. If the petition is tried outside the constituency, area or region for which the election was held without the High Court's consent, the proceedings may be void¹⁷.

1 As to parliamentary election petitions see PARA 759 ante; as to the questioning of an election under the Local Government Act 1972 see PARA 760 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

2 Representation of the People Act 1983 s 138(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 93(2); and see note 1 supra. There is no equivalent provision under the European Parliamentary Elections Regulations 2004, SI 2004/293. As to the list of petitions see PARA 803 ante.

3 As to the calculation of time limits for these purposes see PARAS 765, 766 ante.

4 As to when the petition is at issue see PARA 799 ante.

5 Election Petition Rules 1960, SI 1960/543, r 9(1) (amended by SI 1999/1352); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 9(1) (amended by SI 1999/1398). 'Rota judge' means a judge on the rota for the trial of parliamentary election petitions (as to which see PARA 767 ante): Election Petition Rules 1960, SI 1960/543, r 2(2); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 2(1). As to the application and modification of the Election Petition Rules 1960, SI 1960/543 (as amended) for the purposes of Welsh Assembly election petitions and for the purposes of a local authority referendum petition see PARA 765 note 3 ante.

6 See PARA 768 ante.

7 Election Petition Rules 1960, SI 1960/543, r 9(2); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 9(2); and see note 5 supra.

8 For the meaning of 'parliamentary constituency' see PARA 9 ante.

9 For the meaning of 'Assembly constituency' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

10 As to the area of the authority for which a local government election is held see PARA 10 ante. In the application of the Representation of the People Act 1983 s 130(6) to the election of a chairman of a parish meeting or to a poll consequent on a parish or community meeting on the question of appointment to any office, for the words the 'area of the authority for which the election was held' there is substituted a reference to the 'district in which the parish is situate': Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(c).

11 For the meaning of 'Assembly electoral region' in the context of Welsh Assembly elections see PARA 3 note 1 ante. Where an Assembly election petition is presented, by virtue of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 86(1)(d) (see PARA 779 note 3 ante), by a person claiming to have had a right to be returned under the Government of Wales Act 1998 s 9 (election to fill a vacancy in an electoral region seat: see PARA 222 ante), the reference is to the Assembly electoral region for which a person claims to have had a right to be so returned: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 88(3). The provisions of the Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes after that date see the Government of Wales Act 2006 s 11; and PARA 222 ante.

12 Representation of the People Act 1983 ss 123(3), 130(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 88(3); and see note 1 supra. Although the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 91 is headed 'constitution of election court and place of trial', explicit provision for the place of the trial is not made therein. As to the power to adjourn the trial of a petition from one place to another see PARA 817 post.

13 Representation of the People Act 1983 ss 123(3)(a), 130(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 88(3); and see note 1 supra. If a parliamentary election petition relates to a constituency wholly or partly in Greater London, it may be heard at such place within Greater London as the High Court may appoint: Representation of the People Act 1983 s 123(3)(b).

14 *Tewkesbury Case*, *Collins v Price* (1880) 5 CPD 544, DC. In *Sligo Borough Case* (1869) 1 O'M & H 300, the venue was changed because a system of intimidation and violence was organised and carried out for months before and during the election, and down to and during the trial.

15 *Lawson v Chester Master*, *Cirencester Election Petition* [1893] 1 QB 245, in which it was held that the fact that the point in dispute would not necessitate the calling of any witnesses and that it would be more convenient and cheaper to have the petition tried in London did not constitute special circumstances. See also *Tewkesbury Case*, *Collins v Price* (1880) 5 CPD 544, DC, where the court expressed grave doubts as to whether the absence of accommodation at the place for which the election was held constituted special circumstances; but see *Re Hexham Election Petition* (1892) Times, 8 November; *Cork, Eastern Division Case* (1911) 6 O'M & H 318 at 319; *West Ham, North Division Case* (1911) 6 O'M & H 392; *Arch v Bentinck* (1887) 18 QBD 548.

16 *Tewkesbury Case*, *Collins v Price* (1880) 5 CPD 544, DC.

17 *Hudson v Tooth* (1877) 3 QBD 46.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(v) Matters Preliminary to Hearing/B. ORDER, PLACE AND TIME OF TRIAL/805. Notice of time and place of trial.

805. Notice of time and place of trial.

Notice of the time and place of trial of election and referendum petitions¹ must be given in the prescribed manner, in the case of a parliamentary, Welsh Assembly or European parliamentary election petition, not less than 14 days before the day fixed for the trial² and, in any other case, not less than seven days before the day fixed for the trial³. The prescribed officer⁴ must cause notice of the appointed time and place of the trial to be displayed in a conspicuous place in the election petitions office⁵ and sent by post to the petitioner, the respondent⁶, the Director of Public Prosecutions and, except in the case of a European parliamentary election petition, the returning officer⁷.

On receipt of the notice, the returning officer must forthwith publish it in his constituency, the electoral region or, as the case may be, the local government area to which the petition relates⁸.

1 As to parliamentary election petitions see PARA 759 ante; as to the questioning of an election under the Local Government Act 1972 see PARA 760 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante. As to the time and place of trial see PARA 804 ante.

2 As to the calculation of time limits for these purposes see PARAS 765-766 ante.

3 Representation of the People Act 1983 ss 139(1), 185; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, arts 94(1), 136(1); European Parliamentary Elections Regulations 2004, SI 2004/293, regs 86, 96(1); Election Petition Rules 1960, SI 1960/543, r 9(3); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 9(3); and see note 1 supra. As to the application and modification of the Election Petition Rules 1960, SI 1960/543 (as amended) for the purposes of Welsh Assembly election petitions and for the purposes of a local authority referendum petition see PARA 765 note 3 ante.

4 See PARA 768 ante.

5 For the meaning of 'election petitions office' see PARA 766 note 12 ante.

6 As to respondents see PARAS 780, 789 ante.

7 Election Petition Rules 1960, SI 1960/543, r 9(3) (amended by SI 1985/1278); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 9(3); and see note 3 supra.

8 Election Petition Rules 1960, SI 1960/543, rr 2(2), 9(4) (r 9(4) amended by SI 1985/1278); and see note 3 supra. As to the costs of publication by the returning officer see PARA 782 note 10 ante. For the meanings of 'Assembly constituency' and 'Assembly electoral region' in the context of Welsh Assembly elections see PARA 3 note 1 ante; for the meaning of 'parliamentary constituency' see PARA 9 ante; and for the meaning of 'local government area' see PARA 18 note 2 ante. As to the establishment of electoral regions for the purpose of elections to the European Parliament see PARA 76 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(v) Matters Preliminary to Hearing/C. PARTICULARS/806. Particulars of petition.

C. PARTICULARS

806. Particulars of petition.

Where the allegations in the petition itself are quite general it is the practice to order immediately particulars of the nature of the alleged offences¹. Further particulars will be ordered of the circumstances of each charge, the order usually directing the petitioner to furnish particulars of the names of the different persons² in regard to whom the offences are alleged to have been committed, together with their addresses and numbers on the register, or, failing that, their occupation. Similarly, particulars will be ordered of the persons³ by whom the offences are alleged to have been committed, of the time and place of the commission of each offence and of its precise character, and, in the case of charges of bribery or treating, of its degree⁴.

The question of the length of time before trial in which particulars will be ordered depends on the circumstances of each case, such as the character, area and population of the electoral area and the number of witnesses whom it is proposed to call⁵, and also on the number of charges alleged in the petition⁶. The fact that witnesses may be tampered with is not a ground for diminishing the time for giving particulars⁷.

If the particulars are not served within the time ordered, they may be struck out at the trial⁸. If the particulars do not comply with the order in respect of which they were given, an order for further and better particulars may be obtained, or the particulars may be struck out. Previous notice of the intention to strike out the particulars should be given to the other side; but the proper course is to make objection during the trial as and when evidence is tendered which is not covered by the particulars⁹.

A party giving particulars in pursuance of an order or otherwise must file a copy within 24 hours after serving the particulars to the party requiring them¹⁰.

1 *Anderson v Cawley* (1868) 19 LT 500; *Beverley Case* (1869) 1 O'M & H 143; and see the cases mentioned in Day's Election Cases 11, 12. See also *Lancaster County, Lancaster Division Case* (1896) 5 O'M & H 39; *Shoreditch, Haggerston Division Case*, *Cremer v Lowles* (1896) 5 O'M & H 68. Application is usually made by summons to a judge on the rota (see PARA 767 ante); as a general rule the exercise of the judge's discretion will not be interfered with: *Barrow-in-Furness Case* (1886) 4 O'M & H 76, DC.

2 In *Maude v Lowley* (1874) LR 9 CP 165 at 167 (a municipal case), the court added the words 'so far as known'. In *Lenham v Barber* (1883) 10 QBD 293, DC (also a municipal case), the court refused to order the words to be added, Pollock B stating that it was his practice to omit them on the ground that they might be taken to warrant undue limitation; but in *Willes v Horniman* (1898) 14 TLR 343, CA, Grantham J inserted in his order the words 'if known', and the Court of Appeal refused to strike them out, A L Smith LJ stating that if omitted in this particular case they would probably have to be read in. The practice now is to leave them out on the ground that the person who gives the particulars can only give them so far as is known and the words are therefore implied: see *Cork, Eastern Division Case* (1911) 6 O'M & H 318 at 320.

3 *Londonderry Case* (1868) 19 LT 573; *Bristol Case*, *Brett v Robinson* (1870) 22 LT 487 at 488 (in the latter case, the Christian names not having been given in the particulars as delivered, an order was made for giving them); *Hastings Case*, *Stafford Case* (1869) 20 LT 180. In *Hexham Case* (1892) cited in Day 14, per Cave J, it was held to be insufficient to give the name of a political association as being that of the person by whom the offence charged was alleged to have been committed: the particulars should specify the name of the guilty member or members. In *Bradford Case* (1869) 19 LT 661, particulars of persons bribed and treated lumped

together, not saying which was which, were held sufficient; but in *Horsham Case* (1869) 20 LT 180, Willes J considered that there should be separate lists of the persons bribed, treated, and unduly influenced.

4 For examples of particulars which have been ordered by judges in chambers, otherwise unreported see Parker's Election Agent and Returning Officer (3rd Edn).

5 *Rushmere v Isaacson* [1893] 1 QB 118, DC, where an order for delivery of particulars within seven days was, on appeal, enlarged to ten days.

6 *Cirencester Case* (1893) (cited in Day 12). In the early cases of election petitions the time allowed was generally three days: *Anderson v Cawley* (1868) 19 LT 500; *Tamworth Case, Hill v Peel* (1868) 19 LT 527; *Hereford Borough Case* (1869) 1 O'M & H 194 at 196; *Beal v Smith* (1869) LR 4 CP 145. Later the time ordered was longer, usually seven days: see *Furness v Beresford, York City Case* [1898] 1 QB 495 at 498, CA, per A L Smith LJ; *Oxford Borough Case, Green v Hall* [1889] WN 146, DC; *Clark v Wallond* (1883) 52 LJB 321; *Lenham v Barber* (1883) 10 QBD 293, DC (a municipal case). If there are special circumstances, an affidavit setting them forth ought to be filed. In *East Manchester Case, Munro v Balfour* [1893] 1 QB 113 the time ordered was 10 days. In *Cirencester Case* supra the following sliding scale was adopted by Cave J: 10 days if charges under 80, 15 days if charges under 160, 20 days if charges above 160. In *St George's Division, Tower Hamlets, Case* (1896) 5 O'M & H 89, and *Southampton Borough Case* (1895) 5 O'M & H 17, a sliding scale of 10 days if charges under 80, and 12 days if over 80 was adopted. In *Grimsby Case* (1903) cited in 2 Rogers on Elections (18th Edn) p 225, and in *Shrewsbury Case* (1903) cited in 3 Rogers on Elections (18th Edn) p 304, the scale was 5 days if the charges were not over 50; but if they were over 50, 7 days; and if they were over 80, 10 days. In *Shoreditch, Haggerston Division Case, Cremer v Lowles* (1896) 5 O'M & H 68, particulars of the general charges were ordered within seven days of the order and particulars of the specific charges within ten days of the trial. Where a charge was made against a returning officer of misconduct both personal and through his deputy, stringent particulars were ordered to be delivered within six days of the order: *Warrington Case, Crozier v Rylands and Neild* (1869) 19 LT 572. In *Clark v Wallond* supra (a municipal case), the Divisional Court considered seven days the usually proper time, and refused to alter an order prescribing that time.

7 *Drogheda Borough Case* (1869) 19 LT 528.

8 *York County West Riding, Southern Division Case* (1869) 1 O'M & H 213; but cf *Brecon Borough Case* (1869) 1 O'M & H 212, where an objection made to the admission of particulars on this ground was overruled by Martin B. The first-named case was one alleging a majority of legal votes and claiming the seat on a scrutiny.

9 *Cork, Eastern Division Case* (1911) 6 O'M & H 318 at 319-320.

10 Election Petition Rules 1960, SI 1960/543, r 17; European Parliamentary Election Petition Rules 1979, SI 1979/521, r 17. The copy must be filed in the election petitions office: Election Petition Rules 1960, SI 1960/543, r 2(5); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 2(4) (substituted by SI 2004/1415). For the meaning of 'election petitions office' see PARA 766 note 12 ante. As to the application and modification of the Election Petition Rules 1960, SI 1960/543 (as amended) for the purposes of Welsh Assembly election petitions and for the purposes of a local authority referendum petition see PARA 765 note 3 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(v) Matters Preliminary to Hearing/C. PARTICULARS/807. Particulars where general corruption charged.

807. Particulars where general corruption charged.

Where a charge of general corruption is made¹, the particulars which are ordered are necessarily wider than usual², and the names of particular persons alleged to have been bribed or treated will not be ordered³. A petitioner will, however, be ordered to specify the character and extent of the corruption alleged⁴.

1 See PARA 893 post.

2 As to the usual particulars see PARA 806 ante.

3 *Beverley Case* (1869) 1 O'M & H 143; *Taunton Borough Case* (1874) 2 O'M & H 66; *Wigan Case, Spencer and Prestt v Powell* (1881) 4 O'M & H 1. As to a distinction made between bribing and treating see *Wigan Case, Spencer and Prestt v Powell* supra at 2 per Grove J, where he said that the particulars of bribery must be more specific than those of treating, as one did not bribe hosts of people generally. See also *Manchester, Eastern Division Case* (1892) 4 O'M & H 120, where under a charge of general corruption the court refused to admit evidence of treating at a public house which had not been mentioned in the particulars. In *Hexham Case* (1892) cited in Day 14, and in *Worcester Borough Case, Glazzard v Allsopp* (1892) cited in Day 12, the particulars ordered were those only of time and of place; but see, contra, *King's Lynn Case, Armes and Holditch v Bourke* (1869) 1 O'M & H 206 at 207 per Martin B, in which he objected to receive evidence of general treating from a person who had been treated whose name was not in the particulars, although he did not think that it was necessary to give the name of the public house involved.

4 *Walsall Case* (1892) cited in Day 12; *Pontefract Case, Shaw v Reckitt* (1893) cited in Day 11.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(v) Matters Preliminary to Hearing/C. PARTICULARS/808. Amendment of particulars.

808. Amendment of particulars.

If a party wishes to give evidence of any circumstances not mentioned, or insufficiently mentioned, in his particulars¹, leave to amend the particulars may be asked for before or at the trial². The court's practice in dealing with such an application has not been absolutely uniform, but the course generally pursued has been to allow instances not mentioned or insufficiently mentioned in the particulars to be given in evidence if the matter is substantial and if it appears that the failure to furnish the particulars or the sufficient particulars in due time was in good faith³. An affidavit to that effect should be filed⁴.

In granting leave for the petitioner to amend his particulars, the court will consider whether the respondent will be prejudiced by such leave, and if it is of opinion that the respondent ought to have time to be enabled to meet such evidence the court will grant an adjournment for that purpose⁵, and may also in its discretion award the respondent the costs entailed by such evidence in any event⁶. Particulars which are fishing or grossly insufficient will be struck out at the trial⁷. It is not usual to order particulars to be struck out before the trial merely on the ground of being insufficient. If the petitioner obtains further information by the time of the trial, he may, with leave, supply the deficiencies in the particulars served; if not, the insufficient particulars will be struck out at the trial⁸.

The court will not allow an amendment of particulars at the trial where such amendment really amounts to an amendment of the petition⁹. On the other hand, a count which discloses no valid ground of objection may be struck out¹⁰ and clerical errors in the wording of the count may be amended¹¹.

1 As to the particulars generally see PARAS 806-807 ante.

2 See, however, *St George's Division, Tower Hamlets, Case* (1896) 5 O'M & H 89, where the application for leave to amend had been made to a judge in chambers and had been referred by him to be made to the judges at the trial; Pollock B considered the course a very inconvenient one, pointing out that an appeal would have lain from the judge at chambers to the Court of Appeal.

3 This seems to be the position which may be deduced from the various cases where the point has arisen. In *Wigan Case, Spencer and Prestt v Powell* (1881) 4 O'M & H 1 at 4 per Bowen J, an order for particulars drawn up in a form that the petitioners could be precluded at the trial from going into any case of which particulars have not been delivered 'can be modified at any time, and I confess I should not hesitate myself at any moment to disregard that prohibition, and to amend the order by stating that further cases might be gone into if the justice of the case required it, and if there was no danger of surprise upon the sitting member'. This statement was approved in *Cork, Eastern Division Case* (1911) 6 O'M & H 318 at 320. See also *Belfast Borough Petition* (1869) 19 LT 574, where Keogh J said that parties would not be excluded from giving evidence of instances coming to light before the trial, as had, likewise, been the custom of the House of Commons, and the court should investigate all such cases; *Bewdley Case* (1869) 1 O'M & H 16; *Carrickfergus Borough Case* (1869) 1 O'M & H 264; *Coventry Case, Berry v Eaton and Hill* (1869) 1 O'M & H 97; *Dublin City Case* (1869) 1 O'M & H 270, where Keogh J said he would allow the utmost latitude to amend unless it were evident that the party had kept back information available at the time of delivery of the particulars; *Longford Case* (1870) 2 O'M & H 6; *Harwich Borough Case* (1880) 3 O'M & H 61; *Evesham Borough Case* (1880) 3 O'M & H 94 at 95, where Hawkins J drew attention to the fact that the court could, in its discretion, after the close of the hearing, call and examine any witness, and he said that the respondent might exercise his option, subject to such power in the court, of having the evidence of charges not included in the particulars excluded during the hearing. On the other hand see *Bodmin Case* (1869) 1 O'M & H 117; *King's Lynn Case, Armes and Holditch v Bourke* (1869) 1 O'M & H 206 at 207; *Manchester, Eastern Division Case* (1892) 4 O'M & H 120 (where evidence was refused); and as to these cases see also PARA 848 post.

4 *Londonderry Borough Case* (1869) 1 O'M & H 274, where the respondent's counsel was allowed to cross-examine the petitioner's agent on his affidavit. See also *Cheltenham Case* (1869) 1 O'M & H 62; *Wigan Case* (1869) 1 O'M & H 188 (in each of which cases, the petition being part heard, Martin B said he could only allow the particulars to be amended by the addition of a name on an application by summons supported by affidavit). For a form of affidavit see *Longford Case* (1870) 2 O'M & H 6 at 10n; *Manchester, Eastern Division Case* (1892) cited in Day 153.

5 As to adjournment see PARA 817 post.

6 *Stafford Borough Case* (1869) 21 LT 210 at 212-213, 1 O'M & H 228 at 232; *Bristol Case, George's Case* (1870) 22 LT 731, 2 O'M & H 27; *Longford Case* (1870) 2 O'M & H 6; *Durham County, Northern Division Case* (No 2) (1874) 2 O'M & H 152; *Bewdley Case* (1869) 1 O'M & H 16; *Hereford Borough Case* (1869) 1 O'M & H 194; *Penryn Case* (1869) 1 O'M & H 127; *Bodmin Case* (1869) 1 O'M & H 117 at 119 (where, however, Willes J discriminated between a charge implicating a sitting member personally and a charge against his agent, saying that, in the former case, he would allow the charge to be added to the particulars, giving the respondent, if necessary, time to answer it; but, in the latter case, he would only allow the charge to be added if the fact were shown to have come to the petitioner's knowledge since the delivery of the particulars); and see *Belfast Borough, Western Division Case* (1886) 4 O'M & H 105 at 106 per Dowse B; *Waterford Borough Case* (1870) 2 O'M & H 24 (where notice to amend the particulars by the addition of a name during the hearing was required to be served for the following morning, when the petitioner's agent was examined on oath as to when he had first heard it).

7 *Belfast Borough, Western Division Case* (1886) 4 O'M & H 105; *Worcester Borough Case, Glaszard and Turner v Allsopp* (1892) cited in Day 85 at 87.

8 *Worcester Borough Case* (1892) cited in Day 15; *Pontefract Case* (1892) cited in Day 15; *Walsall Case* (1900) cited in Day 15.

9 *Manchester, Eastern Division Case* (1892) 4 O'M & H 120; *Montgomery Boroughs Case, George v Pryce-Jones* (1892) cited in Day 14; *Cork, Eastern Division Case* (1911) 6 O'M & H 318 at 320, 337; and see *Cremer v Lowles* [1896] 1 QB 504, CA (where no amendment of the petition having been made, particulars of offences in connection with the return of election expenses, occurring after the presentation of the petition, were struck out).

10 *Shrewsbury Case* (1903) (a municipal petition case) cited in 2 Rogers on Elections (20th Edn) 172.

11 *Northumberland, Berwick-upon-Tweed Division Case* (1923) 7 O'M & H 1.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(v) Matters Preliminary to Hearing/D. DISCLOSURE OF DOCUMENTS/809. Disclosure and inspection of documents.

D. DISCLOSURE OF DOCUMENTS

809. Disclosure and inspection of documents.

The rules of court relating to the disclosure and inspection of documents¹ apply to an election or referendum petition as if it were an ordinary claim within the High Court's jurisdiction².

¹ As to these rules see CIVIL PROCEDURE vol 11 (2009) PARA 538 et seq.

² Election Petition Rules 1960, SI 1960/543, r 2(4) (amended by SI 1999/1352); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 2(3) (amended by SI 1999/1398; SI 2004/1415). As to the application and modification of the Election Petition Rules 1960, SI 1960/543 (as amended) for the purposes of Welsh Assembly election petitions and for the purposes of a local authority referendum petition see PARA 765 note 3 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(v) Matters Preliminary to Hearing/D. DISCLOSURE OF DOCUMENTS/810. Production and admittance of documents at trial.

810. Production and admittance of documents at trial.

Notices to produce and admit documents at the trial of a petition are in the ordinary form¹. If a notice to produce merely asks generally for the production of all documents relating to the matter in question, it will entitle the party giving it to the production of every document which ought to be filed and ought to be delivered to the returning officer, but it will not entitle him to the production of other specific documents unless he has named them in his notice to produce².

1 As to the general rules as to the production of documents at trial see CIVIL PROCEDURE vol 11 (2009) PARAS 538 et seq, 876 et seq. The practice of the election committees appears to have regarded a general notice as sufficient, if it indicated clearly to the party on whom it was served the particular document it called for: see *Rogers v Custance* (1839) 2 Mood & R 179; *Jacob v Lee* (1837) 3 Mood & R 33. A notice to produce 'all public books, documents etc relating to voters of the borough' was held to include the charter of the borough in *Youghal Case, Brown's Case* (1838) Falc & Fitz 385. See also *Bradford Borough Case* (1869) 1 O'M & H 30 at 31 per Martin B (the petitioner may call for any document in the respondent's possession, and on being produced it becomes evidence as being a document in the respondent's possession produced by him; notice to produce must be served so as to allow the party on whom it is served reasonable time to comply with it).

2 *Westminster Borough Case* (1869) 1 O'M & H 89 at 93 per Martin B (where the petitioner called for the production of certain canvassing returns, his notice to produce saying 'all documents, books, and papers whatsoever and in anywise relating to the matters in question in this case' was held to be too general to entitle him to the production of the documents asked for). In the same case it was held (at 94) that a party was not entitled to call for and look generally at the canvassing sheets of the other party; but in *Northallerton Case* (1869) 1 O'M & H 167 at 168-169, Willes J held that a petitioner was entitled to ask for any particular entry in the respondent's canvass book.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(v) Matters Preliminary to Hearing/E. WITHDRAWAL OF PETITION/811. Application for permission to withdraw petition.

E. WITHDRAWAL OF PETITION

811. Application for permission to withdraw petition.

A petitioner may not withdraw an election or referendum petition¹ without the permission of the election court or the High Court² on application made by application notice to the election court or a Divisional Court at such time and place as the court may appoint³. If there is more than one petitioner, all must consent to the making of the application⁴. Not less than seven days⁵ before the day so appointed, the petitioner must serve the application notice on the respondent, the returning officer and the Director of Public Prosecutions and lodge a copy in the election petitions office⁶, and must also publish notice of the intended application in at least one newspaper circulating in the parliamentary⁷ or Welsh Assembly constituency⁸, local government area⁹, or Welsh Assembly¹⁰ or European parliamentary electoral region¹¹ (as the case may be) to which the petition relates¹². The application notice must state the grounds on which the application to withdraw is made and contain a statement to the effect that on the hearing of the application any person who might have been a petitioner in respect of the election or referendum may apply to the court to be substituted as a petitioner¹³. The application to withdraw a petition must not be made until notice has been given in (as the case may be) the parliamentary or Welsh Assembly constituency, local government area or Welsh Assembly or European parliamentary electoral region to which the petition relates¹⁴. On receipt of the notice the returning officer must forthwith publish it in his constituency, the electoral region or, as the case may be, the local government area¹⁵.

1 As to parliamentary election petitions see PARA 759 ante; as to the questioning of an election under the Local Government Act 1972 see PARA 760 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

2 Leave to withdraw so that another petitioner could be substituted was refused in circumstances when the petitioner who withdrew did not have capacity to bring an election petition (as to which see PARA 779 ante) and the petitioner who would be substituted would have such capacity: *Hobson v Fishburn* (1988) Times, 21 November, DC. In that case, a candidate who was too young to be duly elected was refused leave to amend the petition (see PARA 784 note 11 ante) and was refused leave to withdraw since that would allow him (and a substitute petitioner) to achieve what the court had refused by way of amendment. As to other circumstances when leave might be refused see *Halifax Case* (1893) 4 O'M & H 203; *North Meath Case* (1892) Day 141. Since corrupt and illegal practices cannot now be prosecuted before an election court (see the Representation of the People Act 1985 s 24, Sch 4 para 58), the Director of Public Prosecutions would no longer appear to have any interest in whether or not the petition is withdrawn: cf *Shoreditch, Haggerston Division Case*, *Cremer v Lowles* (1886) 5 O'M & H 68 at 88.

3 Representation of the People Act 1983 ss 147(1), 185; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, arts 102(1), 136(1); European Parliamentary Elections Regulations 2004, SI 2004/293, regs 86, 102(1); Election Petition Rules 1960, SI 1960/543, r 12(1) (amended by SI 1999/1352); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 12(1) (amended by SI 1999/1398); and see note 1 supra. As to the application and modification of the Election Petition Rules 1960, SI 1960/543 (as amended) for the purposes of Welsh Assembly election petitions and for the purposes of a local authority referendum petition see PARA 765 note 3 ante.

Where on the opening of the trial of an election petition it was announced that the petitioner had decided to withdraw, the hearing was adjourned in order that the statutory notice should be given: *Hartlepool Election Petition* (1869) 19 LT 821. In *Devonport Case* (1886) 54 LT 733, 2 TLR 345, an application for permission to withdraw the petition was made to a Divisional Court consisting of two judges neither of whom was on the rota. See also *Nichol v Fearby* [1923] 1 KB 480 at 493-494 per McCardie J; *Shaw v Reckitt (Pontefract Election Petition)* [1893] 2 QB 59, CA.

If it is sought to withdraw a parliamentary election petition, not in the prescribed manner, but by offering no evidence at the hearing, the court will make a special report to that effect to the Speaker of the House of Commons: *Hartlepool Election Petition* supra at 822 per Blackburn J. If the withdrawal of a petition is effected by fraud or collusion between the parties, or if material facts are withheld and there is any deception of the court, it is possible that the court might be able to recall its permission to withdraw or the House of Commons might be petitioned to direct a fresh trial: see *Taunton Case*, *Waygood v James* (1869) LR 4 CP 361 at 369, 372-373; *Nottingham Case* (1879) (reported in Cunningham on Elections (3rd Edn) p 644); and see *Dungarvan Borough Case* (1854) 2 Pow R & D 300 at 318; but in *Norwich Case* (1853) 108 Commons Journals 282, 364, and in *Pontefract Case* (1859) 114 Commons Journals 357, the point was left undecided. Cf para 856 note 6 post.

4 Representation of the People Act 1983 s 147(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 102(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 102(3); and see note 1 supra.

5 As to the calculation of time limits for these purposes see PARAS 765-766 ante.

6 Election Petition Rules 1960, SI 1960/543, r 12(2)(a) (r 12(2) amended by SI 1999/1352); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 12(2)(a), (b) (r 12(2) substituted by SI 2004/1415); and see note 3 supra. For the meaning of 'election petitions office' see PARA 766 note 12 ante. As to respondents see PARAS 780, 789 ante.

7 For the meaning of 'parliamentary constituency' see PARA 9 ante.

8 For the meaning of 'Assembly constituency' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

9 For the meaning of 'local government area' see PARA 18 note 2 ante.

10 For the meaning of 'Assembly electoral region' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

11 As to the establishment of electoral regions for the purpose of elections to the European Parliament see PARA 76 ante.

12 Election Petition Rules 1960, SI 1960/543, rr 2(2) 12(2)(b) (as amended: see note 6 supra); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 12(2)(c) (as substituted: see note 6 supra); and see note 3 supra.

13 Election Petition Rules 1960, SI 1960/543, r 12(3) (amended by SI 1999/1352); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 12(3) (amended by SI 1999/1398); and see note 3 supra. The majority of withdrawals follow on an adverse recount: see eg *York City Case*, *Furness v Beresford* (1898) 5 O'M & H 118; *Christchurch Case* (1901) 5 O'M & H 147; *Denbighshire Boroughs Case* (1910) 6 O'M & H 57; *Wiltshire, North Western Chippenham, Case* (1911) 6 O'M & H 99; *Mile End Division, Tower Hamlets, Case* (1911) 6 O'M & H 100; *Gloucester Borough Case*, *Lynch v Terrell* (1911) 6 O'M & H 101; *St Pancras, West Division Case* (1911) 6 O'M & H 102.

14 Representation of the People Act 1983 s 147(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 102(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 102(2); and see note 1 supra. Notwithstanding the statutory provision and the rules relating to the withdrawal of a petition, cases are reported to have been 'withdrawn' on an application made on or during the hearing without apparently complying with the statutory and prescribed requirements, but it seems that the procedure described as a withdrawal was, in fact, a dismissal of the petition on the petitioner's application: see eg *Pembroke Boroughs Case* (1901) 5 O'M & H 135 (application for leave to withdraw granted by the court after the court had decided a question of the conclusiveness of the register against the petitioner); *Christchurch Case* (1901) 5 O'M & H 147 (application after recount and after filing of affidavits and after giving notice to Director of Public Prosecutions). See also *York City Case*, *Furness v Beresford* (1898) 5 O'M & H 118. Cf *Halifax Case* (1893) 4 O'M & H 203 (application to withdraw refused on the ground of insufficiency of affidavits); *St George's Division, Tower Hamlets, Case* (1896) 5 O'M & H 89 at 116 (after the result of the hearing of the petition and recriminatory case was determined, the parties agreed to drop further proceedings in the prayer for recount and scrutiny; the court consented to the agreement and the petition stood dismissed).

15 Election Petition Rules 1960, SI 1960/543, rr 2(2), 12(4) (r 12(4) amended by SI 1999/1352); European Parliamentary Election Rules 1979, SI 1979/521, r 12(4) (substituted by SI 2004/1415); and see note 3 *supra*. As to the costs of publication by the returning officer see *PARA 782* note 10 *ante*.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(v) Matters Preliminary to Hearing/F. CONTINUATION, STAY OR DISMISSAL OF PETITION/812. Continuation of trial despite the occurrence of certain events.

F. CONTINUATION, STAY OR DISMISSAL OF PETITION

812. Continuation of trial despite the occurrence of certain events.

A petitioner who, after the presentation of his parliamentary election petition¹, becomes a member of the House of Lords, may apparently proceed with the petition². The death of a respondent does not abate the petition³. A parliamentary election petition drops by the fact that Parliament is dissolved while the petition is pending⁴, but it proceeds notwithstanding a prorogation of Parliament or the acceptance by the respondent of an office vacating his seat in Parliament⁵. The trial of a Welsh Assembly election petition⁶ proceeds notwithstanding a respondent having resigned his seat or if he becomes disqualified from being an Assembly member⁷ so that his seat is vacant⁸; and the trial of a European parliamentary election petition⁹ is to be proceeded with notwithstanding that one (or more) of the respondents is no longer an member of the European Parliament ('MEP')¹⁰. The trial of a petition questioning an election under the Local Government Act 1972¹¹ proceeds notwithstanding that the respondent has ceased to hold the office his election to which is questioned by the petition¹².

1 As to parliamentary election petitions see PARA 759 ante.

2 *Belfast Borough Case* (1842) Bar & Aust 553 at 554, where a motion before the House of Commons for the dismissal of a petition on this ground was, after argument, dropped. It seems that a person who has been returned for one place is not for that reason debarred from petitioning in another (see Orme's Election Laws p 261); and a person petitioning in one place is capable of being elected and returned for another, although apparently he must make his choice for which of the places he will sit if and as soon as the controverted return is altered in his favour (21 Commons Journals (1728) 135).

3 *Tipperary County Case* (1875) 3 O'M & H 19; *Ludgershall Case* (1791) 1 Peck 377n; *Dublin City Case* (1836) 91 Commons Journals 363 at 364.

4 *Carter v Mills* (1874) LR 9 CP 117; *Marshall v James* (1874) LR 9 CP 702.

5 Representation of the People Act 1983 s 139(3). As to the disqualification for membership of the House of Commons see PARA 231 ante.

6 As to Welsh Assembly election petitions see PARA 762 ante.

7 For the meaning of 'Assembly member' see PARA 12 ante. As to the qualifications for membership of the National Assembly for Wales see PARA 234 ante.

8 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 94(3).

9 As to European parliamentary election petitions see PARA 763 ante.

10 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 96(3).

11 As to the questioning of an election under the Local Government Act 1972 see PARA 760 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

12 Representation of the People Act 1983 s 139(3).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(v) Matters Preliminary to Hearing/F. CONTINUATION, STAY OR DISMISSAL OF PETITION/813. Application for stay or dismissal of petition.

813. Application for stay or dismissal of petition.

Before the day fixed for the trial¹, a respondent² may apply for the stay or dismissal of an election or referendum petition³. The application must be made by application notice to the election court or a Divisional Court at such time and place as the court may appoint⁴. Not less than seven days⁵ before the date so appointed the respondent must serve the application notice, stating his grounds, on the petitioner, any other respondent, the returning officer and the Director of Public Prosecutions⁶, and he must lodge a copy at the election petitions office⁷. An application may similarly be made to the High Court to take off the file a petition that is bad on the face of it⁸.

1 As to the time and place of trial see PARA 804 ante.

2 As to respondents see PARAS 780, 789 ante.

3 Election Petition Rules 1960, SI 1960/543, r 13(1); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 13(1). As to parliamentary election petitions see PARA 759 ante; as to the questioning of an election under the Local Government Act 1972 see PARA 760 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante. As to the application and modification of the Election Petition Rules 1960, SI 1960/543 (as amended) for the purposes of Welsh Assembly election petitions and for the purposes of a local authority referendum petition see PARA 765 note 3 ante.

As to cases where application has been made for relief in respect of an election, after a petition relating to it has been presented, see PARA 698 ante. In *Hackney Case* (1874) 2 O'M & H 77, a summons to have the petition dismissed was taken out, but was, after argument, dismissed. In *Halifax Case* (1893) 4 O'M & H 203, a recount having already been granted, and having shown a majority of votes for the respondent, the petitioner, on the petition coming on for hearing, applied to the election court for leave to withdraw it, which was refused, and the respondent applied for a certificate that he had been duly elected, but his application was refused; Hawkins J said the court could not dismiss the petition without hearing it, and he differentiated the case from the *Renfrew County Case* (1874) 2 O'M & H 213 on the ground that in the latter case the petitioner had been heard, inasmuch as the recount had taken place in open court.

4 Election Petition Rules 1960, SI 1960/543, r 13(1) (amended by SI 1999/1352); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 13(1) (amended by SI 1999/1398); and see note 3 supra.

5 As to the calculation of time limits for these purposes see PARAS 765-766 ante.

6 Election Petition Rules 1960, SI 1960/543, r 13(2) (amended by SI 1999/1352); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 13(2)(a) (r 13(2) substituted by SI 2004/1415); and see note 3 supra.

7 Election Petition Rules 1960, SI 1960/543, r 13(2); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 13(2)(b) (as substituted: see note 6 supra); and see note 3 supra. For the meaning of 'election petitions office' see PARA 766 note 12 ante.

8 *Pope v Bruton* (1900) 17 TLR 182, DC, where the ground was that a petition did not lie; *Cox v Davies* [1898] 2 QB 202, DC, where the ground was that the petition did not disclose a valid ground of objection. In *Re Counter's Petition, Buckingham v Counter* as reported in [1938] 2 KB 90, CA, an application was made to strike out a petition on the ground that it was presented out of time.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(v) Matters Preliminary to Hearing/G. PROCEEDING BY WAY OF SPECIAL CASE STATED/814. Petition proceeding by way of special case stated rather than by trial.

G. PROCEEDING BY WAY OF SPECIAL CASE STATED

814. Petition proceeding by way of special case stated rather than by trial.

If it appears to the High Court, on the application made in the prescribed manner of any party to an election or referendum petition¹, that the case raised by the petition can be conveniently stated as a special case, it may direct the case to be stated accordingly and the special case will be heard before the High Court². The only additional material that should be appended to a special case should be material which the parties are agreed that the court should take full account of³. Only one counsel has a right to be heard on either side, although as a matter of exceptional indulgence the court may hear two⁴. The Divisional Court's decision on a case thus stated to it is final unless that court gives special leave to appeal on a question of law⁵. The Divisional Court may give special leave to appeal on any question of law⁶, and if, accordingly, an appeal is made, the Court of Appeal's decision is final and conclusive⁷.

In the case of a parliamentary election petition, the High Court's decision on the special case must be certified by it to the Speaker of the House of Commons⁸. In the case of a petition questioning either an election under the Local Government Act 1972 or a local authority referendum, a statement of the decision on the special case must be sent by the High Court to the Secretary of State⁹ and must also be certified by the High Court by the signature of two or more of its judges to the proper officer of the authority for which the election or referendum (as the case may be) was held¹⁰. In the case of a Welsh Assembly election petition, the High Court must certify to the presiding officer of the Assembly¹¹ its decision on the special case¹²; and, in the case of a European parliamentary election petition, the court's decision must be certified by it to the Secretary of State¹³.

1 The application must be made by application notice to a Divisional Court: Election Petition Rules 1960, SI 1960/543, r 11 (amended by SI 1985/1278; SI 1999/1352); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 11 (amended by SI 1999/1398; SI 2004/1415). As to parliamentary election petitions see PARA 759 ante; as to the questioning of an election under the Local Government Act 1972 see PARA 760 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante. As to the application and modification of the Election Petition Rules 1960, SI 1960/543 (as amended) for the purposes of Welsh Assembly election petitions and for the purposes of a local authority referendum petition see PARA 765 note 3 ante.

2 Representation of the People Act 1983 s 146(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 101(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 101(1); and see note 1 supra. Proceeding by way of special case stated means that the petition must be determined on the basis of the facts set out in the special case, rather than on the basis of facts as they might be found by the court: see *Considine v Didrichsen* [2004] EWHC 2711 (QB) at [2], [2004] All ER (D) 365 (Nov) at [2]. In *Re West Suffolk County Council (East Ward) Election* (1964) 108 Sol Jo 604, DC, where a candidate was disqualified and admitted it, the court did not order the case to be stated but decided to hear the case and declared the election void, notwithstanding that there was no provision for this more direct course in the election petition rules. It seems that it is not open to respondents in such proceedings, as it is open to them in appeals by way of case stated by justices, to seek to uphold the decision given in their favour on grounds not relied on when it was made: *Evans v Thomas* [1962] 2 QB 350 at 370, [1962] 3 All ER 108 at 118, DC, per Winn J.

3 See *Considine v Didrichsen* [2004] EWHC 2711 (QB) at [2], [2004] All ER (D) 365 (Nov) at [2], where it was agreed that the court should take account of contemporaneous documents appended to the case, but should not take account of other factual material which has been appended to it.

4 *Re Gloucestershire, Thornbury Division, Election Petition* (1886) 16 QBD 739 at 746.

5 Representation of the People Act 1983 s 157(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 106(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 106(1); and see note 1 supra. See *Unwin v McMullen* [1891] 1 QB 694, 699, CA; *Shaw v Reckitt (Pontefract Election Petition)* [1893] 2 QB 59, CA; *Everett v Griffiths (No 3)* [1923] 1 KB 138, CA.

6 *Line v Warren* (1885) 14 QBD 548, CA; *Beresford-Hope v Lady Sandhurst* (1889) 23 QBD 79, CA.

7 Representation of the People Act 1983 s 157(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 106(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 106(1); and see note 1 supra.

8 Representation of the People Act 1983 s 146(2). 'Speaker' includes Deputy Speaker and, where the office of Speaker is vacant, Clerk of the House of Commons, or any other officer for the time being performing the duties of Clerk of the House of Commons: s 185. The granting of a certificate may be postponed on reference of a question of law, a much less common procedure: see PARA 855 post.

9 As to the Secretary of State see PARA 2 ante.

10 Representation of the People Act 1983 s 146(3); and see note 1 supra. For the meaning of 'proper officer' generally see PARA 155 note 2 ante; but for these purposes in relation to parish and community elections see PARA 761 ante.

11 As to the presiding officer of the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

12 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 101(2).

¹³ European Parliamentary Elections Regulations 2004, SI 2004/293, reg 101(2).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/A. IN GENERAL/815. Mode of trial and procedure and practice in general.

(vi) The Hearing

A. IN GENERAL

815. Mode of trial and procedure and practice in general.

An election or referendum petition¹ must be tried in open court and without a jury². Subject to the provisions of the Representation of the People Act 1983³ (and, in relation to a Welsh Assembly election, the rules provided as to the conduct of elections for the return of Assembly members⁴) and subject to the rules governing the procedure for petitions⁵, the principles, practice and rules on which committees of the House of Commons used to act in dealing with election petitions must be observed, so far as may be, by the High Court and election court in the case of parliamentary and Welsh Assembly election petitions or referendum petitions⁶. In particular, the principles and rules with regard to agency⁷ and evidence⁸, and to scrutiny⁹, and to declaring any person elected in place of any other person declared not to have been duly elected¹⁰, must be observed, so far as may be, in the case of a petition questioning an election under the Local Government Act 1972 as in the case of a petition questioning a parliamentary election or return¹¹. It is provided by election petition rules¹², however, that subject to those rules and subject to the provisions of the Representation of the People Act 1983¹³ (and, in relation to a Welsh Assembly election, the rules provided as to the conduct of elections for the return of Assembly members¹⁴ and, in relation to a European parliamentary election, the European parliamentary elections rules¹⁵), the practice and procedure of the High Court are to apply to an election or referendum petition as if it were an ordinary claim within the High Court's jurisdiction notwithstanding any different practice, principle or rule on which the committees of the House of Commons used to act in dealing with election petitions¹⁶.

1 As to parliamentary election petitions see PARA 759 ante; as to the questioning of an election under the Local Government Act 1972 see PARA 760 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

2 Representation of the People Act 1983 s 139(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 94(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 96(1); and see note 1 supra.

3 Ie including those provisions as applied and modified for the purposes of a local authority referendum (see note 1 supra).

4 Ie the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended) (see PARA 388 ante).

5 Ie the Election Petition Rules 1960, SI 1960/543 (as amended), including those rules as applied and modified for the purposes of Welsh Assembly election petitions and local authority referendum petitions (see PARA 765 ante).

6 Representation of the People Act 1983 s 157(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 106(2); and see note 1 supra. There is no equivalent provision under the European Parliamentary Elections Regulations 2004, SI 2004/293. As to the relevance of the principles, practice and rules on which committees of the House of Commons used to act see PARAS 769, 777 ante.

7 As to evidence of agency see PARA 252 et seq ante.

8 As to evidence generally see PARA 829 et seq post.

9 As to scrutiny see PARA 837 et seq post.

10 As to the effect of any judgment see PARA 856 et seq post.

11 Representation of the People Act 1983 s 157(2).

12 In the Election Petition Rules 1960, SI 1960/543 (as amended) (including those rules as applied and modified for the purposes of Welsh Assembly election petitions and local authority referendum petitions (see note 5 ante)) and, in relation to a European parliamentary election petition, the European Parliamentary Election Petition Rules 1979, SI 1979/521 (as amended) (see PARA 765 ante).

13 See note 3 supra.

14 See note 4 supra.

15 For the meaning of 'European parliamentary elections rules' see PARA 388 ante.

16 Election Petition Rules 1960, SI 1960/543, r 2(4) (amended by SI 1999/1352); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 2(3) (amended by SI 1999/1398; SI 2004/1415); and see note 5 supra. This provision has the effect of limiting the scope of the other provisions set out in the text and notes 1-11 supra.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/A. IN GENERAL/816. Attendance of shorthand writers.

816. Attendance of shorthand writers.

The shorthand writer of the House of Commons or his deputy must attend the trial of a parliamentary election petition¹ and the National Assembly for Wales requires a shorthand writer to attend the trial of an Assembly election petition². The shorthand writer that so attends must be sworn by one of the judges of the election court faithfully and truly to take down the evidence given at the trial and from time to time, as occasion requires, to transcribe that evidence or cause it to be transcribed³. Accordingly, the shorthand writer must take down the evidence and from time to time transcribe it or cause it to be transcribed, and a copy of the evidence must accompany the certificate given by the election court (at the trial of a parliamentary election petition) to the Speaker of the House of Commons or (at the trial of an Assembly election petition) to the presiding officer of the Assembly⁴.

In the case of the trial of a petition questioning an election under the Local Government Act 1972⁵ or a local authority referendum⁶, the shorthand writer who is to attend the trial must be appointed by the commissioner to whom the trial is assigned and must be sworn by the election court faithfully and truly to take down the evidence given at the trial⁷. He must take down the evidence at length and, if the election court so directs, a transcript of the notes of the evidence taken down by him must accompany the court's certificate⁸.

1 Representation of the People Act 1983 s 126(1). As to parliamentary election petitions see PARA 759 ante.

2 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 90(1). As to Welsh Assembly election petitions see PARA 762 ante.

3 Representation of the People Act 1983 s 126(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 90(1). There is no equivalent provision under the European Parliamentary Elections Regulations 2004, SI 2004/293.

4 Representation of the People Act 1983 s 126(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 90(2). As to the Speaker see PARA 814 note 8 ante. As to the presiding officer of the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS. As to the certificate given by the court see PARA 856 post.

5 As to the questioning of an election under the Local Government Act 1972 see PARA 760 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

6 Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante.

7 Representation of the People Act 1983 s 131(3)(a); Election Petition Rules 1960, SI 1960/543, r 18(1) (amended by SI 1985/1278); and see note 6 supra. As to the application and modification of the Election Petition Rules 1960, SI 1960/543 (as amended) for the purposes of a local authority referendum petition see PARA 765 note 3 ante.

8 Representation of the People Act 1983 s 131(3); and see note 6 supra. As to the shorthand writer's expenses see PARA 776 ante. As to the certificate given by the court on the determination of a local government election petition see PARA 859 post; and as to the certificate so given on the determination of a local authority referendum petition see PARA 864 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/B. ADJOURNMENT OF TRIAL OF PETITION/817. Power to adjourn.

B. ADJOURNMENT OF TRIAL OF PETITION

817. Power to adjourn.

The election court for the trial of a parliamentary election petition¹ may adjourn the trial from one place to any other place within the constituency². The election court for the trial of a petition questioning an election under the Local Government Act 1972³ or local authority referendum⁴ may in its discretion adjourn the trial from any one place to any other place within the local government area or place where it is held⁵. At the trial of a Welsh Assembly election petition⁶, the election court may adjourn the trial from one place to another within the Assembly constituency or electoral region⁷.

The election court for the trial of any election petition⁸ may in its discretion adjourn the trial from time to time, but the trial must, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day on every lawful day until its conclusion⁹.

1 As to parliamentary election petitions see PARA 759 ante.

2 Representation of the People Act 1983 s 123(4). For the meaning of 'parliamentary constituency' see PARA 9 ante.

3 For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante. As to the questioning of an election under the Local Government Act 1972 see PARA 760 ante.

4 Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante.

5 Representation of the People Act 1983 s 130(7); and see note 4 supra. For the meaning of 'local government area' see PARA 18 note 2 ante.

6 As to Welsh Assembly election petitions see PARA 762 ante.

7 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 88(4). For the meanings of 'Assembly constituency' and 'Assembly electoral region' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

8 Ie including European parliamentary election petitions (as to which see PARA 763 ante). However, there is no equivalent provision under the European Parliamentary Elections Regulations 2004, SI 2004/293, to that set out in relation to other election or referendum petitions in the text and notes 1-7 supra.

9 Representation of the People Act 1983 s 139(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 94(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 96(2).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/C. DUTIES OF PARTIES AND OF THE DIRECTOR OF PUBLIC PROSECUTIONS/818. Duty of parties and court.

C. DUTIES OF PARTIES AND OF THE DIRECTOR OF PUBLIC PROSECUTIONS

818. Duty of parties and court.

There is no obligation on the petitioner's counsel to pursue charges, even though there may be good foundation for them, if by the establishment or admission of other charges he has already attained the avoidance of the election¹.

When the issue between the parties has been decided, there is no duty cast on either of them to continue the inquiry in the public interest for the purposes of ascertaining to what, if any, extent corrupt or illegal practices have prevailed; the object of the petition being gained, there is an end of the inquiry so far as the parties are concerned².

The court will only require such further evidence to be called as is necessary to enable it to report whether corrupt or illegal practices have extensively prevailed or not and also to see whether, in respect of offences with which particular individuals have been charged, it ought to report those individuals³.

¹ *Durham County, Northern Division Case (No 2)* (1874) 2 O'M & H 152 at 156 per Bramwell B.

² See *Wakefield Case* (1874) 2 O'M & H 100 per Grove J, cited in the *Barnstaple Case* (1874) 2 O'M & H 105 at 109.

³ *Cheltenham Case, Smythies and Claridge v Mathias, Davies' Case* (1911) 6 O'M & H 194 at 209. As to the items that must be stated in the report of an election court (including whether corrupt or illegal practices have extensively prevailed at the election) see PARA 857 et seq post. It has been suggested that the election court has a duty to investigate any allegation of corrupt or illegal practices brought to its notice and that the trial cannot be shortened by concessions made by the parties: see *Ipswich Case, Packard v Collings and West* (1886) 54 LT 619, 4 O'M & H 70; *Louth, Northern Division Case* (1911) 6 O'M & H 103; *Monmouth Boroughs Case* (1901) 5 O'M & H 166; *Maidstone Borough Case, Cornwallis v Barker* (1901) 5 O'M & H 149 at 151; *Worcester Borough Case, Harben and Cadbury v Williamson, Olds' Case* (1906) 5 O'M & H 212 at 215. However, it is for consideration whether these views remain correct since persons can no longer be prosecuted for corrupt and illegal practices before election courts: see the Representation of the People Act 1985 s 24, Sch 4 para 58.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/C. DUTIES OF PARTIES AND OF THE DIRECTOR OF PUBLIC PROSECUTIONS/819. Duty of the Director of Public Prosecutions in relation to trial of election petition.

819. Duty of the Director of Public Prosecutions in relation to trial of election petition.

The Director of Public Prosecutions¹ may, and if the election court so requests, must attend the trial of every election petition² by himself or by his assistant or by a representative, who must be a barrister or a solicitor nominated by him to be his representative for this purpose³.

If it appears to the Director that any person is able to give material evidence as to the subject of the trial, it becomes his duty, without any direction from the election court, to cause that person to attend the trial, and, with the court's permission, to examine that person as a witness⁴. The Director has no right to cross-examine witnesses called by either party on the hearing, although he may call witnesses⁵. With the court's leave he may examine witnesses called by the parties at the trial, but he ought not to ask for leave to do so without substantial cause⁶. It is no part of his duties to call evidence with respect to matters at issue between the parties, although if there should be, in his opinion, a collusive withholding of evidence it would be his duty to call that evidence himself⁷. He is not concerned with the proof of agency as affecting a party to an election petition, and the court will not give him leave to cross-examine witnesses for that purpose, but he is concerned with proving to the court that the witnesses themselves have been guilty of offences⁸.

Where information is given to the Director of Public Prosecutions that any offence has been committed in relation to an election, it is his duty to make such inquiries and institute such prosecutions as the circumstances appear to him to require⁹.

¹ As to the Director of Public Prosecutions see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(3) (2006 Reissue) PARAS 1066, 1079 et seq.

² As to parliamentary election petitions see PARA 759 ante; as to the questioning of an election under the Local Government Act 1972 see PARA 760 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

³ Representation of the People Act 1983 s 181(2), (3) (s 181(2), (3) amended by the Representation of the People Act 1985 s 24, Sch 4 para 63); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 132(2), (3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 119(2), (3). In the application of reg 119(2), (3) to elections that have taken place in the combined region (as to which see PARA 76 ante), the reference to the Director of Public Prosecutions is to be construed as a reference to the Attorney General for Gibraltar: reg 119(7). As to the payment of the expenses of the Director of Public Prosecutions or his representative see PARA 875 post.

⁴ Representation of the People Act 1983 s 140(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 95(5); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 95(5). See also PARA 822 note 3 post. This provision is applied also for the purposes of trying a petition questioning a local authority referendum: see PARA 764 ante. The Director is bound to obey the court's directions as to the examination of such a person: *Stepney Division, Tower Hamlets Case* (1886) 4 O'M & H 34 at 37 per Denman J.

⁵ *Stepney Division, Tower Hamlets Case* (1886) 4 O'M & H 34 at 37 per Denman J; *York County East Riding, Buckrose Division Case* (1886) 4 O'M & H 110 at 115. Generally speaking, the Director's duties are confined to assisting the court at the conclusion of the hearing of the petition in considering whether any particular individual has been guilty of corrupt or illegal practices: *Rochester Borough Case* (1892) 4 O'M & H 156 at 158.

6 See note 5 supra.

7 The court ought, however, to be very cautious in allowing such evidence to be called by him: *Rochester Borough Case* (1892) 4 O'M & H 156 at 158 per Cave J.

Where, after the hearing was closed and before judgment was delivered, the Director, under the court's direction, called a person who was said to have been bribed, and the petitioner claimed the right to cross-examine that person, he was not allowed to do so, on the ground that if he had wanted to ask the witness questions he should himself have called him: *Maidstone Borough Case, Evans v Viscount Castlereagh* (1906) 5 O'M & H 200 at 211 per Grantham J; but see *Worcester Borough Case, Harben and Cadbury v Williamson, Olds' Case* (1906) 5 O'M & H 212, where, after the respondent had abandoned his opposition to the petition, the petitioner was allowed to cross-examine a witness called to show cause why he should not be reported. In *Northumberland, Hexham Division Case* (1892) cited in Day 29, both the petitioner and the respondent were allowed to cross-examine a witness called by the Director on matters gone into by the court; the question of the right to cross-examine on other matters which were in the particulars was raised but not decided. As to cross-examination on behalf of the parties after a witness has been examined by the court see also PARA 822 post.

8 *Northumberland, Hexham Division Case, Hudspeth and Lyal v Clayton* (1892) 4 O'M & H 143 at 144 per Cave J. See also *Worcester Borough Case, Harben and Cadbury v Williamson, Olds' Case* (1906) 5 O'M & H 212.

9 As to the duty of the Director of Public Prosecutions in relation to election offences see PARA 880 post.

UPDATE

819 Duty of the Director of Public Prosecutions in relation to trial of election petition

TEXT AND NOTE 3--Such representative may alternatively be an authorised person, meaning a person (other than a barrister or solicitor) who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience (within the meaning of that Act) (see LEGAL PROFESSIONS vol 65 (2008) PARA 512): Representation of the People Act 1983 s 181(3), (3A) (s 181(3) amended, s 181(3A) added, by Legal Services Act 2007 Sch 21 para 51).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/C. DUTIES OF PARTIES AND OF THE DIRECTOR OF PUBLIC PROSECUTIONS/820. Member of House of Commons may not appear at trial of parliamentary election petition.

820. Member of House of Commons may not appear at trial of parliamentary election petition.

A barrister who is also a member of the House of Commons may not appear as counsel on the trial of a parliamentary election petition¹.

¹ See *Re Lord Kinross* [1905] AC 468 at 471-472, HL, per Lord James. The objection appears to be founded on the fact that a court trying a parliamentary election petition has the duty of reporting to the House of Commons, and therefore a barrister practising before it would be practising before a tribunal of which he is a member: *Re Lord Kinross* supra; and see LEGAL PROFESSIONS vol 66 (2009) PARA 1113. As to parliamentary election petitions see PARA 759 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/D. WITNESSES AT ELECTION COURT/821. Attendance and swearing of witnesses at election court.

D. WITNESSES AT ELECTION COURT

821. Attendance and swearing of witnesses at election court.

At the trial of an election or referendum petition¹, witnesses are summoned and sworn in the same manner as nearly as circumstances admit as in a claim tried in the High Court². On the trial, a member of the election court may, by order signed by him, require the attendance of any person, as a witness, who appears to him to have been concerned in the election³ or referendum in question, and any person who refuses to obey the order is guilty of contempt of court⁴.

It is not illegal to offer a reward for evidence⁵.

1 As to parliamentary election petitions see PARA 759 ante; as to the questioning of an election under the Local Government Act 1972 see PARA 760 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

2 Representation of the People Act 1983 s 140(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 95(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 97(1); and see note 1 supra. As to the attendance of witnesses generally and the giving of evidence on oath see CIVIL PROCEDURE vol 11 (2009) PARA 1003 et seq.

3 I.e., in the case of a Welsh Assembly election, including a return under the Government of Wales Act 2006 s 9(6) (vacancy in electoral region seat: see PARA 222 ante): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 95(2). The provisions of the Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes after that date see the Government of Wales Act 2006 s 11(6); and PARA 222 ante.

4 Representation of the People Act 1983 s 140(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 95(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 97(2); and see note 1 supra. This power has been exercised where witnesses have failed to attend on subpoena (*Norwich Case*, *Tillett v Stracey* (1869) 1 O'M & H 8 at 9 per Martin B; *Galway County Case* (1872) 2 O'M & H 46 at 50-51); and an order has also been granted where a witness was stated to be evading the service of a subpoena (*Waterford Borough Case* (1870) 2 O'M & H 1 at 3). In *Stroud Case*, *Baynes v Stanton and Dickinson* (1874) 2 O'M & H 107, the court was adjourned in order that a witness should be compelled to attend.

5 *Mallow Borough Case* (1870) 2 O'M & H 18 at 19. The offering of large sums in small constituencies, however, has been said to be objectionable: *Mallow Borough Case* supra at 19 per Morris J.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/D. WITNESSES AT ELECTION COURT/822. Examination of witnesses by election court.

822. Examination of witnesses by election court.

The election court may examine any person required to attend the trial of an election or referendum petition¹ as a witness² or who is in court, even though he is not called and examined by any party to the petition³. After any witness has been examined by the court he may be cross-examined by or on behalf of the petitioner and the respondent⁴, or either of them⁵. Except in so far as the common law rules of evidence, practice and procedure have been applied to election petitions in pursuance of statute or by rule⁶, they are not, as such, binding on judges presiding at the trial of an election petition⁷.

1 As to parliamentary election petitions see PARA 759 ante; as to the questioning of an election under the Local Government Act 1972 see PARA 760 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

2 As to the attendance of witnesses at an election court see PARA 821 ante.

3 Representation of the People Act 1983 s 140(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 95(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 97(3); and see note 1 supra. See *Evesham Borough Case* (1880) 3 O'M & H 94 at 95-96; *Montgomery Boroughs Case* (1892) 4 O'M & H 167 at 169-170 (in which case Pollock B cited *Northumberland, Hexham Division Case*, *Hudspeth and Lyal v Clayton* (1892) 4 O'M & H 143 as an authority for a statement which he made that the court had power to call witnesses to clear up any matter that had arisen in the course of the trial; but in *Northumberland, Hexham Division Case*, *Hudspeth and Lyal v Clayton* supra the court seems to have directed counsel for the Director of Public Prosecutions to call the witnesses, and in *Montgomery Boroughs Case* supra, Wills J said, where witnesses were not cross-examined, that the court might call on the public prosecutor to cross-examine). The common law does not admit of this being done except by the parties' consent: see *Re Enoch and Zaretsky, Bock & Co* [1910] 1 KB 327, CA. The court appears to have discretion in the matter. As long as the parties are at arm's length it does not seem usual for the court to call (as between petitioner and respondent) a witness whom both sides have abstained from calling, although after the conclusion of the parties' cases this is often done: see *Hartlepool Case* (1910) Times, 4 May; and cf *Montgomery Boroughs Case* supra.

4 As to respondents see PARAS 780, 789 ante.

5 Representation of the People Act 1983 s 140(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 95(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 97(4); and see note 1 supra.

6 As to the application of rules of practice and procedure in the case of election or referendum petitions see PARA 815 ante.

7 See *North Norfolk Case* (1869) 1 O'M & H 236 at 239 per Blackburn J; *Wells v Wren, Wallingford Case* (1880) 5 CPD 546; but see, contra, *Cheltenham Case*, *Gardner v Samuelson* (1869) 1 O'M & H 62 at 63; *Bradford Borough Case (No 1)* (1869) 1 O'M & H 30 at 31. Election courts are required to observe the principles, practice and rules on which the committees of the House of Commons used to act on dealing with election petitions: see PARA 815 ante. The common law rules of evidence were, in general, observed by committees of the House of Commons in trying election petitions, but it was stated that election committees had greater latitude in questions of evidence than courts of law: see *Bedford Case* (1838) Falc & Fitz 429 at 436. See also *Galway County Case* (1872) 2 O'M & H 46 at 51-52, where Keogh J, admitting, on a charge of spiritual intimidation, evidence of references made outside the trial of the petition since its opening, observed that in *Mayo County Case* (1857) Wolf & D 1 the election committee had received evidence of what was passing in the county pending the very hearing of the petition, and that, except where a special alteration had been made by

statute, the election court must be guided, as far as possible, by the practice of Parliament; but see the cases dealing with the cross-examination by a party of his own witnesses cited in PARA 826 post. As to the production of documents see PARA 810 note 1 ante; as to statements and admissions by parties see PARA 831 post; and as to statements by voters to third parties see PARA 832 note 2 post. In *Maidstone Borough Case, Evans v Viscount Castlereagh* (1906) 5 O'M & H 200 at 202, Lawrance J said: 'It is true that in election cases we have to throw overboard the rules which regulate ordinary cases, because we have to deal with peculiar circumstances'. Hearsay evidence is not normally admissible: see *Dover Case* (1869) 1 O'M & H 210; *Northumberland, Berwick-upon-Tweed Division Case* (1923) 7 O'M & H 1 at 8. Cf *Bridgewater Case* (1869) 1 O'M & H 112; *Durham County, Northern Division Case (No 2)* (1874) 2 O'M & H 152; *Taunton Borough Case* (1874) 2 O'M & H 66 at 69.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/D. WITNESSES AT ELECTION COURT/823. Evidence on commission.

823. Evidence on commission.

There is power to order a commission for the examination of a witness at an election court who is dangerously ill¹. Evidence on commission has also been taken in the case of a witness about to leave the country². If the order is made at the trial, the practice is to have the examination taken before the court registrar³. The shorthand writer must attend, and counsel may attend⁴.

1 *Staleybridge Case* (1869) 19 LT 703; *Wells v Wren, Wallingford Case* (1880) 5 CPD 546 at 550 per Lord Coleridge CJ; *R v Maidenhead Corpn* (1882) 9 QBD 494 at 500, CA, per Jessell MR. As to the examination of witnesses at an election court see PARA 822 ante.

2 *Exeter Case* (1911) 6 O'M & H 228, where the evidence was taken before a commissioner.

3 *Wallingford Case* (1869) 1 O'M & H 57; *Montgomery Boroughs Case* (1892) 4 O'M & H 167 (not reported on this point).

4 See *Wallingford Case* (1869) 1 O'M & H 57 at 58. As to the attendance of shorthand writers at the trial see PARA 816 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/D. WITNESSES AT ELECTION COURT/824. Perjury.

824. Perjury.

A witness at an election court may be proceeded against for perjury committed at the trial of an election petition¹.

¹ See the Perjury Act 1911 s 1(1), (2); and CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(2) (2006 Reissue) PARA 712 et seq.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/D. WITNESSES AT ELECTION COURT/825. Ordering witnesses to withdraw.

825. Ordering witnesses to withdraw.

It seems that the election court may order witnesses to remain outside, even though the petition may contain charges against them¹.

¹ *Montgomery Boroughs Case* (1892) 4 O'M & H 167. Where, however, other witnesses against whom charges are made are ordered out of court, the respondent's election agent may be allowed to remain: *Knaresborough Case* (1880) 3 O'M & H 141 at 142, where the respondent's counsel had asked that the election agent might be allowed to remain in court in order that he might receive instructions from him for cross-examination, and Lush J, in granting leave, likened the position of the election agent to that of a solicitor. As to the attendance of witnesses at an election court see PARA 821 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/D. WITNESSES AT ELECTION COURT/826. Cross-examination.

826. Cross-examination.

The election court will allow a party to cross-examine his own witness if, in the court's opinion, the witness is hostile¹, and where the witness may be cross-examined, the party may also call evidence to contradict him².

1 *Coventry Case, Berry v Eaton and Hill* (1869) 1 O'M & H 97 at 104 per Willes J. As to the examination of witnesses at an election court see PARA 822 ante.

2 *Coventry Case, Berry v Eaton and Hill* (1869) 1 O'M & H 97 at 104; *Lichfield Case, Anson v Dyott* (1869) 1 O'M & H 22 at 24 per Willes J; but see, contra, *Bridgewater Case* (1869) 1 O'M & H 112 at 114 per Blackburn J. In *Bewdley Case* (1869) 1 O'M & H 16 at 17, the same judge allowed a leading question to be put to a witness by the party calling him, observing that the rule was that a previous statement by a witness differing from what he stated on oath in court might be proved to shake his evidence, but could not be used as evidence in chief; in that case the previous statement by the witness had been taken down in writing, and he stated in court that he did not remember the substance of it. As to whether the hostility which occasions the leave must be shown on the trial itself, or may be deduced from inconsistency with a previous statement by means of the consideration by the court of such previous statement see *Bradford Case* (1869) 1 O'M & H 30 at 31, where Martin B disallowed a question as to the making of such previous statement, put by a party to his own witness, with a view to supplying evidence on which the court might consider the witness to be hostile, and the judge ruled that when he saw that the witness was hostile he would deal with him accordingly but, meanwhile, he saw nothing adverse in him. As to the examination of witnesses see generally CIVIL PROCEDURE vol 11 (2009) PARA 1036 et seq.

As to the practice followed by election committees see *Nottingham Case (No 2)* (1843) Bar & Arn 192 at 196-197, where, on a witness failing to give the evidence expected by the party calling him, that party was allowed to ask him if he had been intimidated. In *Leicester Borough Case* (1853) Report of Select Committee, Minutes of Evidence 52, the petitioner's counsel, on objection having been taken to his calling evidence contradicting that of one of his own witnesses, asked the chairman if the committee had ruled that petitioners might not call a witness to contradict another whom they had called to prove their case. The chairman intimated to him that in the peculiar circumstances of that particular case he could not see how the inquiry could proceed without an opportunity being given of testing the character of the witnesses who had been called; accordingly he was allowed to call such evidence. See, however, *Cockermouth Case* (1853) Report of Select Committee, Minutes of Evidence 100, where it was resolved that evidence which the petitioners sought to obtain from one of their witnesses of an admission by a previous witness called by them that he had been bribed was not admissible; but where the evidence which a party sought to call in contradiction of one of his own witnesses was on a point in itself material and he sought to call such evidence in order to establish that point, the evidence was admitted (*Bury Case* (1859) Wolf & B 40 at 41; *Kingston-upon-Hull Case* (1859) Wolf & B 84 at 85).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/D. WITNESSES AT ELECTION COURT/827. Witness evidence and secrecy of vote.

827. Witness evidence and secrecy of vote.

A witness at an election court¹ may not be required to disclose for whom he has voted², and it is only in those cases where he has publicly held himself out as belonging to some political party that he may be asked to which party he belongs³.

The court may not discover how a person has voted until it has been proved that he voted and his vote has been declared to be void⁴.

1 As to the attendance of witnesses at an election court see PARA 821 ante.

2 No person who has voted may, in any legal proceeding to question an election, be required to state for whom he has voted: see PARA 390 ante.

3 *North Durham County Case* (1874) 3 O'M & H 1 per Grove J; followed in *Harwich Borough Case* (1880) 3 O'M & H 61 at 63-64.

4 *Stepney Division, Tower Hamlets Case* (1886) 4 O'M & H 34 at 36. Where, however, on a scrutiny, the vote of a certain person had been declared bad, but, two ballot papers being found to have the same number, it was impossible to say which was the one that had been marked by that person, it was decided that both might be shown to him so that he might say which was his: *Finsbury, Central Division Case* (1892) 4 O'M & H 171 at 176.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/D. WITNESSES AT ELECTION COURT/828. Duty to answer questions.

828. Duty to answer questions.

A person who is called as a witness respecting an election or referendum before any election court¹ is not excused from answering any question relating to any offence at, or connected with, the election on the ground that the answer may incriminate, or may tend to incriminate, that person or that person's spouse or civil partner². Furthermore, he may not refuse to answer any such question on the ground of privilege³. Whether a witness may be asked or will be bound to answer questions seeking to show that he has been guilty of an offence at a previous election or referendum seems never to have been directly decided⁴.

An answer by a person to a question put by or before an election court is not, except in any criminal proceedings for perjury in respect of the evidence, admissible in evidence against that person or that person's spouse or civil partner in any civil or criminal proceedings⁵.

1 As to the attendance of witnesses at an election court see PARA 821 ante. As to parliamentary election petitions see PARA 759 ante; as to the questioning of an election under the Local Government Act 1972 see PARA 760 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante. In the case of a Welsh Assembly election petition, the reference in the text to an election includes a return under the Government of Wales Act 1998 s 9(6) (vacancy in electoral region seat: see PARA 222 ante): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 96(1). The provisions of the Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes after that date see the Government of Wales Act 2006 s 11(6); and PARA 222 ante.

2 Representation of the People Act 1983 s 141(1)(a) (s 141(1), (2) amended by the Civil Partnership Act 2004 s 261(1), Sch 27 para 84); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 96(1)(a) (art 96(1), (2) amended by SI 2005/2114); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 98(1)(a) (reg 98(1), (2) amended by SI 2005/2114); and see note 1 supra.

3 Representation of the People Act 1983 s 141(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 96(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 98(1)(b); and see note 1 supra.

4 Authority seems to be against the admission of evidence of corrupt practices at previous elections (*Windsor Case*, *Richardson-Gardner v Eykyn* (1869) 19 LT 613 at 615 per Willes J; *Taunton Borough Case* (1874) 2 O'M & H 66 at 70-71 per Grove J), unless such practices are connected with the election actually in question (*Galway Borough Case* (1869) 22 LT 75 at 76, 1 O'M & H 303 at 304; *Windsor Case*, *Herbert v Gardiner* (1874) 31 LT 133 at 135-136, 2 O'M & H 88 at 90-91; *Poole Case* (1874) 2 O'M & H 123 at 124-125). See also the Corrupt and Illegal Practices Prevention Act 1883 s 49 (repealed) which provided that questions about elections before 1883 were forbidden; and see the Election Commissioners Act 1949 s 4(2) (repealed).

5 Representation of the People Act 1983 s 141(2) (as amended: see note 2 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 96(2) (as amended: see note 2 supra); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 98(2) (as amended: see note 2 supra); and see note 1 supra.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/E. EVIDENCE/829. Proof of corrupt practices before agency proved.

E. EVIDENCE

829. Proof of corrupt practices before agency proved.

On the trial of an election petition¹, unless the election court otherwise directs, any charge of a corrupt practice² (and, in the case of a petition questioning an election under the Local Government Act 1972, any charge of an illegal practice³) may be gone into, and evidence in relation to it may be received, before any proof has been given of agency on behalf of any candidate in respect of the corrupt or illegal practice⁴. A candidate is liable, to the extent of his election being avoided, for the corrupt acts of his agent, even though he may have expressly forbidden such acts⁵. It follows accordingly that, in order to give in evidence the commission of such acts by an agent, it is not necessary to prove that they were authorised or sanctioned; it is merely necessary to prove at some stage of the trial that the person committing them was an agent⁶. The court has a discretion to admit evidence of a corrupt practice before proof of agency has been given or to insist on agency first being proved. If a case of agency has been opened by the party seeking so to give such evidence, the court will generally admit evidence of a corrupt practice before proof of agency⁷, but the evidence should not be given unless the party calling it has a reasonable expectation of being able to prove agency⁸.

1 As to parliamentary election petitions see PARA 759 ante; as to the questioning of an election under the Local Government Act 1972 see PARA 760 ante; and as to Welsh Assembly election petitions see PARA 762 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante. There is no equivalent provision for the purposes of European parliamentary election petitions because corrupt and illegal practices may be cited in such petitions only when they are related to personation and other voting offences: see PARA 763 ante.

2 As to corrupt practices see generally para 707 et seq ante.

3 As to illegal practices see generally para 674 et seq ante.

4 Representation of the People Act 1983 s 139(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 94(4). The court will need to ascertain whether illegal practices have extensively prevailed for the purposes of its report: see PARA 857 post.

5 See PARA 251 ante.

6 *Norwich Case, Tillett v Stracey* (1869) 1 O'M & H 8 at 10 per Martin B; *Westbury Case, Laverton v Phipps, Harrop's Case* (1869) 1 O'M & H 47 at 52 per Willes J; *Staleybridge Case, Ogden, Woolley and Buckley v Sidebottom, Gilbert's Case* (1869) 1 O'M & H 66 at 68 per Blackburn J; *Tamworth Case, Hill and Walton v Peel and Bulwer* (1869) 1 O'M & H 75 at 81 per Willes J; *Taunton Case, Williams and Mellor v Cox* (1869) 1 O'M & H 181 at 182 per Blackburn J; *Taunton Borough Case* (1874) 2 O'M & H 66 at 73-74 per Grove J.

7 *Guildford Case* (1869) 1 O'M & H 13 at 14 per Willes J.

8 *Bristol Case, Brett v Robinson* (1870) 2 O'M & H 27 at 29 per Bramwell B.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/E. EVIDENCE/830. Proof of agency.

830. Proof of agency.

What constitutes agency on the trial of a petition¹ is a question to be decided on the circumstances of each case². Statements, as distinguished from acts, by an agent are not prima facie evidence on the hearing of an election petition against a party for whom he had acted as agent at the election in question³. It may, however, be proved that a person is such an agent as to make his statements evidence against the party for whom he has acted⁴, and directions given by an agent may be evidence⁵.

Evidence should be confined to the charges alleged in the petition⁶.

1 As to parliamentary election petitions see PARA 759 ante; as to the questioning of an election under the Local Government Act 1972 see PARA 760 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

2 As to evidence of agency see PARA 252 et seq ante.

3 *King's Lynn Case*, *Armes and Holditch v Bourke* (1869) 1 O'M & H 206 at 207-208 per Martin B; *Dover Case* (1869) 1 O'M & H 210 at 211.

4 *Dover Case* (1869) 1 O'M & H 210.

5 *Dudley Case* (1874) 2 O'M & H 115 at 119 per Grove J; *Greenock Case* (1869) 1 O'M & H 247 at 248. A petitioner, however, has been allowed to go into a ground of objection stated in the particulars but not specifically raised in the petition: *Londonderry City Case* (1886) 4 O'M & H 96. As to the amendment of a parliamentary or Welsh Assembly election petition see PARA 784 ante; and as to the amendment of a petition questioning a local authority referendum or an election under the Local Government Act 1972 see PARA 792 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/E. EVIDENCE/831. Statements by parties.

831. Statements by parties.

Statements and admissions by parties to the petition¹ are admissible in evidence against them, and the admissions of an original respondent may be given in evidence by the petitioner where the petition is being proceeded with against a substituted respondent².

1 As to parliamentary election petitions see PARA 759 ante; as to the questioning of an election under the Local Government Act 1972 see PARA 760 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

2 *Tipperary County Case* (1875) 3 O'M & H 19 at 34. It was there argued for the respondent that the admission by the deceased respondent as to his nationality was not admissible, on the ground that the authority of the cases decided before the election committees was against the reception of such evidence, and that questions of evidence arising in election petitions should be decided according to such authority and not according to the ordinary law of evidence, and Keogh J decided the point in favour of the petitioner entirely on the authority of the cases decided before the election committees. As to the court's duty to observe the rules on which the committees of the House of Commons used to act see PARA 815 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/E. EVIDENCE/832. Statements by voters.

832. Statements by voters.

Statements by voters to third parties may be given in evidence before an election court for the purpose of invalidating their votes in the event of a scrutiny; but, unless agency is proved or admitted¹, they do not constitute evidence against the opposite party². Where the question of personation is raised³, declarations and admissions of the person who voted that he is not the person on the register⁴, or of the person on the register that he is not the person who voted, are admissible⁵.

1 As to proof of agency see PARA 830 ante.

2 *Windsor Case, Richardson-Gardner v Eykyn* (1869) 1 O'M & H 1 at 5-6 per Willes J; *King's Lynn Case, Armes and Holditch v Bourke* (1869) 1 O'M & H 206 at 208 per Martin B, where he laid down, with regard to statements to third parties by a voter as to his having been bribed, that in order to affect the respondent's seat it would be necessary to show that the voter had actually been bribed, not merely that he had said so; *Worcester Borough Case, Harben and Cadbury v Williamson, Olds' Case* (1906) 5 O'M & H 212. The balance of authority under the decisions of the old election committees is in favour of the admissibility in evidence of such statements by voters: see *Ipswich Case* (1835) Kn & Omb 332 at 387; *Leominster Case, Weaver's Case* (1796) 2 Peck 391 at 395; *Sudbury Case, Black Boy Case* (1842) Bar & Aust 237 at 245. See also *Bridgewater Case* (1869) 1 O'M & H 112 (admissibility of statements to and by the landlady of a public house for proving treating, and of conversations after the poll); *Londonderry Borough Case* (1869) 1 O'M & H 274 at 276-277 per O'Brien J (admissibility of statements of deceased person for establishing agency); *Stroud Case, Baynes v Stanton and Dickinson* (1874) 2 O'M & H 107 at 108 (admissibility of statement by a person, who had since disappeared, of the commission of bribery); *Durham County, Northern Division Case (No 2)* (1874) 2 O'M & H 152 at 153 (admissibility of statements made to canvasser). A book embodying the reports of the regular canvassers kept by the witness to whom the reports have been made is not strictly admissible; the canvassers should first be called to prove their returns: *King's Lynn Case, Armes and Holditch v Bourke* supra. See also *Westminster Borough Case* (1869) 1 O'M & H 89 at 94, where a question to a witness called on behalf of the respondent, who had been employed by a canvassing association, as to the total number of promises received, which was asked with the object of showing that it was such that he, acting as respondent's agent, would have been less likely to resort to bribery, was allowed. Where, on behalf of a petitioner, evidence was tendered of a conversation between a witness and certain voters with regard to their votes, on the petitioner's counsel stating that he was prepared to prove a criminal transaction between the respondent's agents and certain parties whom he had named in his opening as having been bribed, and that this evidence was tendered for the purpose of establishing such allegation, the evidence was admitted: *Nottingham Town Case, Hutchinson's Case* (1843) Bar & Arn 192 at 195-196.

3 As to personation see PARA 733 ante.

4 *Westbury Case* (1869) 1 O'M & H 47 at 49 per Willes J. See also *Tipperary County Case* (1875) 3 O'M & H 19 at 34 per Keogh J.

5 *Finsbury, Central Division Case* (1892) 4 O'M & H 171 at 173, 175.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/E. EVIDENCE/833. Contradiction by witness.

833. Contradiction by witness.

The election court will not necessarily discard the evidence of a witness who has signed a statement to the opposite side contrary to what he had originally said, as his evidence may be corroborated by circumstances so as to lead the court to believe it, or his demeanour may give credibility to his evidence¹.

¹ *Wigan Case, Spencer and Prestt v Powell* (1881) 4 O'M & H 1 at 5 per Grove J. That persons who have been, or are likely to be, subpoenaed by one side should be persuaded by the other side to make statements, or to sign already prepared statements, is most reprehensible: *Wigan Case* supra; *Montgomery Boroughs Case* (1892) Day 148 at 150; *Maidstone Borough Case, Evans v Viscount Castlereagh* (1906) 5 O'M & H 200 at 201-202; *Worcester Borough Case, Harben and Cadbury v Williamson, Olds' Case* (1906) 5 O'M & H 212 at 214.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/E. EVIDENCE/834. Election documents produced following an order.

834. Election documents produced following an order.

Where an order is made¹ for the production by the relevant officer² (or by the National Assembly for Wales in the case of a Welsh Assembly election³) of any document in his (or its) possession (or, in the case of the Greater London returning officer, under his control) relating to any specified election, referendum or poll, the production by him or by his agent (or by the Assembly, as the case may be) of the document ordered, in such manner as may be directed by the order, is conclusive evidence that the document relates to the specified election, referendum or poll; and any endorsement on any packet of ballot papers so produced is *prima facie* evidence that the ballot papers are what they are stated to be by the endorsement⁴.

1 As to the making of such an order see PARA 849 post.

2 I.e. by the relevant registration officer at a parliamentary election or local government election for a principal area, parish or community council, by the proper officer of the appropriate local authority at a local authority mayoral election and a local authority referendum, by the Greater London returning officer at a London Authority election, or by the local returning officer at a European parliamentary election. As to the retention of parliamentary election documents by the relevant registration officer see PARA 503 ante; as to the retention of local government and local authority mayoral election documents by the proper officer of the appropriate local authority see PARA 504 ante; as to the retention of documents relating to London Authority elections by the Greater London returning officer see PARA 505 ante; and as to the retention of European parliamentary election documents by the local returning officer see PARA 507 ante. As to the retention of documents relating to a local authority referendum or poll consequent on a parish or community meeting by the proper officer of the council see PARA 665 ante. For the meaning of 'Greater London returning officer' see PARA 218 note 7 ante; for the meaning of 'relevant registration officer' for these purposes see PARA 494 note 3 ante; and for the meaning of 'proper officer' for these purposes see PARA 849 note 2 post. As to local returning officers appointed for the purposes of European parliamentary elections see PARA 365 et seq ante.

3 As to the retention of documents relating to elections to the National Assembly for Wales by the Assembly see PARA 506 ante. As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

4 Representation of the People Act 1983 s 23(1), Sch 1 r 56(6) (amended by the Electoral Administration Act 2006 s 41(1), (4)(a)); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 35(6); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)-(3), Sch 1 r 49(6), Sch 2 r 52(6), Sch 3 r 54(6) (Sch 1 r 49(6), Sch 2 r 52(6), Sch 3 r 54(6) all amended by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 52(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 63(6); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 60(6); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 53(6); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 53(6). At the date at which this volume states the law, the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 47(6) is applied and modified for the purposes set out in the text in the context of a local authority referendum (see PARA 557 ante), in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. In relation to a local authority referendum at which voting is by post only (as to which see PARA 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 47(6) (as applied and modified) is further modified, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the inspection of returns and declarations as to election expenses see PARA 289 ante. As to the inspection of ballot papers see PARA 849 post.

The amendment effected by the Electoral Administration Act 2006 s 41(4) has no effect in relation to any documents which have been or must be forwarded to the Clerk of the Crown on or before 2 May 2007, in accordance with either the Representation of the People Act 1983 Sch 1 r 55 (as amended) (see PARA 494 ante) or the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91 (as amended)

(see PARA 495 ante): see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 4. As to the Clerk of the Crown see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 921.

UPDATE

834 Election documents produced following an order

NOTE 4--SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541. SI 2002/185 reg 3(1), Sch 1 r 52 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 58. SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/F. RECRIMINATORY CASES/835. When recriminatory evidence may be offered.

F. RECRIMINATORY CASES

835. When recriminatory evidence may be offered.

On the trial of a petition¹ complaining of an undue election and claiming the seat or office for some person, the respondent may give evidence to prove that that person was not duly elected, in the same manner as if he had presented a petition against the election of that person². Such a case is called a 'recriminatory case' and the evidence given by the respondent is called 'recriminatory evidence'. If the respondent intends to give recriminatory evidence, not less than seven days³ before the day fixed for the trial of the petition he must file⁴ a list of the objections to the election of that person on which he intends to rely, and serve a copy of the list on the petitioner and the Director of Public Prosecutions⁵. Any party to the petition may inspect and obtain an office copy of any list so filed⁶. Except by the election court's leave, no evidence may be given by a respondent of any objection to a person's election which is not specified in such a list⁷.

If the seat at an election is not claimed, the respondent may not call recriminatory evidence⁸. In such cases, the respondent may not give evidence as to the election expenses of an unsuccessful candidate, and may not set up such evidence by cross-examination⁹. It seems that where the petition claims the seat, recriminatory evidence may be offered notwithstanding that the prayer for the seat is abandoned at the trial¹⁰.

On the trial of a referendum petition¹¹, the respondent may give evidence in the same manner as if he had presented a petition against the referendum¹².

1 As to parliamentary election petitions see PARA 759 ante; as to the questioning of an election under the Local Government Act 1972 see PARA 760 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

2 Representation of the People Act 1983 s 139(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 94(5); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 96(4). In the case of a Welsh Assembly election, the reference to an election includes a return under the Government of Wales Act 1998 s 9(6) (vacancy in electoral region seat: see PARA 222 ante); see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 94(5). The provisions of the Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes after that date see the Government of Wales Act 2006 s 11(6); and PARA 222 ante.

3 As to the calculation of time limits for these purposes see PARAS 765-766 ante.

4 Any document required to be filed in proceedings under the Election Petition Rules 1960, SI 1960/543 (as amended) or, in relation to a European parliamentary election petition, under the European Parliamentary Election Petition Rules 1979, SI 1979/521 (as amended) must be filed in the election petitions office: Election Petition Rules 1960, SI 1960/543, r 2(5); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 2(4) (substituted by SI 2004/1415). For the meaning of 'election petitions office' see PARA 766 note 12 ante. As to the application and modification of the Election Petition Rules 1960, SI 1960/543 (as amended) for the purposes of Welsh Assembly election petitions see PARA 765 note 3 ante.

5 Election Petition Rules 1960, SI 1960/543, r 10(2) (amended by SI 1985/1278); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 10(2) (amended by SI 2004/1415); and see note 4 supra.

6 Election Petition Rules 1960, SI 1960/543, r 10(3); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 10(3); and see note 4 *supra*.

7 Election Petition Rules 1960, SI 1960/543, r 10(4)(b); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 10(4)(b); and see note 4 *supra*.

8 *Blackburn Case* (1869) 1 O'M & H 198 at 199; *Gravesend Case* (1880) 3 O'M & H 81 at 82-83 per Denman J and Lopes J.

9 *Durham County, Northern Division Case (No 2)* (1874) 2 O'M & H 152 at 154 per Bramwell B; *Thirsk Borough Case* (1880) 3 O'M & H 113 per Denman J.

10 The authority of the cases before the election committees supports this view: *Coventry Case* (1803) 1 Peck 93 at 99; *New Windsor Case* (1804) 2 Peck 187 (where the point was argued at considerable length on either side); *Clare County Case* (1860) Wolf & B 138 at 143; and see also *Aldridge v Hurst* (1876) 1 CPD 410 at 416 (where these cases were reviewed by the Court of Common Pleas in its judgment, given by Grove J). In the last-named case the court refused to allow a petitioner to amend his petition by striking out the prayer for the seat, one of the reasons for so refusing being that, otherwise, the right of giving recriminatory evidence would be lost to the respondent. The court pointed out that the petitioner might give notice to the respondent of his intention not to claim the seat, so as to enable the respondent to avoid the costs of meeting such a claim without, on the other hand, preventing the possibility of recriminatory evidence being given. Thus it would appear that in the court's opinion the abandonment of the claim at the trial would not preclude the offering of such evidence; but see *Gravesend Case* (1880) 44 LT 64, 3 O'M & H 81, where a grave doubt was expressed by Denman J and Lopes J as to whether, when the claim for the seat had been abandoned, with the consent of the respondent and of the court, the respondent might proceed with the recriminatory case.

11 Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 *ante*.

12 Representation of the People Act 1983 s 139(5) (substituted, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(8), Sch 6 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(8), Sch 5). As to the application and modification of the provision made for questioning an election for the purposes of a local authority referendum petition see note 11 *supra*.

UPDATE

835 When recriminatory evidence may be offered

NOTE 12--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/F. RECRIMINATORY CASES/836. Allegation of charges against subsequent election.

836. Allegation of charges against subsequent election.

If a recriminatory case¹ is abandoned owing to the petitioner abandoning his claim to the seat, and if the matters alleged in the recriminatory case are such as would disqualify the petitioner on a subsequent election, but, owing to the abandonment of the claim for the seat, they are not tried and there is no adjudication on them by the election court, these matters may be alleged in a petition against such subsequent election².

1 For the meaning of 'recriminatory case' see PARA 835 ante.

2 *Stevens v Tillett* (1870) LR 6 CP 147; *Gravesend Case* (1880) 44 LT 64 at 65, 3 O'M & H 81 at 82-83 per Lopes J and Denman J. See, however, the doubt expressed in *Stevens v Tillett* supra at 171 per Willes J as to whether, if such matters were known to the respondent in the former petition, so as to have been capable of being offered in evidence on the recriminatory case, and were not so offered, they might be alleged in the petition against the subsequent election. In that case, however, the recriminatory case had been opened and, three of the charges made in it having failed, it was abandoned before the claim to the seat was abandoned.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/G. SCRUTINY/837. Object of and provisions as to scrutiny generally.

G. SCRUTINY

837. Object of and provisions as to scrutiny generally.

On a petition complaining of an undue election, the petitioner may claim that the successful candidate was not elected by a majority of lawful votes and demand a scrutiny¹. The object of a scrutiny is to ascertain by striking off votes or adding votes which candidate had the majority of lawful votes².

The statutory provisions which govern the conduct of elections do not expressly state that a scrutiny may be demanded nor, if it can be demanded, the grounds on which votes allowed or disallowed at an election may be disallowed or allowed at the scrutiny. Those provisions do, however, provide for certain votes being struck off on a scrutiny for bribery, treating or undue influence³, and they contain a provision which contemplates, although it does not expressly authorise, the rejection of votes on a scrutiny on the ground of the voters being disqualified from voting⁴. There is also statutory authority for the inspection of ballot papers for the purposes of an election petition⁵. It is also provided that, subject to the statutory provisions and the rules made thereunder, the principles and rules on which committees of the House of Commons used to act with regard to a scrutiny must be observed, so far as may be, by the High Court and election court, and that such principles and rules apply equally to all petitions⁶.

1 *Taunton Case, Williams and Mellor v Cox* (1869) 21 LT 169 at 173, 1 O'M & H 181 at 186; *York County West Riding, Southern Division Case* (1869) 1 O'M & H 213 at 215.

2 As to the striking off of votes see PARA 839 et seq post. At a local election in 1974 a scrutiny was held so as to enable votes which had been lawfully cast, but overlooked at the count, to be counted: see the Times (2 July 1974), concerning the local election at Barnet.

3 See PARA 840 post.

4 See PARA 162 ante.

5 As to the inspection of ballot papers see PARA 849 post.

6 See PARA 815 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/G. SCRUTINY/838. History of scrutiny.

838. History of scrutiny.

To understand the scope of scrutinies it is necessary briefly to relate the previous law on this subject. Before the Reform Act of 1832¹ there was no system of registration for voters and the returning officer from the very necessity of the case was obliged to hold a scrutiny of the voters at the time of the poll², but committees of the House of Commons subsequently considered the validity of votes given at the election³. That Act established a register of voters⁴ and restricted the inquiry at the time of polling to the right of any person to vote to the asking of three questions relating to the identifying of the voter with the person named in the register, to whether that person had already voted and to whether he still possessed the same qualification which had entitled him to be registered⁵. The correctness of the register could be questioned after the election on an election petition⁶. By the Parliamentary Voters' Registration Act 1843 the register of voters was made conclusive evidence, for the purpose of inquiry at the time of polling, of the voter's retaining the same qualification as that with which he was registered, and the inquiry was restricted to the remaining two questions⁷. Owing to doubts as to how far the qualifications of voters could be inquired into by a committee of the House of Commons appointed to hear an election petition, the register of voters was declared to be conclusive evidence of the right to vote except when an objection had been raised before the revising barrister appointed to revise the register and he had given an express decision, and except where there was at the time of voting either a legal incapacity which arose subsequent to registration or a legal incapacity under an Act of Parliament⁸.

The provision declaring the powers of inquiry on the hearing of an election petition was repealed by the Ballot Act 1872⁹, which in turn provided that every person whose name was on the register was entitled to be given a ballot paper, although this did not entitle any person to vote who was prohibited from voting by any statute or by the common law of Parliament¹⁰. The effect of this provision of the Ballot Act 1872¹¹, and the unrepealed provision of the Parliamentary Voters' Registration Act 1843¹² as to the inquiry at the time of polling, was held to make the register conclusive as regards the returning officer and the election court except in the case of persons who were prohibited from voting¹³. This did not mean persons who from failure in the incidents or elements of the franchise could be successfully objected to on the revision of the register, but persons who from some inherent or for the time being irremovable quality in themselves had not the status of parliamentary electors either by prohibition of statutes or at common law¹⁴. Examples of such persons were peers, aliens, minors and persons holding certain offices¹⁵. These provisions of the Parliamentary Voters' Registration Act 1843¹⁶ and the Ballot Act 1872¹⁷ have been repealed and are now replaced by similar provisions¹⁸. Although there is no longer any direct mention of the grounds on which a vote may be struck off on a scrutiny, it is assumed that an election court would follow the principles previously established except in so far as the present statutory provisions as to persons entitled to vote or disqualified from voting differ from the previous provisions¹⁹. Accordingly it would appear that the votes of persons who were not entitled to be registered because they did not have a residence, service or other²⁰ qualification would not be questioned on a scrutiny²¹.

1 Ie the Representation of the People Act 1832.

2 *Petersfield Case, Stowe v Jolliffe* (1874) LR 9 CP 734.

3 Erskine May's Parliamentary Practice (21st Edn) 36.

- 4 Representation of the People Act 1832 ss 37-57 (repealed).
- 5 Ibid s 58 (repealed).
- 6 Ibid s 60 (repealed).
- 7 Parliamentary Voters' Registration Act 1843 ss 79-82 (repealed).
- 8 Ibid s 98 (repealed). As to these grounds see *New Sarum Case, Ryder v Hamilton* (1869) LR 4 CP 559. Where a minor was placed on the register but was of full age at the date of the poll, it was held that the committee of the House of Commons had no right to question the vote as no objection had been taken before the revising barrister: see *Aylesbury Case* (1848) 1 Pow R & D 82.
- 9 In 1868 the procedure for trying election petitions by election courts instead of by committees of the House of Commons had been established by the Parliamentary Elections Act 1868, and subject to rules of court under that Act the court was required to observe the principles, practice and rules on which those committees used to act in dealing with election petitions (see s 26 (repealed)).
- 10 Ballot Act 1872 s 7 (repealed).
- 11 Ie ibid s 7 (repealed).
- 12 Ie the Parliamentary Voters' Registration Act 1843 s 79 (repealed).
- 13 *Petersfield Case, Stowe v Jolliffe* (1874) LR 9 CP 734; *Pembroke Boroughs Case* (1901) 5 O'M & H 135.
- 14 *Petersfield Case, Stowe v Jolliffe* (1874) LR 9 CP 734. The requirement of being a British citizen in order to be registered as an overseas elector (see PARA 111 ante) is presumably also a fundamental requirement because, whilst a person who is registered as an overseas elector but is not such a citizen is entitled to vote, this does not prevent the rejection of his vote on a scrutiny: see PARA 162 ante.
- 15 *Petersfield Case, Stowe v Jolliffe* (1874) LR 9 CP 734; *Londonderry City Case* (1886) 4 O'M & H 96 at 101; *Oldham Case* (1869) 1 O'M & H 151 at 159.
- 16 See note 12 supra.
- 17 See note 11 supra.
- 18 As to the saving made in the statutory provisions for rejections on scrutiny see the Representation of the People Act 1983 s 49(5) (as substituted); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 24(2); the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 17(2); and PARA 162 ante.
- 19 As to the obligation of election courts to follow the principles and rules on which committees of the House of Commons used to act with regard to a scrutiny see PARA 815 ante.
- 20 Ie if registered in pursuance of a voter's declaration: see PARA 140 et seq ante.
- 21 *Petersfield Case, Stowe v Jolliffe* (1874) LR 9 CP 734; *New Sarum Case, Ryder v Hamilton* (1869) LR 4 CP 559; *Pembroke Boroughs Case* (1901) 5 O'M & H 135.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/G. SCRUTINY/839. Votes by persons under legal incapacity to vote.

839. Votes by persons under legal incapacity to vote.

It would appear that any person who, being subject to a legal incapacity¹ to vote, votes at an election will have his vote struck off on a scrutiny².

A vote given by an alien may be struck off on a scrutiny³. In order to prove the validity of a vote given by a person who states that he has now ceased to be an alien by having been naturalised, the certificate of his naturalisation or a certified copy of it must be produced, and his own mere statement in evidence that he has been naturalised is insufficient⁴.

A person not of voting age⁵ on the date of the poll is not entitled to vote⁶. It would appear that, if such a person votes, his vote may be struck off on a scrutiny⁷.

1 For the meaning of 'legal incapacity' see PARA 110 note 8 ante.

2 As to the saving made in the statutory provisions for rejections on scrutiny see the Representation of the People Act 1983 s 49(5) (as substituted); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 24(2); the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 17(2); and PARA 162 ante.

3 *Stepney Division, Tower Hamlets Case* (1886) 54 LT 684. This case appears to overrule the doubts expressed in *Berwick Case* (1880) 44 LT 289 at 290, in view of *Oldham Case* (1869) 1 O'M & H 151 at 159, although the latter case was decided on different wording.

4 *Finsbury, Central Division Case* (1892) 4 O'M & H 171 at 172. Presumably the same principle would apply to a person who claimed to be a Commonwealth citizen by virtue of his registration as such.

5 ie 18 years or over: see PARAS 110 note 2, 112 note 14, 117 note 9 ante.

6 See PARA 110 et seq ante.

7 See the savings for rejection on scrutiny mentioned in note 2 supra. It is submitted that *Oldham Case* (1869) 1 O'M & H 151 at 159, which decided that a minor who voted could not have his vote questioned on a petition because no objection had been taken before the revising barrister, would not be followed in view of the implication in the Representation of the People Act 1983 s 49(5), that such a vote could be struck off on a scrutiny: cf *Petersfield Case, Stowe v Jolliffe* (1874) LR 9 CP 734; and see PARA 838 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/G. SCRUTINY/840. Votes struck off for bribery, treating and undue influence.

840. Votes struck off for bribery, treating and undue influence.

Where, on a parliamentary¹ or Welsh Assembly election petition² claiming the seat for any person, a candidate is proved to have been guilty by himself, or by any person on his behalf, of bribery, treating or undue influence in respect of any person who voted at the election, one vote for every person who voted at the election and is proved to have been so bribed³, treated or unduly influenced must, on a scrutiny, be struck off from the number of votes appearing to have been given to the candidate⁴. It is not necessary for this purpose to go into the question of how the person bribed had actually voted⁵. If, however, on a scrutiny, it is proved that, although the voter entered the polling station and received a ballot paper, he did not vote but deliberately spoilt his ballot paper, the election court may order the ballot paper to be produced and examine it and, if it appears that no vote was in fact given, may refuse to strike off a vote on a scrutiny⁶. In a case of bribery it appears necessary to prove not only the giving of the bribe with a corrupt motive, but also that the person receiving the bribe acted corruptly⁷.

1 As to parliamentary election petitions see PARA 759 ante. The wording of the provision impliedly excludes petitions questioning an election under the Local Government Act 1972. As to the questioning of an election under the Local Government Act 1972 see PARA 760 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

2 As to Welsh Assembly election petitions see PARA 762 ante.

3 'So bribed' means bribed by the candidate or any person on his behalf: *Boston Borough Case, Malcolm v Parry* (1874) LR 9 CP 610.

4 Representation of the People Act 1983 s 166(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 117(1). On the trial of a Welsh Assembly election petition, the reference is to votes given to the candidate, where he is an individual candidate, or to the registered political party for which he is such a candidate, where he is a party list candidate: see art 117(1). For the meanings of 'individual candidate' and 'party list candidate' in relation to a Welsh Assembly regional election see PARA 237 note 23 ante. For the meaning of 'registered political party' for these purposes see PARA 263 ante. There is no equivalent provision for the purposes of European parliamentary election petitions because corrupt and illegal practices may be cited in such petitions only when they are related to personation and other voting offences: see PARA 763 ante.

There is no power to add a vote for the candidate for whom the voter would have voted but for intimidation: *Oldham Case* (1869) 1 O'M & H 151 at 161.

5 *Boston Borough Case, Malcolm v Parry* (1874) LR 9 CP 610; *Down County Case* (1880) 3 O'M & H 115; *West Bromwich Case* (1911) 6 O'M & H 256 at 266. See also PARA 841 note 6 post.

6 *West Bromwich Case* (1911) 6 O'M & H 256 at 266.

7 *Boston Borough Case, Malcolm v Parry* (1874) LR 9 CP 610 (Grove J doubting); *Down County Case* (1880) 3 O'M & H 115. As to what constitutes bribery see PARA 712 et seq ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/G. SCRUTINY/841. Votes struck off for corrupt and illegal practices.

841. Votes struck off for corrupt and illegal practices.

If any person who is guilty of a corrupt¹ or illegal practice² (or of illegal payment, employment or hiring at an election³) votes at a parliamentary⁴ or Welsh Assembly election⁵, his vote⁶ is void⁷, and accordingly may be struck off on a scrutiny⁸. If any person who is subject, under any enactment relating to corrupt or illegal practices, to an incapacity to vote at a parliamentary or Welsh Assembly election or an election to any public office votes at that election, his vote is void⁹, and accordingly may be struck off on a scrutiny¹⁰.

1 As to corrupt practices see generally para 707 et seq ante.

2 As to illegal practices see generally para 674 et seq ante.

3 As to illegal payment, employment and hiring at an election see PARA 685 et seq ante.

4 For the meaning of 'parliamentary election' see PARA 9 ante.

5 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.

6 The vote struck off is that of the particular person who is guilty and for this purpose there must be inspection of the ballot papers: *West Bromwich Case* (1911) 6 O'M & H 256 at 267; and see also PARA 840 ante. Before the Ballot Act 1872 s 25 (repealed) and the Corrupt and Illegal Practices Prevention Act 1883 s 36 (repealed), which were the predecessors of the Representation of the People Act 1983 s 166(1), (2), the vote of the person bribed and that of the person bribing were both struck off: see *Southampton Case* (1869) 1 O'M & H 222 at 224; and see also the notes to *St Ives Case* (1775) 2 Doug El Cas 391 at 416.

7 Representation of the People Act 1983 s 166(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 117(2). There is no equivalent provision for the purposes of European parliamentary election petitions because corrupt and illegal practices may be cited in such petitions only when they are related to personation and other voting offences: see PARA 763 ante.

8 As to scrutiny see PARA 837 et seq ante.

9 Representation of the People Act 1983 s 166(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 117(3); and see note 7 supra. As to incapacities for voting see PARA 904 post.

10 It is doubtful if counsel may be heard on behalf of voters whose votes are struck off: *Boston Borough Case, Malcolm v Parry* (1874) LR 9 CP 610 at 614.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/G. SCRUTINY/842. Votes of persons guilty of personation and of persons impersonated.

842. Votes of persons guilty of personation and of persons impersonated.

If a person whose name appears on the register proves that he has not voted at an election but a vote has been given in his name, the vote so given must be disallowed¹. If, however, the person impersonated has voted on a tendered ballot paper², then on a scrutiny³ the tendered ballot paper is substituted for the ballot paper originally issued⁴. The tendered ballot paper will be counted even if the presiding officer does not comply with all the statutory provisions regarding tendered ballot papers⁵; but, if the voter commits a breach of the statutory provisions by putting the tendered ballot paper into the ballot box instead of handing it to the presiding officer, the vote will not be counted⁶. A vote recorded by one person in the name of another who is on the register will be struck off whether the actual offence of personation is committed or not⁷. If, however, a voter was entered on the register under a wrong name and he, having a right to vote, voted in the wrong name, the vote is good⁸.

In order for a vote to be avoided for personation, it has to be proved beyond a reasonable doubt that an offence of personation had taken place because, although the proceedings under a election petition are civil proceedings, the standard of proof that an election offence has been committed is set to the criminal standard⁹.

1 *Finsbury, Central Division Case* (1892) 4 O'M & H 171 at 175; and see *Gloucester Borough Case, Guise v Wait* (1873) 2 O'M & H 59 at 64.

2 As to tendered ballot papers see PARA 408 ante.

3 As to scrutiny see PARA 837 et seq ante.

4 See *Cirencester Case* (1893) (cited in Day 48), where the first voter had used the ballot paper of the second through an error of the polling clerk. Both votes were allowed, however, the court saying that if the respondent wished to strike off the first vote it should have been included in the particulars of votes objected to. If the presiding officer had erroneously marked the register thinking that the voter had previously voted, but at the scrutiny it is proved that in fact nobody had voted in the name of the person who voted on the tendered ballot paper, the tendered ballot paper will be allowed without a vote being struck off: *Berwick Case, McLaren v Home* (1880) 44 LT 289 at 290.

4 *Stepney Division, Tower Hamlets Case* (1886) 4 O'M & H 34, 37 at 43.

6 *York County, East Riding, Buckrose Division Case* (1886) 4 O'M & H 110 at 115.

7 *Berwick Case, McLaren v Home* (1880) 44 LT 289 at 290; *Oldham Case* (1869) 1 O'M & H 151 at 152.

8 *Oldham Case* (1869) 1 O'M & H 151 at 152; *Exeter Case* (1911) 6 O'M & H 228 at 233; *Athlone Borough Case* (1880) 3 O'M & H 57 at 59.

9 *Re Local Government Election for Eel Brook Electoral Division Hammersmith and Fulham Council*, sub nom *Thompson v Dann* (1994) 138 SJ LB 221 (it was not possible to infer that personation must have taken place merely from a presumption of regularity and from the fact that the register had been marked against an elector's name before that elector's proxy had attended to vote; it was probable in this case that a mistake had been made in the marking of the register and the vote should have been counted). A criminal standard of proof has been applied also to find a person guilty of undue influence (which is a corrupt practice): see PARA 726 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/G. SCRUTINY/843. Votes given to a disqualified candidate at an election.

843. Votes given to a disqualified candidate at an election.

Votes given for a candidate who is disqualified¹ may in certain circumstances be regarded as not given at all or thrown away, and to decide this a scrutiny is not necessary². The disqualification must be founded on some positive and definite fact existing and established at the time of the poll so as to lead to the fair inference of wilful perverseness on the part of the electors voting for the disqualified person³. Examples of the sort of disqualification that will cause votes to be thrown away are being a peer, an alien or a minor⁴. For the votes given for a candidate to be thrown away, the voters must, before voting, either have had or be deemed to have had notice of the facts creating the candidate's disqualification⁵, and it is not necessary to show that the elector was aware of the legal result that such a fact entailed disqualification⁶.

1 As to disqualifications for being a candidate see PARA 231 et seq ante.

2 *Fermanagh and South Tyrone Division Case* (1955) (cited in 105 L Jo 594). As to scrutiny see PARA 837 et seq ante.

3 *Clitheroe Borough (No 2) Case* (1853) 2 Pow R & D 276; *Re Launceston Case, Drinkwater v Deakin* (1874) LR 9 CP 626; *Gosling v Veley* (1847) 7 QB 406 (revsd on another point (1853) 4 HL Cas 679); *Claridge v Evelyn* (1821) 5 B & Ald 81.

4 *Re Bristol South East, Parliamentary Election* [1964] 2 QB 257, [1961] 3 All ER 354, DC; *Re Launceston Case, Drinkwater v Deakin* (1874) LR 9 CP 626; *Tipperary County Case* (1875) 3 O'M & H 19 at 42-49; *Trench v Nolan* (1872) IR 6 CL 464.

5 *Re Bristol South East, Parliamentary Election* [1964] 2 QB 257, [1961] 3 All ER 354, DC; *Re Launceston Case, Drinkwater v Deakin* (1874) LR 9 CP 626; *Beresford-Hope v Lady Sandhurst* (1889) 23 QBD 79, CA; *R v Bester* (1861) 3 LT 667; *Cork, Eastern Division Case* (1911) 6 O'M & H 318; *Mid-Ulster Division Case* (1955) Times, 8 October; *Fermanagh and South Tyrone Division Case* (1955) (cited in 105 L Jo 594). In *Re Bristol South East, Parliamentary Election* supra, it was held, inter alia, that where the facts which give rise to the incapacity or disqualification by status of a candidate exist and are made known to the electorate before their votes are cast, and the voters are also made aware that the legal consequence of those facts might be disqualification, votes given to such a candidate are given at the electors' peril, and, where disqualification in law is established, such votes are thrown away and are null and void, the court being bound to declare that the candidate for whom the next highest number of votes was cast has been duly elected. See also *Cox v Ambrose* (1890) 7 TLR 59 at 60, DC; *Etherington v Wilson* (1875) LR 20 Eq 606 at 618, cited with approval in *Re Bristol South East, Parliamentary Election* supra at 295 and 376. Earlier cases appear to indicate that, where the disqualification is not notorious and depends on legal argument or on complicated facts, votes given for a candidate (even though he might be unseated by reason of his disqualification) would not be thrown away so as to give the seat to the candidate with the next highest number of votes: see *Abingdon Case* (1775) 1 Doug El Cas 419; *Penryn Case* (1819) Corb & D 55; *Cheltenham (No 2) Case* (1848) 1 Pow R & D 224; *Clitheroe Borough (No 2) Case* (1853) 2 Pow R & D 276; notes to *St Ives Case* (1775) 2 Doug El Cas 391 at 415; and the note to *Radnor Case* (1803) 1 Peck 496; but cf *Wakefield Case, Blakeley's Case* (1842) Bar & Aust 270 at 317; *Belfast Case* (1838) Falc & Fitz 595; *Cork Case* (1835) Kn & Omb 274; *Tavistock Borough Case* (1853) 2 Pow R & D 5; *Horsham Second Case* (1848) 1 Pow R & D 240 at 258; *Leominster Case* (1819) Corb & D 1. For a discussion of early cases see the notes to *Leominster Case* supra. Express notice of disqualification is almost invariably given: see PARA 273 ante.

6 *Fermanagh and South Tyrone Division Case* (1955) cited in 105 L Jo 594.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/G. SCRUTINY/844. Votes improperly recorded.

844. Votes improperly recorded.

A scrutiny¹ may be demanded on the ground that votes at the count have been improperly accepted or rejected².

¹ As to scrutiny see PARA 837 et seq ante.

² *Re South Newington, Kingston-upon-Hull, Municipal Election Petition, Lewis v Shepperdson* [1948] 2 All ER 503. As to the count see PARA 431 et seq ante. Where a cross on a ballot paper is not put firmly into the correct box, the effect on its validity is a question of fact and not a question of law; each voting paper must be looked at on its merits and it is a matter of first impression whether the vote was clearly cast for one candidate or not: *Cornwell v Marshall* (1976) 75 LGR 676, DC; *Petition of Rowe* [2001] All ER (D) 329 (Dec), DC.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/G. SCRUTINY/845. Scrutiny and recriminatory case.

845. Scrutiny and recriminatory case.

Where the election petition makes charges of corrupt or illegal practices and recriminatory evidence¹ is offered, the practice is to take the recriminatory case before the scrutiny². The reason is that if both the petitioner and respondent are disqualified it would be a waste of time to go into a scrutiny. Where, however, the petition only claims the seat without alleging any corrupt or illegal practices on the respondent's part, the practice has been to take the scrutiny first³.

¹ As to recriminatory evidence see PARA 835 ante.

² *York County West Riding, Southern Division Case* (1869) 1 O'M & H 213 at 214; *Southampton Case* (1869) 1 O'M & H 222 at 225; *Northallerton Case* (1869) 1 O'M & H 167. As to scrutiny see PARA 837 et seq ante.

³ *Stepney Division, Tower Hamlets Case* (1886) 4 O'M & H 34 at 35; *York County East Riding, Buckrose Division Case* (1886) 4 O'M & H 110; *Finsbury, Central Division Case* (1892) 4 O'M & H 171 at 172; *Exeter Case* (1911) 6 O'M & H 228 at 229; *Petersfield Case, Stowe v Jolliffe, Aylward's Case* (1874) 2 O'M & H 94 at 95; *St George's Division, Tower Hamlets, Case* (1896) 5 O'M & H 89.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/G. SCRUTINY/846. Who may demand a scrutiny.

846. Who may demand a scrutiny.

A respondent¹ whose election is proved to be void may still continue the scrutiny² with the object of showing that the person for whom the seat is claimed has not obtained a majority of lawful votes³. Similarly, if a petitioner is proved on the hearing of an election petition not to be qualified for election, he may still proceed with the scrutiny in order to show that the respondent had not received a majority of lawful votes and so was not duly elected⁴.

1 As to respondents see PARAS 780, 789 ante.

2 As to scrutiny see PARA 837 et seq ante.

3 *Norwich Case* (1869) 19 LT 615 at 620-621 per Martin B.

4 *Southampton Case* (1869) 1 O'M & H 222 at 225-226 per Willes J; *York County West Riding, Southern Division Case* (1869) 1 O'M & H 213 at 215-216 per Martin B; *Taunton Case, Williams and Mellor v Cox* (1869) 1 O'M & H 181 at 186. It seems that, if a respondent fails on the principal case and succeeds on the recriminatory case (as to which see PARA 835 ante), he may still proceed with the scrutiny: *Southampton Case* supra at 225-226 per Willes J.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/G. SCRUTINY/847. List of objections to votes.

847. List of objections to votes.

Where the election petition¹ claims a seat or office for an unsuccessful candidate on the ground that he had a majority of lawful votes, every party must, not less than seven days² before the day fixed for the trial, file³ a list of the votes which he contends were wrongly admitted or rejected, stating in respect of each such vote the grounds for his contention, and serve a copy of the list on every other party and on the Director of Public Prosecutions⁴. Any party to the petition may inspect and obtain an office copy of any list so filed⁵. Except by leave of the election court, no evidence may be given by a party against the admission or rejection of any vote, or as to any ground of contention, which is not specified in a list filed by him⁶.

1 As to parliamentary election petitions see PARA 759 ante; as to the questioning of an election under the Local Government Act 1972 see PARA 760 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

2 As to the calculation of time limits for these purposes see PARAS 765-766 ante.

3 As to filing for these purposes see PARA 835 note 4 ante.

4 Election Petition Rules 1960, SI 1960/543, r 10(1); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 10(1). As to the application and modification of the Election Petition Rules 1960, SI 1960/543 (as amended) for the purposes of Welsh Assembly election petitions see PARA 765 note 3 ante.

5 Election Petition Rules 1960, SI 1960/543, r 10(3); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 10(3); and see note 4 supra.

6 Election Petition Rules 1960, SI 1960/543, r 10(4)(a); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 10(4)(a); and see note 4 supra.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/G. SCRUTINY/848. Particulars on a scrutiny.

848. Particulars on a scrutiny.

Where a petitioner claims the seat for an unsuccessful candidate, alleging that he had a majority of lawful votes, the court has no jurisdiction to order any particulars except those specified¹. Where, however, a petition contains allegations upon which it claims to have the election invalidated and goes on, further, to request a scrutiny and to claim the seat, the ordinary particulars may be ordered² as to the former part of the petition, while as to the latter part of it no further particulars than those contained in the list of objections to votes³ may be ordered⁴. Similar particulars are ordered of votes which are sought to be added⁵. Where no list of the votes to which it is intended to take objection has been delivered within the time specified, the court has no power to allow evidence of the votes objected to or of the objections to them to be given at the trial⁶.

A party to a scrutiny is bound by his particulars⁷. He may not attack votes set out in the other party's particulars which are not set out in his own particulars, and with the objection to which the other party does not proceed⁸. Leave to give evidence as to those votes may, however, be given by the court on good grounds being shown by affidavit, the court making such terms as it thinks right to meet such a case⁹.

¹ *East Manchester Case, Munro v Balfour* [1893] 1 QB 113, DC; *Furness v Beresford, York City Case* [1898] 1 QB 495, CA.

² As to the ordering of particulars in the case of these claims see PARAS 806-808 ante.

³ As to the list of objections to votes see PARA 847 ante.

⁴ *East Manchester Case, Munro v Balfour* [1893] 1 QB 113, DC. See also *Elkins v Onslow* (1868) 19 LT 528.

⁵ *Horsham Case* (1869) 20 LT 180; *Finsbury Case* (1892) (cited in Day 16); *Cirencester Case* (1893) (cited in Day 16). In *Horsham Case* supra, particulars of such votes were ordered to be given three days before the trial.

⁶ *Neild v Batty* (1874) LR 9 CP 104.

⁷ *Finsbury, Central Division Case* (1892) 4 O'M & H 171 at 173-174.

⁸ See note 7 supra.

⁹ See note 7 supra.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/G. SCRUTINY/849. Inspection of ballot papers and orders for production of election or referendum documents.

849. Inspection of ballot papers and orders for production of election or referendum documents.

Documents which relate to a parliamentary election or to a local government election for a principal area, parish or community council are kept in the custody of the relevant registration officer¹; documents which relate to a local authority mayoral election or a local authority referendum or poll consequent on a parish or community meeting are kept in the custody of the proper officer of the appropriate local authority²; documents which relate to a London Authority election are kept under the control of the Greater London returning officer³; documents which relate to the election of members to the National Assembly for Wales are kept in the custody of the National Assembly for Wales⁴; and documents relating to European parliamentary elections are retained by the local returning officer⁵. An order may be made for the inspection or production of any rejected ballot papers⁶ or for the opening of a sealed packet of the completed corresponding number lists (in the case of a parliamentary election or local government election for a principal area, parish or community council) or a sealed packet of counterfoils (in the case of any other election) and certificates as to employment on duty on the day of the poll⁷ or for the inspection of counted ballot papers which are kept in such custody or control⁸; and no person is allowed to inspect any rejected or counted ballot papers, or to open any sealed packets of completed corresponding number lists (or counterfoils, as the case may be) and certificates which are kept in such custody or control, otherwise than in accordance with such an order⁹. If satisfied by evidence on oath that the order is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers or for the purpose of an election or referendum petition, the order may be made by a county court or, in the case of a parliamentary, Welsh Assembly or European parliamentary election petition, by the High Court or a county court¹⁰. In the case of a parliamentary election petition, the order may also be made by the House of Commons¹¹; and in the case of a Welsh Assembly election petition, the order may also be made by the National Assembly for Wales¹². An order for the opening of a sealed packet of completed corresponding number lists (or counterfoils, as the case may be) and certificates¹³ or for the inspection of any counted ballot papers kept in such custody or control may be made by an election court¹⁴. The order may be made subject to such conditions as to persons, time, place and mode of inspection, production or opening as the court making the order (or, as the case may be, the House of Commons or the National Assembly for Wales) may think expedient¹⁵. However, in making and carrying into effect an order for the opening of a sealed packet of completed corresponding number lists (or counterfoils, as the case may be) and certificates or for the inspection of counted ballot papers which are kept in custody, care must be taken that the way in which the vote of any particular elector has been given is not disclosed until it has been proved that his vote was given and that the vote has been declared by a competent court to be invalid¹⁶.

Strong grounds for making an order must be shown, and the court must be satisfied that the application for it is made in good faith, and will rarely, if ever, grant it unless a petition or prosecution has been instituted or is about to be instituted¹⁷ and it is shown to be really required¹⁸.

The power to make an order which is given to a county court (or, in the case of a parliamentary, Welsh Assembly or European parliamentary election petition, the High Court)

may be exercised by any judge of the court otherwise than in open court¹⁹. An appeal lies to the High Court from an order of a county court²⁰.

1 For the meaning of 'relevant registration officer' for these purposes see PARA 494 note 3 ante. As to the retention of parliamentary election documents by the relevant registration officer see PARA 503 ante; and as to the retention of local government documents by the relevant registration officer see PARA 504 ante.

2 As to the retention of local authority mayoral election documents by the proper officer of the appropriate local authority see PARA 504 ante; and as to the retention of documents relating to a local authority referendum or poll consequent on a parish or community meeting by the proper officer of the council see PARA 665 ante. For the meaning of 'proper officer' generally see PARA 155 note 2 ante. For the meaning of 'local authority' for the purposes of a local authority mayoral election see LOCAL GOVERNMENT vol 69 (2009) PARA 23. For the purposes of a poll consequent on a parish meeting involving an appointment to office, the proper officer is specified as being the proper officer of the council of the district in which the parish is situate or the county or county borough in which the community is situate: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 35(1)(a). For the purposes of a poll consequent on a parish or community meeting, any references to a proper officer of a council means any officer appointed for the purpose by that council: Schedule r 38(3).

3 As to the retention of documents relating to London Authority elections by the Greater London returning officer see PARA 505 ante. For the meaning of 'Greater London returning officer' see PARA 218 note 7 ante.

4 As to the retention of documents relating to the election of members to the National Assembly for Wales see PARA 506 ante. As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

5 As to the retention of European parliamentary election documents by the local returning officer see PARA 507 ante. As to local returning officers appointed for the purposes of European parliamentary elections see PARA 365 et seq ante. As to documents retained after a European parliamentary election held in the combined region (as to which see PARA 76 ante) see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 60(9).

6 Representation of the People Act 1983 s 23(1), Sch 1 r 56(1)(a) (amended by the Electoral Administration Act 2006 s 41(1), (4)(a)); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 35(1)(a); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)-(3), Sch 1 r 49(1)(a), Sch 2 r 52(1)(a), Sch 3 r 54(1)(a) (Sch 1 r 49(1)(a), Sch 2 r 52(1)(a), Sch 3 r 54(1)(a) all amended by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 52(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 63(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 60(1)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 53(1)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 53(1)(a). At the date at which this volume states the law, the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 47(1)-(5), (8) is applied and modified for the purposes set out in the text in the context of a local authority referendum (see PARA 557 ante), in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. In relation to a local authority referendum at which voting is by post only (as to which see PARA 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 47 (as applied and modified) is further modified, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. At a local government election or at a poll consequent on a parish or community meeting, 'rejected ballot papers' includes ballot papers rejected in part: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 35(1)(a); the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 53(1)(a); and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 53(1)(a). There is no provision in any context to an order in respect of tendered ballot papers (as to which see PARA 408 ante); however, such ballot papers must be available to the election court so as to indicate how the voter who was entitled to vote would have voted if someone had not voted in his name before him.

The amendment effected by the Electoral Administration Act 2006 s 41(4) has no effect in relation to any documents which have been or must be forwarded to the Clerk of the Crown on or before 2 May 2007, in accordance with either the Representation of the People Act 1983 Sch 1 r 55 (as amended) (see PARA 494 ante) or the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91 (as amended) (see PARA 495 ante): see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 4. As to the Clerk of the Crown see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 921.

7 As to certificates of employment on duty on the day of the poll see PARA 402 ante. There are no such certificates at a poll consequent on a parish or community meeting.

8 Representation of the People Act 1983 Sch 1 r 56(1)(b) (amended by the Electoral Administration Act 2006 s 31(1), (7)(a)); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 35(1)(b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 49(1)(b), Sch 2 r 52(1)(b), Sch 3 r 54(1)(b) (all amended by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 52(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 63(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 60(1)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 53(1)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 53(1)(b). As to the completed corresponding number lists see PARA 410 note 10 ante.

Any amendment of the Representation of the People Act 1983 effected by the Electoral Administration Act 2006 s 31 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

9 Representation of the People Act 1983 Sch 1 r 56(8) (amended by the Electoral Administration Act 2006 ss 31(1), (7)(e), 41(1), (4)(a)); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 35(8); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 49(8), Sch 2 r 52(8), Sch 3 r 54(8) (amended by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 52(8); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 63(8); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 60(8); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 53(8); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 53(8); and see note 6 supra. As to the effect of amendments effected by the Electoral Administration Act 2006 s 41(4) see note 6 supra; and as to those effected by s 31 see note 8 supra. As to documents which have been produced by order for the purposes of the trial of a petition see PARA 834 ante.

10 Representation of the People Act 1983 Sch 1 r 56(1)(ii); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 35(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 49(1), Sch 2 r 52(1), Sch 3 r 54(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 52(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 63(1)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 60(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 53(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 53(1); and see note 6 supra. As to parliamentary election petitions see PARA 759 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante.

Dereliction of duty in counting ballot papers is an offence in relation to ballot papers: *McWhirter v Platten* [1970] 1 QB 508, [1969] 1 All ER 172, DC. On its true construction, what is now the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 53(1) permits an application to be made before any final decision was taken whether or not to present an election petition provided only and always that: (1) its purpose was to resolve a real doubt as to the correctness of the declared result; and (2) there was a real likelihood that, were the inspection to show the result incorrect, an election petition would follow; an application for a production and inspection order might also be made to establish whether it was worthwhile to present a petition: *Gough v Local Sunday Newspapers (North) Ltd* [2003] EWCA Civ 297, [2003] 2 All ER 456, [2003] 1 WLR 1836, which also cites *Re Three Rivers District Council Elections* (26 July 1991, unreported) (consent order made by county court for purpose of formal recount; election petition followed).

11 Representation of the People Act 1983 Sch 1 r 56(1)(i). The requirement about being satisfied as to the purpose of the order does not apply to an order made by the House of Commons.

12 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 63(1)(i). The requirement about being satisfied as to the purpose of the order does not apply to an order made by the National Assembly for Wales.

13 There are no certificates as to employment at a poll consequent on a parish or community meeting.

14 Representation of the People Act 1983 Sch 1 r 56(2) (amended by the Electoral Administration Act 2006 ss 31(1), (7)(b), 41(1), (4)(b)); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 35(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 49(2), Sch 2 r 52(2), Sch 3 r 54(2) (all amended by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 52(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 63(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 60(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 53(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 53(2); and see note 6 supra. As to the effect of amendments effected by the Electoral Administration Act 2006 s 41(4) see note 6 supra; and as to those effected by s 31 see note 8 supra.

15 Representation of the People Act 1983 Sch 1 r 56(3); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 35(3); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 49(3), Sch 2 r 52(3), Sch 3 r 54(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 52(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 63(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 60(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 53(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 53(3); and see note 6 *supra*.

16 Representation of the People Act 1983 Sch 1 r 56(3) (amended by the Electoral Administration Act 2006 s 31(1), (7)(c)); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 35(3); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 49(3), Sch 2 r 52(3), Sch 3 r 54(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 52(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 63(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 60(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 53(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 53(3); and see note 6 *supra*. As to the effect of the Electoral Administration Act 2006 s 31 see note 8 *supra*.

17 In *Re Lancashire, Darwin Division Case* (1885) 2 TLR 220, DC, the court refused to allow an inspection of the ballot papers in the absence of a petition, and doubted whether it had jurisdiction to make such an order unless on a petition; but cf *McWhirter v Platten* [1970] 1 QB 508, [1969] 1 All ER 172, DC, where an order was made before the institution of a prosecution on the ground that the offenders and the nature of offences could not be ascertained until the ballot papers had been inspected. Where such an order has been made, the court at the trial of an indictment for an offence respecting the ballot papers may allow inspection of them: see *R v Beardsall* (1876) 1 QBD 452, CCR; *R v Quinlan* [1908] 2 IR 155.

18 *Re Lancashire, Darwin Division Case* (1885) 2 TLR 220, DC (cited in note 17 *supra*); and see *R v Beardsall* (1876) 1 QBD 452, CCR; *R v Quinlan* [1908] 2 IR 155.

19 Representation of the People Act 1983 Sch 1 r 56(5)(a); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 35(5); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 49(5), Sch 2 r 52(5), Sch 3 r 54(5); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 52(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 63(5); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 60(5); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 53(5); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 53(5); and see note 6 *supra*.

20 Representation of the People Act 1983 Sch 1 r 56(4); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 35(4); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 49(4), Sch 2 r 52(4), Sch 3 r 54(4); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 52(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 63(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 60(4); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 53(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 53(4); and see note 6 *supra*.

UPDATE

849 Inspection of ballot papers and orders for production of election or referendum documents

NOTES--SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848. SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541. SI 2002/185 reg 3(1), Sch 1 r 52 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 58.

NOTE 6--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/G. SCRUTINY/850. Evidence of vote at election, referendum or poll.

850. Evidence of vote at election, referendum or poll.

In relation to a parliamentary election petition or a petition questioning a local government election for a principal area, parish or community council¹, the production from proper custody of: (1) a ballot paper purporting to have been used at any such election²; and (2) a completed corresponding number list with a number marked in writing beside the number of the ballot paper³, is prima facie evidence that the elector whose vote was given by that ballot paper was the person whose entry in the register of electors⁴ contained the same number as the number written as mentioned in head (2) above⁵.

In relation to any other election or to any referendum or poll, the production from proper custody or control⁶ of a ballot paper purporting to have been used at any such election, referendum or poll, and of a counterfoil marked with the same printed number and having a number marked on it in writing⁷, is prima facie evidence that the elector whose vote was given by that ballot paper was the person who, at the time of the election, referendum or poll, had affixed to his name in the register of electors the same number as that written on the counterfoil⁸.

1 As to parliamentary election petitions see PARA 759 ante; and as to petitions questioning a local government election see PARA 760 ante.

2 Representation of the People Act 1983 s 23(1), Sch 1 r 56(7)(a) (Sch 1 r 56(7) substituted by the Electoral Administration Act 2006 s 31(1), (7)(d)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 53(7)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 53(7)(a).

Any amendment of the Representation of the People Act 1983 effected by the Electoral Administration Act 2006 s 31 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

3 Representation of the People Act 1983 Sch 1 r 56(7)(b) (as substituted: see note 2 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 53(7)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 53(7)(b). See note 2 supra. As to the completed corresponding number lists see PARA 410 note 10 ante.

4 I.e. on a notice issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) (notices specifying appropriate alterations to the register: see PARA 175 ante) at the time of the election.

5 Ibid Sch 1 r 56(7) (as substituted: see note 2 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 53(7); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 53(7). See note 2 supra.

6 As to proper custody or control for these purposes see PARA 849 ante.

7 As to the ballot paper and security measures associated with the ballot paper see PARAS 391-392 ante.

8 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 35(7); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)-(3), Sch 1 r 49(7), Sch 2 r 52(7), Sch 3 r 54(7) (Sch 1 r 49(7), Sch 2 r 52(7), Sch 3 r 54(7) all amended by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 52(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 63(7); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 60(7). At the date at which this volume states the law, the

Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 47(8) is applied and modified for the purposes set out in the text in the context of a local authority referendum (see PARA 557 ante), in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. In relation to a local authority referendum at which voting is by post only (as to which see PARA 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 47 (as applied and modified) is further modified, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4.

UPDATE

850 Evidence of vote at election, referendum or poll

NOTE 8--SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541. SI 2002/185 reg 3(1), Sch 1 r 52 now Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007, SI 2007/1024, reg 3(1), Sch 1 r 58. SI 2004/293 Sch 1 substituted: SI 2009/186. SI 2004/293 Sch 1 amended: SI 2009/848. SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/G. SCRUTINY/851. Petitions following equality of votes at election or referendum.

851. Petitions following equality of votes at election or referendum.

If it appears that there is an equality of votes between any candidates at a parliamentary election¹ or election under the local government Act² and that the addition of a vote would entitle any of these candidates to be declared elected, any decision by a returning officer at the election, in so far as it determines the question between those candidates, is effective also for the purposes of the petition³. In so far as that question is not determined by such a decision, the court must decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote⁴.

If, in relation to a Welsh Assembly election petition⁵, it appears that there is an equality of votes between any candidates at a constituency election⁶ or two or more individual candidates or registered political parties at a regional election have the same electoral region figure⁷, and that the addition of a vote would entitle any of those individual candidates or any party list candidate of those parties to be declared elected, any decision in the case of a constituency election⁸ or in the case of a regional election⁹, is, in so far as it determines the question as to who is elected, effective also for the purposes of the petition¹⁰. In so far as that question is not determined by such a decision, the court must decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote¹¹.

If the petition relates to an election conducted under the European parliamentary elections rules¹² and it appears that there is an equality of votes between any registered parties or individual candidates at the election¹³, and that the addition of a vote would entitle any of those registered parties or individual candidates to be declared elected then any decision as to equality of votes in the European parliamentary elections rules¹⁴, as the case may be, is in so far as it determines the question between those registered parties or individual candidates, effective also for the purposes of the petition¹⁵. In so far as that question is not determined by such a decision, the court must decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote¹⁶.

Where the petition relates to a referendum¹⁷ as regards which, by reason of an equality of votes found at the count, the result was determined by lot, that determination is effective also for the purposes of the petition¹⁸. However, where the court disallows any vote cast in the referendum, such a determination has no effect and the court must declare the result of the referendum¹⁹. Where the petition relates to a referendum at which no equality of votes was found at the count and the court disallows any vote cast in the referendum and determines that an equality of votes was cast in the referendum, the result of the referendum must be determined by the court by lot²⁰.

1 For the meaning of 'parliamentary election' see PARA 9 ante. As to parliamentary election petitions see PARA 759 ante.

2 For the meaning of 'election under the local government Act' see PARA 10 note 2 ante. As to the questioning of an election under the Local Government Act 1972 see PARA 760 ante.

3 Representation of the People Act 1983 s 139(6)(a). As to the decision by lot by the returning officer in the case of equality of votes at parliamentary and local government elections see PARA 441 ante; and in the case of equality of votes at a London Authority election see PARA 447 ante.

4 Representation of the People Act 1983 s 139(6)(b). For a decision by lot by the court see *Levers v Morris* [1972] 1 QB 221, [1971] 3 All ER 1300, DC.

5 As to Welsh Assembly election petitions see PARA 762 ante.

6 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 94(6)(a). For the meaning of 'constituency election' in the context of Welsh Assembly elections see PARA 3 note 1 ante. In the case of equality of votes at a Welsh Assembly constituency election see PARA 466 ante.

7 Ibid art 94(6)(b). In the case of equality of votes at a Welsh Assembly regional election see PARA 467 ante. For the meaning of 'Assembly regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante; and for the meanings of 'individual candidate' and 'party list candidate' in relation to such elections see PARA 237 note 23 ante. The text refers to 'electoral region figure' within the meaning of the Government of Wales Act 1998 s 6(3) (see PARA 345 ante). The provisions of the Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes after that date see the Government of Wales Act 2006 s 8(5); and PARA 345 ante.

8 In any decision between the candidates by lot under the provisions in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 55 (see PARA 466 ante).

9 In any decision between the parties or individual candidates by lot under the Government of Wales Act 1998 s 7(9) (see PARA 345 ante) and the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 58(8) (see PARA 467 ante). The provisions of the Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes after that date see the Government of Wales Act 2006 s 9(9); and PARA 345 ante.

10 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 94(7)(a).

11 Ibid art 94(7)(b).

12 For the meaning of 'European parliamentary elections rules' see PARA 388 ante. As to European parliamentary election petitions see PARA 763 ante.

13 For the meaning of 'registered party' in relation to a European parliamentary election see PARA 237 note 30 ante; and for the meaning of 'individual candidate' in relation to such an election see PARA 237 note 32 ante.

14 As to the case of equality of votes at a European parliamentary election see PARA 345 ante.

15 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 96(5)(a).

16 Ibid reg 96(5)(b).

17 In a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante. The provision made for the questioning of an election under the Local Government Act 1972 is applied and modified for the purpose of questioning a local authority referendum: see PARA 764 ante.

18 Representation of the People Act 1983 s 139(6) (s 139 as applied and modified: see note 17 supra).

19 Ibid s 139(6A) (as applied and modified: see note 18 supra).

20 Ibid s 139(6B) (as applied and modified: see note 18 supra).

UPDATE

851 Petitions following equality of votes at election or referendum

NOTE 17--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/G. SCRUTINY/852. Effect of judges' disagreement as to votes at a parliamentary election.

852. Effect of judges' disagreement as to votes at a parliamentary election.

If, on a parliamentary election petition¹, the judges constituting the court differ as to whether a vote should be added, it is not added²; if they differ as to whether a vote should be struck off, it is not struck off³.

1 As to parliamentary election petitions see PARA 759 ante.

2 *Berwick-on-Tweed Case* (1880) 3 O'M & H 178 at 182.

3 *Stepney Division, Tower Hamlets Case* (1886) 4 O'M & H 34, 37 at 40.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/H. RECOUNT/853. Application for recount at election.

H. RECOUNT

853. Application for recount at election.

A petition which asks for a recount and claims the seat is a good petition even if it asks for nothing more¹. The usual practice is for an application for a recount to be made by summons to a judge on the rota for the trial of parliamentary election petitions before the trial on an affidavit showing the grounds on which the application is based². A recount is not granted as of right, but on evidence of good grounds for believing that there has been a mistake on the part of the returning officer³. If there are more than two candidates for more than one seat and a petition is presented against one, claiming as against him a recount and the seat, it is not necessary for the petitioner to claim a general recount, that is as regards the other candidate or candidates as well; on the recount against the respondent resulting in the petitioner's favour, he becomes entitled to the respondent's seat⁴.

1 See PARAS 759 et seq ante; and Day's Election Cases 4.

2 As to the manner of making interim applications see PARAS 800-801 ante, and Day's Election Cases 16. In *Stepney Division, Tower Hamlets Case* (1886) 4 O'M & H 34, 37 at 50, however, the application was not made until the trial.

3 *Stepney Division, Tower Hamlets Case* (1886) 4 O'M & H 34, 37 at 50-51.

4 *Lord Monkswell v Thompson* [1898] 1 QB 479 (a municipal election case). It is not clear whether in such a case it is open to the respondent, except by petition against the other successful candidate or candidates, to claim a recount against him or them. See the judgment of Hawkins J and Channell J in *Lord Monkswell v Thompson* supra at 484-486. It is submitted that it is not open to the respondent to do so, on the ground that it would be a questioning of the election or return of such candidate or candidates and so could only be effected by petition.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/H. RECOUNT/854. Procedure for recount.

854. Procedure for recount.

If an application for a recount is granted¹, the usual practice is to order the recount to be taken before the trial by an officer appointed for the purpose². The order directing it generally directs that it is to be taken at the Royal Courts of Justice³. The respondent's ballot papers are counted by the petitioner and are then handed to the respondent to be checked by him, and those for the petitioner are similarly dealt with by the respondent. If any are disputed, the officer's opinion is sometimes asked and given, and if any paper remains disputed by either party, the officer reserves it for the decision of the election court, setting it out in his report⁴. After the counted ballot papers have been thus disposed of, the rejected ballot papers are dealt with in the same way.

1 As to applications for a recount at an election see PARA 853 ante.

2 *Halifax Case* (1893) 4 O'M & H 203; but see note 4 infra. The officer appointed is normally the Senior Master.

3 This is the usual practice, but in *Stepney Division, Tower Hamlets Case* (1886) 4 O'M & H 34, 37 at 51, Denman J himself counted the ballot papers, the parties desiring that he might do so in order to save time and expense, but he stated that this was not to be a precedent. In *Renfrew County Case* (1874) 2 O'M & H 213, the recount took place in open court. As to the procedure to be followed when, the result of an election having been declared by the returning officer, a parcel of ballot papers is discovered uncounted see *Gough v Local Sunday Newspapers (North) Ltd* [2003] EWCA Civ 297, [2003] 2 All ER 456, [2003] 1 WLR 1836 (informal count of uncounted ballot papers made in absence of parties). See also *Macmanomy v Westley* (4 July 1986, unreported) (formal count of votes in overlooked ballot box in presence of parties followed by recount of all the ballot papers cast); *Marshall v Gibson* (14 December 1995, unreported) (informal recount carried out in absence of parties followed by formal petition).

4 If the statutory requirements regarding the marking of a ballot paper are not substantially fulfilled, the ballot paper is void, and should not be counted; and, if it is counted, it should be struck out on a scrutiny. The decision in each case is upon a point of fact, to be decided first by the returning officer, and afterwards by the election tribunal, on petition: *Woodward v Sarsons* (1875) LR 10 CP 733. Each voting paper must be looked at on its merits and it is a matter of first impression whether the vote was clearly cast for one candidate or not: *Cornwell v Marshall* (1976) 75 LGR 676, DC; *Petition of Rowe* [2001] All ER (D) 329 (Dec), DC.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vi) The Hearing/l. REFERENCE OF QUESTION OF LAW/855. Reference of question of law by statement of case.

I. REFERENCE OF QUESTION OF LAW

855. Reference of question of law by statement of case.

If it appears to the election court, on the trial of an election or referendum petition¹, that any question of law as to the admissibility of evidence or otherwise requires further consideration by the High Court, the election court may postpone the granting of a certificate² until the question has been determined by the High Court, and for this purpose may reserve the question by stating a case for the decision of the High Court³. The case is heard by a Divisional Court⁴.

The election court will not reserve a point about which the court entertains no doubt, even though application is made to reserve it⁵. A point of law may not be reserved unless it is one which would affect the whole result of the trial of the petition⁶.

1 As to parliamentary election petitions see PARA 759 ante; as to the questioning of an election under the Local Government Act 1972 see PARA 760 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

2 I.e. a certificate of determination on the petition. In relation to a parliamentary election petition see PARA 856 post; in relation to a local government election petition see PARA 859 post; in relation to a Welsh Assembly election petition see PARA 861 post; in relation to a European parliamentary election petition see PARA 863 post; and in relation to a local authority referendum petition see PARA 864 post.

3 Representation of the People Act 1983 s 146(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 101(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 101(3); and see note 1 supra. The application to reserve a question should be made before the question is decided: *Londonderry City Case* (1886) 4 O'M & H 96 at 103. Where the election court decides a point, the fact of its being a difficult one does not make it a necessary practice that it should, on the application of one of the parties, reserve it for the Divisional Court: *Re Gloucestershire, Thornbury Division, Election Petition* (1886) 16 QBD 739 at 740 per Lord Coleridge CJ. Where, on the argument before the Divisional Court of a question of law reserved by a commissioner on the trial of a municipal election petition, the respondent claimed the right to begin on the ground that he was in the position of one appealing from the commissioner's decision, and the petitioner opposed the claim, the court was of opinion that the respondent should begin: *Re Gloucester Municipal Election Petition 1900, Ford v Newth* [1901] 1 KB 683 at 686, DC. In *Re Stepney Election Petition, Isaacson v Durant* (1886) 17 QBD 54, on the argument of a question of law reserved by judges trying a parliamentary election petition without deciding the question reserved, the point as to the right to begin was not raised, but the petitioner in fact began. In *Re Gloucestershire, Thornbury Division, Election Petition* supra where also this point seems not to have been in dispute, the petitioner, who was in the position of an appellant from the decision, began. As to proceeding on a petition by way of special case stated (a much more common procedure than reference of a question of law by statement of case) see PARA 814 ante.

4 See CPR Sch 1 RSC Ord 94 r 5(2); and PARA 770 note 10 ante. See also *Nichol v Fearby* [1923] 1 KB 480 at 493 per McCardie J. It is the practice, however, for cases to be heard by judges on the rota.

5 *Horsham Case, Aldridge v Hurst* (1876) 3 O'M & H 52 at 56; *Down County Case* (1880) 3 O'M & H 115 at 120; *York County East Riding, Buckrose Division Case* (1886) 4 O'M & H 110 at 114.

6 *Taunton Borough Case* (1874) 2 O'M & H 66 at 71 per Grove J; *Re Stepney Election Petition, Isaacson v Durant* (1886) 17 QBD 54 at 55 per Lord Coleridge CJ.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vii) The Judgment and its Effect/A. PARLIAMENTARY ELECTION PETITION/856. Determination of parliamentary election petition.

(vii) The Judgment and its Effect

A. PARLIAMENTARY ELECTION PETITION

856. Determination of parliamentary election petition.

At the conclusion of the trial of a parliamentary election petition¹, the election court has to determine whether the member whose return or election is complained of (or any and what other person) was duly returned or elected, or whether the election was void². If the judges constituting the election court differ on the question whether the member whose election or return is complained of was duly elected or returned, they must certify that difference, and the member or representative is deemed to be duly elected or returned³. If the judges determine that the member was not duly elected or returned, but differ as to the rest of the determination, they must certify that difference and the election is deemed to be void⁴. The court must forthwith certify the determination in writing to the Speaker of the House of Commons⁵. On such certificate being given, the determination is final to all intents and purposes⁶.

1 As to parliamentary election petitions see PARA 759 ante.

2 Representation of the People Act 1983 s 144(1). It has been stated that, before upsetting an election, the court ought to be satisfied beyond all doubt that the election is void: *Warrington Case* (1869) 1 O'M & H 42 at 44 per Martin B.

3 Representation of the People Act 1983 s 144(3)(a).

4 Ibid s 144(3)(b).

5 Ibid s 144(2). See PARA 814 note 8 ante.

6 Ibid s 144(1). Thus where an election petition claims the seat for an unsuccessful candidate, and the judges at the trial decide that the candidate was duly elected, a petition against that candidate's return cannot be presented subsequently: *Taunton Case, Waygood v James* (1869) LR 4 CP 361. If, however, collusion between the respondent and such a successful petitioner was shown, it might be competent for the House of Commons to order a second investigation, even though it might not be within the competency of the court to do so: *Taunton Case, Waygood v James* supra at 369 per Willes J and at 373 per Brett J (but Brett J thought that the judgment, being a judgment in rem, might not be final if obtained by fraud and deception of the court).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vii) The Judgment and its Effect/A. PARLIAMENTARY ELECTION PETITION/857. Matters to be reported by court hearing parliamentary election petition.

857. Matters to be reported by court hearing parliamentary election petition.

Where a charge is made in a parliamentary election petition¹ of any corrupt or illegal practice having been committed at the election in question, the election court must, in addition to giving a certificate² and at the same time, make a report to the Speaker of the House of Commons³, stating: (1) whether any corrupt or illegal practice has or has not been proved to have been committed by or with any candidate's knowledge and consent at that election, and the nature of such corrupt or illegal practice⁴; (2) whether any of the candidates has been guilty by his agents of any corrupt or illegal practice in reference to the election⁵; (3) the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt or illegal practice⁶; (4) whether corrupt or illegal practices have extensively prevailed at the election, or whether there is reason to believe that corrupt or illegal practices have so prevailed⁷. However, before any person who is neither a party to an election petition nor a candidate on whose behalf the seat or office is claimed by the petition is reported by an election court to have been guilty of any corrupt or illegal practice, the court must cause notice to be given to him⁸, and, if he appears in pursuance of the notice, the court must give him an opportunity of being heard by himself⁹ and of calling evidence in his defence to show why he should not be so reported¹⁰. At the time of making its report, the election court may also make a special report as to any matters arising in the course of the trial, an account of which in the court's judgment ought to be submitted to the House of Commons¹¹.

Every report sent to the Speaker must be signed by both judges of the election court and, if the judges differ as to the subject of the report, they must certify that difference and make no report on the subject on which they so differ¹². The report of the election court also must be laid before the Director of Public Prosecutions¹³. In order that any person should become subject to any incapacities or disabilities in consequence of the report of an election court¹⁴, the report must contain, or must be equivalent to, a definite finding that he is guilty of the offence or offences entailing such incapacities or disabilities; he does not become subject to them by reason only of a report stating facts from which his guilt may be inferred¹⁵. Unlike its certificate of determination, the election court's report is not final and conclusive as to the matters contained in it¹⁶.

1 As to parliamentary election petitions see PARA 759 ante.

2 I.e a certificate of determination on the petition: see PARA 856 ante.

3 See PARA 814 note 8 ante.

4 Representation of the People Act 1983 ss 144(4), 158(1). As to the consequences of a candidate being reported guilty of a corrupt or illegal practice see PARA 892 et seq post.

5 Ibid ss 144(4), 158(3).

6 Ibid ss 144(4), 160(1) (s 160(1) amended by the Representation of the People Act 1985 s 28(1), Sch 5).

7 Representation of the People Act 1983 s 144(4). As to the meaning of 'extensively prevailed' see *Maidstone Borough Case, Cornwallis v Barker* (1901) 5 O'M & H 149 at 152-153.

8 Such notice should give the recipient sufficient detail to know the basis on which the court is seeking to name him in its report; there is no requirement for the notice to be in writing, but it would be easier to prove if it is in writing: *R (on the application of Khan) v Election Comr* [2005] EWHC 2365 (Admin), [2005] All ER (D) 203 (Oct) (applicant had not been named in the election petition and the opportunity afforded him to give evidence on behalf of some of the respondents did not constitute the statutory notice to the claimant required under the Representation of the People Act 1983 s 160(1)).

9 If the person on whom the notice is served is desirous of appearing and showing cause against being reported, he can only be heard in person; counsel or solicitor may not be heard on his behalf: *R v Mansel Jones* (1889) 23 QBD 29, DC. This case must be taken to overrule the decision of Denman J and Cave J in *Ipswich Election Petition* (1886) cited in the argument on the trial of *R v Mansel Jones* supra. Blackburn J, in *Bewdley Case* (1869) 1 O'M & H 174 at 176, was of opinion that a person who had received notice in consequence of charges of bribery being proved against him was entitled to be heard by counsel; but this opinion was given on the wording of the Parliamentary Elections Act 1868 s 45 (repealed), which did not contain the words 'by himself'. It was decided by all three judges in *R v Mansel Jones* supra at 34-35 that the election court had no discretion to hear counsel on behalf of persons showing cause against being reported.

10 Representation of the People Act 1983 s 160(1). Section 160(1) is a procedural provision and no finding akin to a criminal finding of guilt should be arrived at without the subject of that finding having had an opportunity to address the allegations against him: *R (on the application of Khan) v Election Comr* [2005] EWHC 2365 (Admin), [2005] All ER (D) 203 (Oct).

11 Representation of the People Act 1983 s 144(5).

12 Ibid s 144(6).

13 Ibid s 160(3) (substituted by the Representation of the People Act 1985 s 24, Sch 4 para 52(b)). As to prosecutions by the Director of Public Prosecutions see PARA 880 post.

14 As to these incapacities and disabilities see PARA 899 et seq post.

15 *Grant v Pagham Overseers* (1877) 3 CPD 80. See also *Re Launceston Case, Drinkwater v Deakin* (1874) LR 9 CP 626 at 636-637 per Lord Coleridge CJ.

16 *Stevens v Tillett* (1870) LR 6 CP 147. In this case, where the judge, on the trial of a previous election petition, had reported that, in his opinion, the election had been properly conducted on the part of the then petitioner, it was held that, notwithstanding the report, on a petition against him in respect of a subsequent election, charges of corruption connected with the former election which had since become known might be gone into.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vii) The Judgment and its Effect/A. PARLIAMENTARY ELECTION PETITION/858. Subsequent action by House of Commons.

858. Subsequent action by House of Commons.

On being informed by the Speaker of the House of Commons¹ of a certificate² and any report of an election court³ trying a parliamentary election petition⁴, the House of Commons must order the certificate and report, if any, to be entered in its Journals and give the necessary directions for confirming or altering the return, or for issuing a writ for a new election, or for carrying the determination into execution as the circumstances may require⁵. Where the judges make a special report⁶, the House of Commons may make such order in respect of that report as it thinks proper⁷.

1 See PARA 814 note 8 ante.

2 Is a certificate of determination on the petition: see PARA 856 ante.

3 As to matters reported by an election court see PARA 857 ante.

4 As to parliamentary election petitions see PARA 759 ante.

5 Representation of the People Act 1983 s 144(7). The House of Commons Disqualification Act 1975 s 6(2) (relief for persons who are otherwise disqualified from membership of the House of Commons) has effect subject to these provisions: see s 6(3); and PARLIAMENT vol 78 (2010) PARA 910.

6 See PARA 857 ante.

7 Representation of the People Act 1983 s 144(7).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vii) The Judgment and its Effect/B. LOCAL GOVERNMENT ELECTION PETITION/859. Determination of local government election petition and subsequent procedures.

B. LOCAL GOVERNMENT ELECTION PETITION

859. Determination of local government election petition and subsequent procedures.

At the conclusion of the trial of a petition questioning an election under the Local Government Act 1972¹, the election court must determine whether the person whose election is complained of (or any and what other person) was duly elected, or whether the election was void². The election court must forthwith certify the determination in writing to the High Court³; and the determination so certified is final to all intents as to the matters at issue on the petition⁴. A copy of any certificate made to the High Court must be sent by the High Court to the Secretary of State⁵; and the High Court must by the signatures of two or more of its judges certify such a copy of the certificate to the proper officer of the authority for which the election was held⁶.

Where, on a petition questioning an election under the Local Government Act 1972⁷, the election of any person has been declared void⁸, and no other person has been declared elected in his place⁹, a new election must be held to fill the vacancy in the same manner as on a casual vacancy¹⁰.

Where the election court makes a determination in respect of the election of the Mayor of London¹¹ or in respect of the election of a constituency member of the London Assembly¹² and where: (1) the determination of the election court is that the person whose election is complained of was not duly elected¹³ or that the election was void¹⁴; and (2) the return of that person at that election was taken into account for the purpose of deciding which persons were to be returned as London members of the London Assembly¹⁵, the validity of the return of the London members of the London Assembly is affected neither by the determination of the election court¹⁶ nor, in a case of the election of a constituency member of the London Assembly, by the subsequent return of a person as the constituency member for the Assembly constituency concerned¹⁷. Where the election court has made a determination at the conclusion of the trial of a petition questioning the election of the London members of the London Assembly at an ordinary election¹⁸ and where¹⁹ the proper officer of the Greater London Authority receives the copy of the certificate of the election court's determination in relation to the election which was questioned, he must send notice of the determination to the Greater London returning officer²⁰. If the election is not declared void but the return of a candidate at the election is declared void²¹, and no other person has been declared returned in his place²², the vacancy must be filled (or, as the case may be, remain unfilled) as if it were a casual vacancy²³. If the election is declared void, a new election must be held in the same manner as at an ordinary election²⁴, with the date of the poll at the new election being fixed by the Greater London returning officer²⁵ but falling no later than three months after the receipt by the Greater London returning officer of the notice of the determination²⁶. If the determination of the election court is that the election is void, the Greater London returning officer must inform the returning officer for each Assembly constituency²⁷ of the contents of the notice of the determination²⁸ and of the date fixed for the poll at the new election²⁹. The results of the elections of the constituency members of the London Assembly at the last ordinary election have effect for the purposes of ascertaining the results of the new election³⁰.

1 As to the questioning of an election under the Local Government Act 1972 see PARA 760 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

2 Representation of the People Act 1983 s 145(1). Where the petition relates to an election of the London members of the London Assembly at an ordinary election, the election court must determine whether: (1) the person or persons whose return is complained of were duly returned (s 145(1A)(a) (s 145(1A) added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 33)); (2) some other person or persons should have been declared to be returned (Representation of the People Act 1983 s 145(1A)(b) (as so added)); or (3) the election was void (s 145(1A)(c) (as so added)). For the meaning of 'London member' see PARA 10 note 5 ante. As to ordinary elections of London members of the London Assembly see PARA 206 et seq ante.

3 Ibid s 145(2). In giving judgment, it is the practice for the court to give the reasons on which the judgment is based: see PARA 866 post.

4 Ibid s 145(1). As to the possibility of judicial review in respect of the election court's determination see PARA 767 note 1 ante. See also *Taunton Case*, *Waygood v James* (1869) LR 4 CP 361. However, in *Goole Case*, *Marsland v Hickman* (1886) 2 TLR 398, DC, where it was argued on a municipal election petition that the election commissioner had in his report exceeded his powers, Grove J thought that as the commissioner's decision was final the High Court had no jurisdiction, and Stephens J said he entertained considerable doubt on the question of the High Court's jurisdiction and that at any rate the jurisdiction, if it existed, ought only to be exercised under extraordinary circumstances and where it was required in order that justice might be done.

5 Representation of the People Act 1983 s 145(5). As to the Secretary of State see PARA 2 ante.

6 Ibid s 145(6). For the meaning of 'proper officer' see PARA 155 note 2 ante.

7 Ie except in the case of an election of the London members of the London Assembly at an ordinary election (for which separate provision is made: see the text and notes 18-30 infra): s 135(1A) (added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 32(1)).

8 Representation of the People Act 1983 s 135(1)(a).

9 Ibid s 135(1)(b).

10 Ibid s 135(1). As to the filling of casual vacancies in local government offices see PARAS 209-212 ante. For the purposes of such an election, any duties to be performed by any officer are, if he has been declared not elected, to be performed by a deputy or other person who might have acted for him if he had been incapacitated by illness: s 135(2). As to elections in the City of London see PARA 30 ante.

11 Ibid s 145A(1)(a) (s 145A added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 34). For the meaning of 'election of the Mayor of London' see PARA 10 ante. As to elections for the return of an elected Mayor of London see PARA 206 et seq ante.

12 Representation of the People Act 1983 s 145A(1)(b) (as added: see note 11 supra). For the meanings of 'constituency member' and 'election of a constituency member of the London Assembly' see PARA 10 ante. As to ordinary elections of constituency members of the London Assembly see PARA 206 et seq ante.

13 Ibid s 145A(2)(a) (as added: see note 11 supra).

14 Ibid s 145A(2)(b) (as added: see note 11 supra).

15 Ibid s 145A(3) (as added: see note 11 supra).

16 Ibid s 145A(4)(a) (as added: see note 11 supra).

17 Ibid s 145A(4)(b) (as added: see note 11 supra).

18 Ibid s 135A(1) (s 135A added by the Greater London Authority Act 1999 Sch 3 paras 1, 32(2)).

19 Ie pursuant to the Representation of the People Act 1983 s 145(6) (see the text and note 6 supra).

20 Ibid s 135A(2) (as added: see note 18 supra). For the meaning of 'Greater London returning officer' see PARA 218 note 7 ante.

21 Ibid s 135A(3)(a) (as added: see note 18 supra).

22 Ibid s 135A(3)(b) (as added: see note 18 supra).

- 23 Ibid s 135A(3) (as added: see note 18 supra). The text refers to the filling of a casual vacancy under the Greater London Authority Act 1999 s 11 (see PARA 211 ante).
- 24 Representation of the People Act 1983 s 135A(4) (as added: see note 18 supra).
- 25 Ibid s 135A(5) (as added: see note 18 supra).
- 26 Ibid s 135A(6) (as added: see note 18 supra). A new election is not to be held if the latest date which may be fixed for the poll falls within the period of three months preceding an ordinary election: s 135A(7) (as so added). As to London Assembly ordinary elections see PARA 206 ante.
- 27 For the meaning of 'Assembly constituency' in the context of elections to the London Assembly see PARA 10 ante; and for the meaning of 'constituency returning officer' see PARA 218 note 8 ante.
- 28 Representation of the People Act 1983 s 135A(8)(a) (as added: see note 18 supra).
- 29 Ibid s 135A(8)(b) (as added: see note 18 supra).
- 30 Ibid s 135A(9) (as added: see note 18 supra).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vii) The Judgment and its Effect/B. LOCAL GOVERNMENT ELECTION PETITION/860. Matters to be reported by court hearing local election petition.

860. Matters to be reported by court hearing local election petition.

Where a charge is made in a petition questioning an election under the Local Government Act 1972¹ of any corrupt or illegal practice having been committed at the election, the election court must, in addition to its certificate² and at the same time, make a report in writing to the High Court stating: (1) whether any corrupt or illegal practice has or has not been proved to have been committed by or with any candidate's knowledge and consent at the election, and the nature of such corrupt or illegal practice³; (2) whether any of the candidates has been guilty by his agents of any corrupt or illegal practice in reference to the election⁴; (3) the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt or illegal practice⁵; (4) whether any corrupt practices have, or whether there is reason to believe that any corrupt practices have, extensively prevailed at the election in the area of the authority for which the election was held or in any electoral area of it⁶. However, before any person who is neither a party to an election petition nor a candidate on whose behalf the seat or office is claimed by the petition is reported by an election court to have been guilty of any corrupt or illegal practice, the court must cause notice to be given to him, and, if he appears in pursuance of the notice, the court must give him an opportunity of being heard by himself and of calling evidence in his defence to show why he should not be so reported⁷. At the time of making its report, the election court may also make a special report as to any matters arising in the course of the trial, an account of which in the court's judgment ought to be submitted to the High Court⁸.

A copy of any report made to the High Court by the election court trying a local election petition must be sent by the High Court to the Secretary of State⁹. The report of the election court must also be laid before the Director of Public Prosecutions¹⁰.

1 As to the questioning of an election under the Local Government Act 1972 see PARA 760 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

2 Its certificate of determination on the local government election petition: see PARA 859 ante.

3 Representation of the People Act 1983 ss 145(3), 158(1). As to the consequences of a candidate being reported guilty of a corrupt or illegal practice see PARA 892 et seq post.

4 Ibid ss 145(3), 158(3).

5 Ibid ss 145(3), 160(1) (s 160(1) amended by the Representation of the People Act 1985 s 28(1), Sch 5).

6 Representation of the People Act 1983 s 145(3). For the meaning of 'electoral area' see PARA 10 ante. As to the meaning of 'extensively prevailed' see *Maidstone Borough Case, Cornwallis v Barker* (1901) 5 O'M & H 149 at 152-153.

7 Representation of the People Act 1983 s 160(1). See also the cases cited in PARA 857 notes 8-10 ante.

8 Ibid s 145(4).

9 Ibid s 145(5). As to the Secretary of State see PARA 2 ante.

10 Ibid s 160(3) (substituted by the Representation of the People Act 1985 s 24, Sch 4 para 52(b)). As to prosecutions by the Director of Public Prosecutions see PARA 880 post. As to the report's effect see also the cases cited in PARA 857 notes 14-16 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vii) The Judgment and its Effect/C. WELSH ASSEMBLY ELECTION PETITION/861. Determination of Welsh Assembly election petition and subsequent procedures.

C. WELSH ASSEMBLY ELECTION PETITION

861. Determination of Welsh Assembly election petition and subsequent procedures.

At the conclusion of the trial of an Assembly election petition¹, the election court must determine whether any Assembly member² whose election or return is complained of (or any and what other person) was duly elected or returned³ or, if applicable, whether the election was void⁴. Where, at a constituency election⁵, the election court determines that at a constituency election an Assembly member was not duly elected or returned⁶ or that the election was void⁷, and where the return of the member at that election was taken into account for the purposes of deciding which members were to be returned for the Assembly electoral region⁸ in which the Assembly constituency is situated⁹, neither the determination by the election court¹⁰ nor the subsequent return of an Assembly member for that constituency¹¹ affects the validity of the return of those members for that electoral region¹². Where the election court determines that at a regional election¹³ an Assembly member for an Assembly electoral region was not duly elected or returned, the court in addition must determine that the regional election was void¹⁴. If the judges constituting the election court differ as to whether any Assembly member whose election or return is complained of was duly elected or returned¹⁵, they must certify that difference and the member is deemed to be duly elected or returned¹⁶. Where the petition relates to a constituency election, if the judges determine that an Assembly member whose election or return is complained of was not duly elected or returned but differ as to the rest of the determination, they must certify that difference and the election is deemed to be void¹⁷. The election court must forthwith certify in writing the determination to the presiding officer of the Assembly¹⁸; and the presiding officer must publish any such certificate received by him in this way¹⁹. The determination so certified is final to all intents as to the matters at issue on the petition²⁰.

Where the election court so determines that a regional election was void, the presiding officer of the Assembly must forthwith after receipt of the certificate from the election court²¹: (1) fix a date, which must be no later than three months after receipt of the certificate, for a poll to be held at another election in the Assembly electoral region for which the regional election is determined to be void²²; and (2) send a notice to the returning officer for the Assembly electoral region in which the election was held²³, stating that the election has been determined to be void²⁴, requiring that the election is held again for the purpose of returning the members for that Assembly electoral region²⁵, and stating the date fixed for the poll at the election²⁶. The regional returning officer must, on receipt of notice under head (2) above, inform each constituency returning officer²⁷ for an Assembly constituency in the Assembly electoral region as to the contents of that notice²⁸. The results of the constituency elections in the Assembly electoral region for which the election is held at the last ordinary election have effect for the purposes of ascertaining the results of the regional election²⁹.

1 As to Welsh Assembly election petitions see PARA 762 ante.

2 For the meaning of 'Assembly member' see PARA 12 ante.

- 3 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 98(1)(a).
- 4 Ibid art 98(1)(b).
- 5 For the meaning of 'constituency election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.
- 6 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 99(1)(a).
- 7 Ibid art 99(1)(b). Where a constituency election is deemed to be void by virtue of art 98(4)(b) (see the text and note 17 infra), the election court is treated as having determined that election to be void for the purposes of art 99(1)(b): art 99(2).
- 8 For the meaning of 'Assembly electoral region' in the context of Welsh Assembly elections see PARA 3 note 1 ante.
- 9 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 99(1).
- 10 Ibid art 99(1)(i).
- 11 Ibid art 99(1)(ii).
- 12 Ibid art 99(1).
- 13 For the meaning of 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.
- 14 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 98(2).
- 15 Ie subject to ibid art 98(2) (see the text and notes 13-14 supra).
- 16 Ibid art 98(4)(a).
- 17 Ibid art 98(4)(b).
- 18 Ibid art 98(3). As to the presiding officer of the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.
- 19 Ibid art 98(8).
- 20 Ibid art 98(1).
- 21 Ie under ibid art 98(3) (see the text and note 18 supra).
- 22 Ibid art 100(1)(a), (2). However, an election is not to be held if it appears to the presiding officer of the Assembly that the latest date which may be fixed for the poll would fall within the period of three months preceding an ordinary election: art 100(3). As to fixing the date of an ordinary Assembly election see PARA 220 ante.
- 23 Ibid art 100(1)(b). For the meaning of 'regional returning officer' see PARA 18 note 2 ante.
- 24 Ibid art 100(4)(a).
- 25 Ibid art 100(4)(b).
- 26 Ibid art 100(4)(c).
- 27 For the meaning of 'constituency returning officer' see PARA 18 note 2 ante.
- 28 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 100(5).
- 29 Ibid art 100(6).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vii) The Judgment and its Effect/C. WELSH ASSEMBLY ELECTION PETITION/862. Matters to be reported by court hearing Welsh Assembly election petition.

862. Matters to be reported by court hearing Welsh Assembly election petition.

Where a charge is made in a Welsh Assembly election petition¹ of any corrupt or illegal practice having been committed at the election in question, the election court must, in addition to giving a certificate³ and at the same time, make a report to the presiding officer of the Assembly⁴, stating: (1) whether any corrupt or illegal practice has or has not been proved to have been committed by or with any candidate's knowledge and consent at that election, and the nature of such corrupt or illegal practice⁵; (2) whether any of the candidates has been guilty by his agents of any corrupt or illegal practice in reference to the election⁶; (3) the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt or illegal practice⁷; (4) whether corrupt or illegal practices have extensively prevailed at the election, or whether there is reason to believe that corrupt or illegal practices have so prevailed⁸. However, before any person who is neither a party to an election petition nor a candidate on whose behalf the seat or office is claimed by the petition is reported by an election court to have been guilty of any corrupt or illegal practice, the court must cause notice to be given to him, and, if he appears in pursuance of the notice, the court must give him an opportunity of being heard by himself and of calling evidence in his defence to show why he should not be so reported⁹. At the time of making its report, the election court may also make a special report to the presiding officer of the Assembly as to any matters arising in the course of the trial, an account of which in the court's judgment ought to be submitted to the Assembly¹⁰.

Every report sent to the presiding officer of the Assembly must be signed by both judges of the election court and if the judges differ as to the subject of the report, they must certify that difference and make no report on the subject on which they so differ¹¹. The presiding officer of the Assembly must publish any report of an election court so received by him¹² and the report also must be laid before the Director of Public Prosecutions¹³.

1 As to Welsh Assembly election petitions see PARA 762 ante.

3 I.e. a certificate of determination on the petition: see PARA 861 ante.

4 As to the presiding officer of the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

5 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, arts 98(5), 107(1). As to the consequences of a candidate being reported guilty of a corrupt or illegal practice see PARA 892 et seq post.

6 Ibid arts 98(5), 107(3).

7 Ibid arts 98(5), 109(1).

8 Ibid art 98(5).

9 Ibid art 109(1). See also the cases cited in PARA 857 notes 8-10 ante.

10 Ibid art 98(6).

11 Ibid art 98(7).

12 Ibid art 98(8).

13 Ibid art 109(2). As to prosecutions by the Director of Public Prosecutions see PARA 880 post. As to the report's effect see also the cases cited in PARA 857 notes 14-16 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vii) The Judgment and its Effect/D. EUROPEAN PARLIAMENTARY ELECTION PETITION/863. Determination of European parliamentary election petition.

D. EUROPEAN PARLIAMENTARY ELECTION PETITION

863. Determination of European parliamentary election petition.

At the conclusion of the trial of a European parliamentary election petition¹, the election court must determine whether: (1) the member or members whose election is complained of were duly elected²; (2) some other person or persons should have been declared to be elected³; or (3) the election of all members for that electoral region was void⁴. If the judges constituting the election court differ as to any matter which they are required to determine, they must certify that difference and, to the extent that there is such a difference, the result of the election stands⁵.

The election court must forthwith certify in writing the determination to the Secretary of State⁶; and the determination so certified is final to all intents as to the matters at issue on the petition⁷.

1 As to European parliamentary election petitions see PARA 763 ante.

2 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 100(1)(a).

3 Ibid reg 100(1)(b).

4 Ibid reg 100(1)(c). As to the establishment of electoral regions for the purpose of elections to the European Parliament see PARA 76 ante.

5 Ibid reg 100(3).

6 Ibid reg 100(2). As to the Secretary of State see PARA 2 ante.

7 Ibid reg 100(1).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vii) The Judgment and its Effect/E. LOCAL AUTHORITY REFERENDUM PETITION/864. Determination of local authority referendum petition and subsequent procedures.

E. LOCAL AUTHORITY REFERENDUM PETITION

864. Determination of local authority referendum petition and subsequent procedures.

At the conclusion of the trial of a petition questioning a local authority referendum¹, the election court must determine: (1) in the case of a petition presented on the ground that the result of the referendum was not in accordance with the votes cast², whether the result of the referendum was, or was not, in accordance with the votes cast in the referendum³; and (2) in the case of a petition presented on the ground that the referendum should be avoided either on account of corrupt or illegal practices⁴ or on the grounds that corrupt or illegal practices or illegal payments, employments or hirings, committed with reference to the referendum for the purpose of promoting or procuring a particular result in the referendum have so extensively prevailed that they may be reasonably supposed to have affected the result⁵, whether the referendum was void⁶. The election court must forthwith certify the determination in writing to the High Court⁷. A copy of any certificate made to the High Court must be sent by the High Court to the Secretary of State⁸; and the High Court must by the signatures of two or more of its judges certify such a copy of the certificate to the proper officer of the authority by which or in respect of which the referendum was held⁹.

Where the election court makes such a determination under head (1) above, it must, as the circumstances require, either confirm the result of the referendum or reverse the result of the referendum¹⁰; and any reference (in whatever terms) in the timetable¹¹ to the date of the result of the referendum¹² must be construed as a reference to the date on which the election court certifies its determination¹³.

Where an election court certifies, as its determination of a referendum petition specifying any of the grounds involving corrupt or illegal practices¹⁴, that the referendum was avoided, the local authority concerned must hold another referendum, not earlier than two months and not later than three months after the election court has certified its determination in the matter of the referendum petition¹⁵.

On the substantive hearing of a referendum petition for which leave has been granted for the presentation of a referendum petition at which the question asked related to proposals involving either a mayor and cabinet executive¹⁶ or a mayor and council manager executive¹⁷ and in which the majority of the votes cast were 'yes' votes, and after an election for the return of an elected mayor has taken place in consequence of the referendum¹⁸, the election court must either dismiss the petition or allow the petition¹⁹. Where the court allows the petition, it must declare the referendum to be tainted, and order that a further referendum be held²⁰. Where the court makes such an order, the local authority must hold the further referendum as soon as reasonably practicable after the expiration of the period of five years beginning with the date on which the tainted referendum was held²¹. If the majority of the votes cast in a further referendum are 'yes' votes then, where the local authority is operating executive arrangements, it must continue to operate those arrangements unless and until it is authorised or required to operate different executive arrangements or authorised to operate alternative arrangements in place of its existing executive arrangements²². If the majority of the votes cast in a further referendum held in England are 'yes' votes then, where the authority is operating

alternative arrangements, it must continue to operate those arrangements unless and until it is authorised to operate different alternative arrangements or authorised or required to operate executive arrangements in place of its existing alternative arrangements²³. If the majority of the votes cast in the further referendum are 'no' votes, the local authority must implement the proposals that were its outline fall-back proposals²⁴ at the time of the tainted referendum²⁵. The further referendum must be conducted in accordance with the provisions which regulate the conduct of local authority referendums generally, with minor modifications²⁶.

On the substantive hearing of a referendum petition for which leave has been granted on any other ground²⁷, the election court must either dismiss the petition or allow the petition²⁸. Where the court allows the petition, it must declare the referendum avoided²⁹.

1 I.e a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante. The Representation of the People Act 1983 s 145(1) (as substituted) does not apply where a referendum petition has been presented with the leave of the High Court (see in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(3) and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(3); and PARA 791 ante): see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(8), Sch 6; and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(8), Sch 5.

2 I.e on the ground mentioned, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(1)(a) and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(1)(a) (see PARA 764 ante).

3 Representation of the People Act 1983 s 145(1)(a) (s 145(1) substituted, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(8), Sch 6; and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(8), Sch 5).

4 I.e on the ground mentioned, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(1)(b) and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(1)(b) (see PARA 764 ante). The text refers to such corrupt or illegal practices within the meaning of the Representation of the People Act 1983, as are relevant to referendums by virtue of, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, regs 8, 19(8) and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, regs 8, 15(8) (see PARA 764 ante).

5 I.e on the grounds mentioned, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(1)(c) and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(1)(c) (see PARA 764 ante). The text refers to the grounds provided by the Representation of the People Act 1983 164 (avoidance of election for corruption etc: see PARA 893 post), as applied for these purposes, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(8) and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(8) (see PARA 764 ante).

6 Representation of the People Act 1983 s 145(1)(b) (as substituted: see note 3 supra).

7 Ibid s 145(2); and see note 1 supra.

8 Ibid s 145(5); and see note 1 supra. As to the Secretary of State see PARA 2 ante.

9 Ibid s 145(6); and see note 1 supra. For the meaning of 'proper officer' see PARA 155 note 2 ante.

10 Ibid s 145(1A) (added, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(8), Sch 6; and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(8), Sch 5).

11 I.e (1) (in relation to England only) the timetable included in the authority's proposals under the Local Government Act 2000 s 25 (see LOCAL GOVERNMENT vol 69 (2009) PARA 312); or (2) the timetable included in the

proposals that are drawn up, in relation to England, under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(3)(a) (see PARA 570 ante) or, as the case may be, reg 19(1)(c) (see PARA 573 ante) and, in relation to Wales, under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(3)(a) (see PARA 570 ante) or, as the case may be, reg 19(1)(c) (see PARA 573 ante); or (3) (in relation to England only) the timetable prepared pursuant to the Local Government Act 2000 s 27(4) (see LOCAL GOVERNMENT vol 69 (2009) PARA 315); or (4) the timetable included in the proposals, in relation to England, pursuant to the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(7)(a)(ii) (see PARA 570 ante) or, as the case may be, reg 20(3)(a)(iii) (see PARA 573 ante) and, in relation to Wales, pursuant to the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(7)(a)(ii) (see PARA 570 ante) or, as the case may be, reg 20(3)(a)(iii) (see PARA 573 ante); or (5) the timetable prepared pursuant to any other regulations or an order made under any provision of the Local Government Act 1992 Pt II (ss 12-27) (as amended) (arrangements with respect to executives etc: see LOCAL GOVERNMENT vol 69 (2009) PARA 327 et seq).

12 le the result originally declared, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 18 and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 14 (see PARA 658 ante).

13 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 17(1).

14 le any of the grounds mentioned, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(1)(b)-(d) and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(1)(b)-(d) (see PARA 764 ante).

15 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(2); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 17(2).

16 le if the question was in the form set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 3, Sch 1 Pt I para 1 and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 3, Sch 1 Pt I para 1 (see PARA 577 ante). For the meaning of 'mayor and cabinet executive' see LOCAL GOVERNMENT vol 69 (2009) PARA 327.

17 le if the question was in the form set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 1 Pt I para 2 and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 1 Pt I para 2 (see PARA 577 ante). For the meaning of 'mayor and council manager executive' see LOCAL GOVERNMENT vol 69 (2009) PARA 327.

18 le where leave is granted in circumstances which are as mentioned, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(4) and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(4) (see PARA 764 ante).

19 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(3); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 17(3).

20 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(3); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 17(3).

21 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(4); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 17(4). In the case of an order made in relation to England, this provision is subject to any arrangements which are made to combine the poll with that at another election or referendum (as to which see PARA 27 ante): see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(4).

22 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(5)(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 17(5). For the meaning of 'existing executive arrangements' see PARA 563 note 10 ante. As to alternative arrangements see LOCAL GOVERNMENT vol 69 (2009) PARA 364.

23 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(5)(b).

24 For the meaning of 'outline fall-back proposals' in relation to England and Wales see PARA 576 note 8 ante.

25 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(6); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 17(6). In relation to England,

the Local Government Act 2000 s 27(13) (referendum in case of proposals involving elected mayor: see LOCAL GOVERNMENT vol 69 (2009) PARA 314) applies to the implementation of detailed fall-back proposals as if those outline fall-back proposals were outline fall-back proposals in the event that proposals under s 25 (see LOCAL GOVERNMENT vol 69 (2009) PARA 312) are rejected in a referendum under s 27 (see LOCAL GOVERNMENT vol 69 (2009) PARA 314): see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(6). In relation to both England and Wales, where the authority's outline fall-back proposals are the executive or alternative arrangements which it was operating at the date of the tainted referendum, the Local Government Act 2000 s 27(13) applies as if, for 'in accordance with the timetable mentioned in s 27(4)' (see note 11 supra), there were substituted the words 'as soon as reasonably practicable': Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(7); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 17(7). Where the local authority's outline fall-back proposals are executive arrangements which involve a form of executive for which a referendum is not required, the Local Government Act 2000 s 29(1) (operation of, and publicity for, executive arrangements: see LOCAL GOVERNMENT vol 69 (2009) PARA 309) applies for the purpose of enabling the local authority to operate the executive arrangements set out in its detailed fall-back proposals as it applies for the purpose of enabling a local authority to operate executive arrangements in other circumstances; and s 29(2) (see LOCAL GOVERNMENT vol 69 (2009) PARA 309) applies as if, for s 29(2)(b)(i), there were substituted the words 'states that, in consequence of the rejection in a further referendum of the local authority's existing executive arrangements, the local authority has resolved to operate the different executive arrangements that were described in its outline fall-back proposals at the time of the referendum': Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(8); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 17(8). In relation to Wales, where the local authority's outline fall-back proposals are alternative arrangements, the Local Government Act 2000 s 33(2) (operation of alternative arrangements: see LOCAL GOVERNMENT vol 69 (2009) PARA 366) applies for the purpose of enabling the local authority to operate the alternative arrangements set out in its detailed fall-back proposals as it applies for the purpose of enabling a local authority to operate alternative arrangements in other circumstances; and s 29(2) applies as if, for s 29(2)(b)(i) there were substituted the words 'states that, in consequence of the rejection in a further referendum of the local authority's existing executive arrangements the local authority has resolved to operate the alternative arrangements that were described in its outline fall-back proposals at the time of the referendum': Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 17(9).

26 See the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(9); and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 17(10).

27 In where leave is granted in circumstances which are as mentioned, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20 (other than reg 20(4)) and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16 (other than reg 16(4)) (see PARA 764 ante).

28 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(10); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 17(11).

29 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(10); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 17(11).

UPDATE

864-865 Determination of local authority referendum petition and subsequent procedures, Matters to be reported by court hearing local authority referendum petition

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vii) The Judgment and its Effect/E. LOCAL AUTHORITY REFERENDUM PETITION/865. Matters to be reported by court hearing local authority referendum petition.

865. Matters to be reported by court hearing local authority referendum petition.

Where a charge is made in a petition questioning a local authority referendum¹ of any corrupt or illegal practice having been committed at the referendum, the election court must, in addition to its certificate² and at the same time, make a report in writing to the High Court stating: (1) the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt or illegal practice³; (2) whether any corrupt practices have, or whether there is reason to believe that any corrupt practices have, extensively prevailed at the referendum in the area of the authority by which or in respect of which the referendum was held⁴. However, before any person who is not a party to a referendum petition is reported by an election court to have been guilty of any corrupt or illegal practice, the court must cause notice to be given to him, and, if he appears in pursuance of the notice, the court must give him an opportunity of being heard by himself and of calling evidence in his defence to show why he should not be so reported⁵. At the time of making its report, the election court may also make a special report as to any matters arising in the course of the trial, an account of which in the court's judgment ought to be submitted to the High Court⁶.

A copy of any report made to the High Court by the election court trying a local authority referendum must be sent by the High Court to the Secretary of State⁷. The report of the election court also must be laid before the Director of Public Prosecutions⁸.

1 I.e. a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante.

2 I.e. its certificate of determination on the local authority referendum petition: see PARA 864 ante.

3 Representation of the People Act 1983 ss 145(3), 160(1) (s 160(1) amended by the Representation of the People Act 1985 s 28(1), Sch 5); and see note 1 supra.

4 Representation of the People Act 1983 s 145(3); and see note 1 supra. As to the meaning of 'extensively prevailed' see *Maidstone Borough Case, Cornwallis v Barker* (1901) 5 O'M & H 149 at 152-153.

5 Representation of the People Act 1983 s 160(1); and see note 1 supra. See also the cases cited in PARA 857 notes 8-10 ante.

6 *Ibid* s 145(4); and see note 1 supra.

7 *Ibid* s 145(5); and see note 1 supra. As to the Secretary of State see PARA 2 ante.

8 *Ibid* s 160(3) (substituted by the Representation of the People Act 1985 s 24, Sch 4 para 52(b)); and see note 1 supra. As to prosecutions by the Director of Public Prosecutions see PARA 880 post. As to the report's effect see also the cases cited in PARA 857 notes 14-16 ante.

UPDATE

864-865 Determination of local authority referendum petition and subsequent procedures, Matters to be reported by court hearing local authority referendum petition

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vii) The Judgment and its Effect/F. REASONS; CONCLUSION OF PETITION/866. Grounds for judgment.

F. REASONS; CONCLUSION OF PETITION

866. Grounds for judgment.

On the hearing of election petitions it is the practice for the judges, in giving judgment, to give the reasons on which the judgment is founded¹.

¹ *Ipswich Case, Packard v Collings and West* (1886) 54 LT 619, 4 O'M & H 70 at 71 per Denman J; *Norwich Case, Birbeck v Bullard* (1886) 4 O'M & H 84 at 90. If the judges differ in their judgment upon the issue, it is the practice for the junior judge to give his judgment first: *Great Yarmouth Borough Case* (1906) 5 O'M & H 176 at 178.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(vii) The Judgment and its Effect/F. REASONS; CONCLUSION OF PETITION/867. Conclusion of petition.

867. Conclusion of petition.

When the election court has given its judgment and has sent the certificate of its determination, the petition is concluded, and is, therefore, no longer affected by any event which may happen during the time which intervenes between the moment the court has finally parted with the certificate and the moment it reaches the hands of the recipient, even if that event is one which, if it had happened earlier, would have caused the petition to abate or drop¹.

¹ *Marshall v James* (1874) LR 9 CP 702.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(viii) Costs/868. Application of High Court principles with regard to costs.

(viii) Costs

868. Application of High Court principles with regard to costs.

The rules of the Supreme Court with regard to costs to be allowed in actions, causes and matters in the High Court are in principle and so far as practicable to apply to the costs of election petitions and other proceedings under the relevant provisions¹. The taxing master must not allow any costs higher than would be allowed in any action, cause or matter in the High Court on a common fund basis².

¹ Representation of the People Act 1983 s 183(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 134(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 121(1). Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante. As from a day to be appointed under the Constitutional Reform Act 2005 s 148(1), the reference in the Representation of the People Act 1983 s 183(1) to the Supreme Court is replaced by a reference to the Senior Courts: see s 183(1) (prospectively amended by the Constitutional Reform Act 2005 s 59(5), Sch 11 para 28(1), (3)(b)). At the date at which this volume states the law, no such day had been appointed.

The text refers to the costs of proceedings arising from the provisions contained, in relation to parliamentary and local government elections, in the Representation of the People Act 1983 Pt II (ss 67-119) (as amended) and Pt III (ss 120-186) (as amended), in relation to Welsh Assembly elections, in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Pt III (arts 35-84) and Pt IV (arts 85-137) (as amended) and, in relation to European parliamentary elections, in the European Parliamentary Elections Regulations 2004, SI 2004/293, Pt 2 (regs 31-81) (as amended) and Pt 4 (regs 86-122) (as amended). As to costs of proceedings before the High Court see generally CPR Pts 43-48; and CIVIL PROCEDURE vol 12 (2009) PARA 1737 et seq. As to European parliamentary elections held in the combined region see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 121(4). As to the combined region see PARA 76 ante.

² Representation of the People Act 1983 s 183(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 134(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 121(1); and see note 1 ante.

UPDATE

868 Application of High Court principles with regard to costs

NOTE 1--Appointed day is 1 October 2009: SI 2009/1604.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(viii) Costs/869. How costs are defrayed.

869. How costs are defrayed.

All costs of and incidental to the presentation of an election or referendum petition¹ and the proceedings consequent on it, except such as are otherwise provided for², are to be defrayed by the parties to the petition in such manner and in such proportions as the election court or High Court may determine³. In particular, any costs which in the court's opinion have been caused by vexatious conduct, unfounded allegations or unfounded objections on the part either of the petitioner or of the respondent, and any needless expense incurred or caused on the part of the petitioner or respondent, may be ordered to be defrayed by the parties by whom it has been incurred or caused whether or not they are on the whole successful⁴.

Where a petition or notice is required to be published by the returning officer, the cost of publication must be paid in the first instance by the petitioner, or, as the case may be, by the person by whom the notice was given, without prejudice to the manner in which such cost must ultimately be borne by one or more of the parties to the petition⁵.

If a petition is withdrawn the petitioner is liable to pay the respondent's costs⁶.

1 As to parliamentary election petitions see PARA 759 ante; as to the questioning of an election under the Local Government Act 1972 see PARA 760 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

2 Ie, in relation to a parliamentary or local government election, the Representation of the People Act 1983 (including those provisions as applied for the purposes of questioning a local authority referendum: see note 1 supra), in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended) and, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293.

3 Representation of the People Act 1983 s 154(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 103(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 104(1); and see note 1 supra.

It has been suggested that the discretion of the election court in dealing with costs is absolute and cannot be reviewed by the High Court: *Maidenhead Case, Lovering v Dawson (No 2)* (1875) LR 10 CP 726. But this view would no longer apply if the election court was subject to judicial review by the High Court; it is not settled whether the election court dealing with petitions under the Local Government Act 1972 is so subject: see PARA 777 note 3 ante. See also PARA 769 note 3 ante (election court dealing with parliamentary election petitions). As respects the local election court, the High Court has jurisdiction to declare and order that its own taxing master should tax the costs in accordance with the formal order of the election court: *R v Cripps, ex p Muldoon* [1984] QB 686 at 698, [1984] 2 All ER 705 at 712, CA, per Sir John Donaldson MR.

4 Representation of the People Act 1983 s 154(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 103(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 104(2); and see note 1 supra. As to other provisions whereby neglect etc is penalised in costs see PARA 868 ante.

5 See the Election Petition Rules 1960, SI 1960/543, r 20 (including that provision as applied and modified); the European Parliamentary Election Petition Rules 1979, SI 1979/521, r 19; and PARA 782 note 10 ante. As to the returning officer's costs see PARA 876 post.

6 Representation of the People Act 1983 s 147(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 102(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 102(4); and see note 1 *supra*. As to the withdrawal of a petition see *PARA 811 et seq ante*.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(viii) Costs/870. General rule as to costs.

870. General rule as to costs.

The general rule is that costs follow the event¹, but the rule may be displaced by special circumstances², in which case the court will make a special order³. The practice is that if the petitioner is successful and is awarded costs the respondent will nevertheless be awarded costs in respect of charges in which the petitioner was not successful and which involved the respondent in extra expense. The practice used to be to leave the question as to what extra expense has been so caused to be decided by the taxing master, but this practice no longer obtains⁴, and the court settles the question of what costs should be allowed⁵.

1 *Bolton Case* (1874) 2 O'M & H 138; *Louth County Case* (1880) 3 O'M & H 161 at 177; *Oxford Borough Case* (1880) 3 O'M & H 155.

2 *Carrickfergus Borough Case* (1869) 1 O'M & H 264 at 268-269 per O'Brien J.

3 *Stroud Case, Holloway v Brand* (1874) 3 O'M & H 7 at 12 per Pigott B.

4 See *Bush v Rogers* [1915] 1 KB 707. The taxing master had discretion to disallow expenses which the registrar had ascertained to be reasonable: *McLaren v Home* (1881) 7 QBD 477, DC.

5 *Northumberland, Berwick-upon-Tweed Division Case* (1923) 7 O'M & H 1 at 46. In this case the court apportioned the costs on a fractional basis: *Northumberland, Berwick-upon-Tweed Division Case* supra at 47. As to detailed assessment see CPR Pt 47; and CIVIL PROCEDURE vol 12 (2009) PARA 1779 et seq.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(viii) Costs/871. Grounds for special orders.

871. Grounds for special orders.

There are many grounds of departure from the general rule that costs follow the event¹ on which the court, in its discretion, will award the bulk of costs to a party who has failed on a main issue, or make no order as to costs, or apportion the costs as to the court seems fit. These grounds include failure of the party on the case mainly and primarily relied on, even though he gains his object²; failure of a party on an important charge against the other party, even though he gains his object³; divided success on the main issues⁴; abandonment of a main issue by either side⁵; failure by a party on some of the charges alleged by him⁶; the success of a party on some charge or charges although he fails on the main issue⁷; the judges' disagreement on a main issue⁸ or disagreement on some of the charges⁹; the fact that, although the petition fails, the court is of opinion that an inquiry was called for¹⁰, or that it has been occasioned by the opposite party's conduct¹¹; if there is a scrutiny, the fact that the party who has requested it, although he has not succeeded in establishing a majority of lawful votes, has reduced the number of the opposite party's votes to an equality¹²; the fact that, considering the small majority of votes polled proportionately to the number of voters, the prayer for a scrutiny was reasonable¹³; the fact that a party has made charges recklessly¹⁴, or that his particulars are oppressive¹⁵, or unnecessarily voluminous¹⁶, or that he has not attempted¹⁷ or has failed¹⁸ to substantiate them; the blamable conduct of a party with regard to an election¹⁹; the fact that the petitioners are people of no means, against whom, if defeated, no costs could be recovered beyond those covered by the statutory security²⁰.

Where grounds for making some special order as to costs are afforded by the conduct of one of the parties, the court may still, if dissatisfied with the opposite party's conduct, decline to depart from the ordinary rule²¹.

1 See PARA 870 ante.

2 *Plymouth Case* (1880) 3 O'M & H 107 at 112, where the court made no order; *Southampton Borough Case* (1895) 5 O'M & H 17 at 24-25, where, the election being avoided on the ground of an illegal payment and the petition failing on all other charges, the petitioners were allowed only such costs as would have been incurred had the petition been presented alone on the issue of that illegal payment, and the respondent was awarded the rest of the costs, with one exception (as to which see note 19 infra).

3 *Sandwich Case* (1880) 3 O'M & H 158 at 160, where, moreover, offences by the successful party having been proved, the court made no order.

4 *Stafford Borough Case* (1869) 21 LT 210 at 214, 1 O'M & H 228 at 234 per Blackburn J. In that case there were two petitions, but the court, as it stated, treated them as one.

5 *Horsham Case, Aldridge v Hurst* (1876) 3 O'M & H 52 at 56, where, the prayer for the seat and the recriminatory case respectively being abandoned, no order was made as to costs on these issues; *Gravesend Case* (1880) 3 O'M & H 81 at 82-84.

6 *Stroud Case, Holloway v Brand* (1874) 3 O'M & H 7, where the successful party was allowed no costs on such charges; *Lichfield Borough Case* (1880) 3 O'M & H 136 at 139-140.

7 *Bolton Case* (1874) 2 O'M & H 138 at 151; *Gloucestershire, Thornbury Division, Election Petition* (1886) 4 O'M & H 65 at 69, where a successful respondent was awarded no costs as to a charge of rioting and intimidation alleged in the petition, of which, although there was not enough evidence to avoid the election, there was, in the court's opinion, enough evidence to justify its being brought before the court.

8 *Down County Case* (1880) 3 O'M & H 115 at 129.

9 *Shoreditch, Haggerston Division Case, Cremer v Lowles* (1896) 5 O'M & H 68 at 88, where the respondent was awarded costs except on those issues as to which the judges differed, although they had differed on one issue which went to the validity of the election.

10 *Westminster Borough Case* (1869) 1 O'M & H 89 at 96 (no order made); *Guildford Case* (1869) 1 O'M & H 13 at 15 (no order made); *Warrington Case, Crozier v Rylands* (1869) 1 O'M & H 42 at 44 (no order made); *Coventry Case, Berry v Eaton and Hill* (1869) 1 O'M & H 97 at 111 (no order made); *Stepney Division, Tower Hamlets Case* (1886) 4 O'M & H 34, 37 at 58 (where, although the petitioner failed, the scrutiny showing that 200 persons had voted who had no right to vote, no costs were allowed); *Salisbury Case, Moore v Kennard* (1883) 4 O'M & H 21 at 29-30; *Islington, West Division Case* (1901) 5 O'M & H 120 at 132 (where, on a certain part of the case which, in the court's opinion, it was fair to investigate, no order was made); *Cornwall, Bodmin Division Case* (1906) 5 O'M & H 225 at 235 (where the petitioners were awarded costs on charges which, in the court's opinion, they were justified in bringing forward, even though the judges disagreed on those charges).

11 *York County East Riding, Buckrose Division Case* (1886) 4 O'M & H 110 at 119 (where a recriminatory case was founded principally on charges of omissions by the petitioner in his return of election expenses, which were admitted; although the court granted the petitioner relief, he was ordered to pay the costs of the recriminatory case).

12 *Gloucester County, Cirencester Division Case* (1893) 4 O'M & H 194 at 199; but see *Oldham Case* (1869) 1 O'M & H 151 at 166.

13 *York County West Riding, Southern Division Case* (1869) 1 O'M & H 213 at 216 per Martin B.

14 *Youghal Borough Case* (1869) 1 O'M & H 291 at 295, 299 per O'Brien J, where the successful petitioner was, on this ground, not awarded the general costs; *Pontefract Case, Shaw v Reckitt* (1893) 4 O'M & H 200 at 201-202.

15 *Norwich Case, Birbeck v Bullard* (1886) 4 O'M & H 84 at 91.

16 *Norwich Case, Birbeck v Bullard* (1886) 4 O'M & H 84 at 92.

17 *Lichfield Borough Case* (1880) 3 O'M & H 136 at 140 (where the respondent was awarded the costs of such charges); *Chester City Case* (1880) 3 O'M & H 148 at 149; *Carrickfergus Borough Case* (1880) 3 O'M & H 90 at 93 (where the successful respondent was awarded no costs except on those charges, contained in particulars recklessly prepared by the petitioner, which the petitioner had not attempted to prove); *Canterbury Borough Case* (1880) 3 O'M & H 103 at 105 (where the successful petitioner was awarded no costs on personal charges against the respondent, which he had withdrawn at the hearing); *Ipswich Case, Packard v Collings and West* (1886) 4 O'M & H 70 at 75; *Cornwall, Bodmin Division Case* (1906) 5 O'M & H 225 at 235.

18 *Bewdley Case, Spencer v Harrison* (1880) 3 O'M & H 145 at 147 (where the petitioner was ordered to pay the costs of charges of treating, which he had failed to establish, but was awarded the costs of the charges of bribery, two of which he had proved); *Berwick-on-Tweed Case* (1880) 3 O'M & H 178 at 183 (where the respondent, although successful on the scrutiny which was the prayer of the petition, was awarded only two-thirds of the costs on the ground that several of the charges raised by him in his objections had entirely failed); *Ipswich Case, Packard v Collings and West* (1886) 4 O'M & H 70 at 75; *Meath, Southern Division Case* (1892) 4 O'M & H 130 at 142 (where the seat was avoided on the ground of undue influence, but the respondent was awarded the costs of charges of bribery and corruption, which the petitioner had failed to prove); *Rochester Borough Case* (1892) 4 O'M & H 156 at 161; *Meath, Northern Division Case* (1892) 4 O'M & H 185 at 193.

19 *Carrickfergus Borough Case* (1880) 3 O'M & H 90 at 93 (following *Carrickfergus Borough Case* (1869) 1 O'M & H 264 at 268-269, and not following *Limerick Borough Case* (1869) 1 O'M & H 260 at 263, where Fitzgerald B stated that, according to parliamentary practice, unless the petition is held to be frivolous and vexatious, the petitioner cannot be ordered to pay the costs of it); *Windsor Case, Herbert v Gardiner* (1874) 2 O'M & H 88 at 93 (where the successful respondent was awarded no costs); *Dudley Case* (1874) 2 O'M & H 115 at 122 (where neither party was awarded any costs, on the ground that there had been blamable conduct on either side); *Londonderry Borough Case* (1869) 1 O'M & H 274 at 279-280 (where, on a scrutiny, time was spent in establishing the employment of certain voters by the respondent, he was disallowed the costs of the time so spent); *Southampton Borough Case* (1895) 5 O'M & H 17 at 24, where, in awarding costs to an unsuccessful respondent, the court excepted costs of evidence touching an indiscreet speech which respondent had made.

20 *Poole Case, Hurdle and Stark v Waring* (1874) 2 O'M & H 123 at 127-128; *Stepney Borough Case, Rushmere v Isaacson* (1892) 4 O'M & H 178 at 184; but see *Yellow v Meredith* (1903) 67 JP 111 (a municipal election petition), where the respondent was ordered to pay the costs, for although it was proved that the petitioners had not found any of the security it was not proved that they had not the means of paying the costs of the petition. Cf *Re Long Sutton School Board Election Petition* (1898) 62 JP 565.

21 *Evesham Case, Hartland v Lehmann* (1880) 3 O'M & H 192 at 195 per Grove J.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(viii) Costs/872. Disagreement over costs by judges on trial of petition.

872. Disagreement over costs by judges on trial of petition.

Where the judges trying a parliamentary election petition disagree as to the awarding of costs, no order is made as to them¹. Where, however, the judges, although disagreeing on the issue as to the election being avoided or not, do not disagree as to all the charges made in the petition, they may award costs to the respondent on those charges on which they agree, making no order as to the others².

¹ *Great Yarmouth Borough Case* (1906) 5 O'M & H 176 at 199. This principle would presumably also apply in the case of trying other election petitions: see PARA 815 ante. In *Down County Case* (1880) 3 O'M & H 115 at 129, where the judges disagreed as to avoidance of the election, they declined, on that ground, to make any order as to costs. See also *Ipswich Case*, *Packard v Collings and West* (1886) 4 O'M & H 70 at 75 per Denman J.

² *Shoreditch, Haggerston Division Case*, *Cremer v Lowles* (1896) 5 O'M & H 68 at 88 (following *Montgomery Boroughs Case* (1892) 4 O'M & H 167 at 170).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(viii) Costs/873. Costs against person engaged in corrupt practices.

873. Costs against person engaged in corrupt practices.

On the trial of an election or referendum petition¹, where it appears to the election court that a corrupt practice² has not been proved to have been committed, in reference to the election or referendum, by or with the respondent's knowledge and consent, and that the respondent took all reasonable means to prevent corrupt practices being committed on his behalf or in behalf of a particular result in a referendum, the election court may make an order with respect to the payment of the whole or part of the costs of the petition³. Accordingly, if it appears to the court that any person or persons is or are proved, whether by providing money or otherwise, to have been extensively engaged in corrupt practices, or to have encouraged or promoted extensive corrupt practices, in reference to the election or referendum, then, after giving such person or persons an opportunity of being heard by counsel or solicitor and examining and cross-examining witnesses to show cause why the order should not be made, the court may order the whole or part of the costs to be paid by such person or persons or any of them, and may order that, if the costs cannot be recovered from one or more of such persons, they are to be paid by some other of such persons or by either of the parties to the petition⁴. Where any person appears to the court to have been guilty of a corrupt or illegal practice⁵, then, after giving that person an opportunity of making a statement to show why the order should not be made, the court may order the whole or any part of the costs of or incidental to any proceeding before the court in relation to that offence or to that person to be paid by him to such person or persons as the court may direct⁶.

1 As to parliamentary election petitions see PARA 759 ante; as to the questioning of an election under the Local Government Act 1972 see PARA 760 ante; and as to Welsh Assembly election petitions see PARA 762 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

2 As to corrupt practices see generally para 707 et seq ante.

3 Representation of the People Act 1983 s 156(1) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 51); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 105(1); and see note 1 supra. There is no equivalent provision for the purposes of European parliamentary election petitions because corrupt and illegal practices may be cited in such petitions only when they are related to personation and other voting offences: see PARA 763 ante.

4 Representation of the People Act 1983 s 156(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 105(2); and see note 1 supra.

5 As to illegal practices see generally para 674 et seq ante.

6 Representation of the People Act 1983 s 156(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 105(3); and see note 1 supra.

UPDATE

873 Costs against person engaged in corrupt practices

NOTE 3--The extent to which third party orders for the costs of an election petition can be made are limited to the circumstances set out in the Representation of the People

Act 1983 s 156: *Conservative and Unionist Party v Election Commissioner* [2010] EWHC 285 (Admin), [2010] All ER (D) 214 (Feb), DC.

TEXT AND NOTE 4--Reference to solicitor now to solicitor or authorised person:
Representation of the People Act 1983 s 156(5) (amended by Legal Services Act 2007 Sch 21 para 50(a)). 'Authorised person' means a person (other than a solicitor) who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience (within the meaning of that Act) (see LEGAL PROFESSIONS vol 65 (2008) PARA 512 NOTE 3): Representation of the People Act 1983 s 156(5A) (added by Legal Services Act 2007 Sch 21 para 50(b)).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(viii) Costs/874. Repayment of expenses of election court for local election or local authority referendum petition.

874. Repayment of expenses of election court for local election or local authority referendum petition.

The election court appointed for the trial of a petition questioning a local authority referendum or an election under the Local Government Act 1972¹ may, in its discretion, order that the remuneration and allowances payable to the commissioner in respect of the trial of an election petition, and to any officers, clerks or shorthand writers, or the expenses incurred by the proper officer of the authority in receiving the election court², be repaid wholly or in part to the Treasury or to the proper officer, as the case may be³.

1 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante. As to the questioning of an election in England and Wales under the Local Government Act 1972 see PARA 760 ante.

2 As to these expenses see PARAS 775-776 ante.

3 See the Representation of the People Act 1983 s 133 (including those provisions as applied for the purposes of questioning a local authority referendum: see note 1 supra); and PARAS 775-776 ante. For the meaning of 'proper officer' see PARA 155 note 2 ante. As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 512-517. As to the making of deposits or the giving of security for costs see PARAS 794-796 ante; and as to the recovery of costs see PARA 878 post.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(viii) Costs/875. Expenses of the Director of Public Prosecutions.

875. Expenses of the Director of Public Prosecutions.

The Director of Public Prosecutions and his assistant or representative are to be paid such allowances as the Treasury may approve for expenses for the purposes of legal proceedings relating to elections¹, other than his general duties of making inquiries into the commission of any offence² which he is informed has been committed and of instituting prosecutions which appear to be required³. The costs incurred in defraying the Director's expenses incurred for those purposes⁴, including the remuneration of his representative, are, in the first instance, to be paid by the Treasury, and they are to be deemed to be expenses of the election court⁵. If, for any reasonable cause, the court thinks it just to do so it must, however, order all or part of those costs to be repaid to the Treasury by the parties to the petition, or such of them as the court may direct⁶.

1 le for the purposes of, in relation to parliamentary and local government elections, the Representation of the People Act 1983 Pt III (ss 120-186) (as amended), in relation to Welsh Assembly elections, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Pt IV (arts 85-137) (as amended) and, in relation to European parliamentary elections, the European Parliamentary Elections Regulations 2004, SI 2004/293, Pt 4 (regs 86-122) (as amended).

2 These general duties are specified, in relation to parliamentary and local government elections, in the Representation of the People Act 1983 s 181(1) (as amended), in relation to Welsh Assembly elections, in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 132(1) and, in relation to European parliamentary elections, in the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 119(1) (see PARA 880 post).

3 Representation of the People Act 1983 s 181(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 132(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 119(4).

4 It is submitted that 'those purposes' refer to the purposes referred to in note 1 supra. This would include purposes in connection with relief (see PARA 693 ante) and the withdrawal of petitions (see PARA 811 ante), in addition to attendance at the trial of election petitions. The provision under which *Devonport Case*, *Pascoe v Puleston* (1886) 54 LT 733 and *Re Lichfield Case* (1892) 9 TLR 92 were decided was differently worded and, it is submitted, the decisions no longer apply.

5 Representation of the People Act 1983 s 181(6) (amended by the Representation of the People Act 1985 s 28(1), Sch 5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 132(5); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 119(5). The previous practice which is apparent in the cases cited below has been for the court to refuse to make an order for the payment by a party to the petition of the Director's costs, even though an application for such an order is generally made. However, those cases were decided at a time when the Director was required to attend the trial of every election petition. That requirement no longer applies: see the amendment made by the Representation of the People Act 1985 s 24, Sch 4 para 63; and PARA 819 ante. In *Norwich Case*, *Birbeck v Bullard* (1886) 4 O'M & H 84 at 91-92, Denman J and Cave J stated that the court will not make an order for the payment of the Director's costs by a petitioner unless a strong case of misconduct is made out, even though the court considered his case to be so terribly overloaded with charges which he failed to prove that, though successful, he was not awarded costs; but see *Worcester Borough Case*, *Glaszard and Turner v Allsopp* (1892) 4 O'M & H 153 at 155 where the court made such an order against the petitioner, stating that the petition and particulars contained many charges which, if proved, would have justified the Director of Public Prosecutions in taking steps. Where, however, a petition is utterly unfounded the court will make the order: *Lambeth, Kennington Division Case* (1886) 4 O'M & H 93 at 95. Where, also, an election is declared void on the ground of bribery by an agent and the court is of the opinion that, although there has not been bad faith on the respondent's part, there has been much carelessness bringing about the result which has caused the election to be avoided, and the court has derived valuable assistance from the attendance of the Director of Public Prosecutions, it may think it right to make an order for

the payment of his costs by the respondent on the ground that the respondent has occasioned them:
Northumberland, Hexham Division Case, Hudspeth and Lyal v Clayton (1892) 4 O'M & H 143 at 152.

6 See note 5 *supra*.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(viii) Costs/876. Returning officer's costs.

876. Returning officer's costs.

The general practice as to the costs of a returning officer who has been made a respondent to a petition¹ is that the election court exercises its discretion according to the nature of the reason for his having been made a respondent; he has no general immunity from liability to pay costs occasioned by his negligence in connection with an election². Where the petition claims of an irregularity on the part of a returning officer, he may be ordered to pay the costs occasioned by the irregularity even though there may not have been any actual misconduct on his part³, and in the same way he may be held liable in costs for his deputy's conduct⁴. Although irregularity affecting the result of the election may be proved against the returning officer by the petition, if he has not been made a party to the petition the court cannot order him to pay the costs of the petition⁵. The court may exercise its discretion by leaving the returning officer to bear his own costs⁶.

¹ As to respondents generally see PARAS 780, 789 ante.

² *Wilson v Ingham* (1895) 64 LJQB 775, DC, per Day J (note that Wright J, the other member of the Divisional Court which decided the case, wished to express no opinion as to the class of cases or kind of misconduct for which a returning officer might be liable in costs).

³ *Re Ennis Case, O'Loughlin v Scanlan* [1900] 2 IR 384; *Islington, West Division Case* (1901) 5 O'M & H 120 at 132-134.

⁴ *Islington, West Division Case* (1901) 5 O'M & H 120. In *Rainham Parish Council Case* (1919) 83 JP 267, where the returning officer had appointed an experienced deputy who had made a mistake in the counting, the court ordered the deputy to pay costs and made no order against the returning officer.

⁵ *Re Long Sutton Board Election Petition* (1898) 62 JP 565 at 566 per Wright J.

⁶ *Haverfordwest Case, Davies v Lord Kensington* (1874) LR 9 CP 720, following *Hackney Case* (1874) 2 O'M & H 77 at 87; *Re Athlone Borough, Election Petition* (1874) IR 8 CL 240; *Drogheda Borough Case* (1874) 2 O'M & H 201 at 211; *Wigtown District Burgh Case* (1874) 2 O'M & H 215 at 230-231; *Clare, Eastern Division Case* (1892) 4 O'M & H 162 at 166.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(viii) Costs/877. Witnesses' expenses.

877. Witnesses' expenses.

The reasonable expenses incurred by any person in appearing to give evidence¹ at the trial of an election or referendum petition², according to the scale allowed to witnesses on the trial of civil actions³, may be allowed to him by a certificate of the election court or of the prescribed officer⁴.

Where witnesses are called and examined by the election court⁵, their expenses are deemed part of the expenses of providing a court; otherwise they are deemed costs of the petition⁶.

1 It would appear that these words are wide enough to include a witness who was summoned to attend but did not give evidence. It was assumed in *Trench v Nolan* (1873) IR 7 CL 445, and in *McLaren v Home* (1881) 7 QBD 477, DC, that the words were wide enough. Support for this view is also given by the wording of the provisions cited in PARA 878 post. On the other hand it was thought necessary in *King's Lynn Case, Flanders v Ingleby* (1911) 6 O'M & H 179, and in *Cheltenham Case, Smythies and Claridge v Mathias, Davies' Case* (1911) 6 O'M & H 194 at 227, for the election court to make a special order that the registrar should have the same discretion as the master to allow the costs of witnesses who had not actually been called on the ground that the Parliamentary Election Petition Rules (Additional Rules dated 27 January 1875) r 5 (revoked and not replaced by the Election Petition Rules 1960, SI 1960/543), did not give the registrar such power. In the latter case, Channell J said that the registrar was to be given the 'usual discretion'.

2 As to parliamentary election petitions see PARA 759 ante; as to the questioning of an election under the Local Government Act 1972 see PARA 760 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

3 As to this scale see CIVIL PROCEDURE vol 11 (2009) PARAS 1013-1015.

4 Representation of the People Act 1983 s 143(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 97(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 99(1); and see note 2 supra. As to the certificate of the election court, in relation to a parliamentary election petition see PARA 856 ante; in relation to a local government election petition see PARA 859 ante; in relation to a Welsh Assembly election petition see PARA 861 ante; in relation to a European parliamentary election petition see PARA 863 ante; and in relation to a local authority referendum petition see PARA 864 ante. As to the prescribed officer see PARA 768 ante.

5 Ie by virtue of the Representation of the People Act 1983 s 140(2) (including that provision as applied for the purposes of questioning a Welsh Assembly election or local authority referendum), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 95(2) or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 97(2), as the case may be (see PARA 821 ante).

6 Representation of the People Act 1983 s 143(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 97(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 99(2); and see note 2 supra. This provision is for the protection of witnesses to enable them to recover their expenses from the party summoning them: *McLaren v Home* (1881) 7 QBD 477, DC. As to the recovery of costs see PARA 878 post. As to the expenses of providing an election court, in relation to a parliamentary, Welsh Assembly or European parliamentary election petition, see PARA 772 ante; and, in relation to a local government election petition or a local authority referendum petition, see PARAS 775-776 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(viii) Costs/878. Recovery of costs.

878. Recovery of costs.

Where any costs or other sums, under the order of an election court or otherwise under the provisions which govern legal proceedings relating to elections and referendums¹, are to be paid by any person, those costs or sums are due from that person to the person or persons to whom they are to be paid; if payable to the Treasury, they are a debt due to Her Majesty². In either case, they may be recovered accordingly³.

If a petitioner neglects or refuses: (1) in the case of a parliamentary⁴, Welsh Assembly⁵ or European parliamentary election petition⁶, for six months after demand⁷; and (2) in the case of a petition questioning a local authority referendum or an election under the Local Government Act 1972⁸, for three months after demand⁹, to pay to any person summoned as a witness¹⁰ on his behalf or to the respondent any sum certified to be due to him for his costs¹¹, and the neglect or refusal is, within one year after the demand, proved to the High Court's satisfaction¹², every person who entered into a recognisance relating to the petition¹³ is held to have made default in the recognisance and the prescribed officer¹⁴ must thereupon certify the recognisance to be forfeited¹⁵. The recognisance is dealt with as if forfeited by the Crown Court¹⁶.

1 I.e., in relation to parliamentary and local government elections, for the purposes of the Representation of the People Act 1983 Pt III (ss 120-186) (as amended) (including those provisions as applied for the purposes of questioning a local authority referendum: see note 8 *infra*), in relation to Welsh Assembly elections, for the purposes of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Pt IV (arts 85-137) (as amended) and, in relation to European parliamentary elections, for the purposes of the European Parliamentary Elections Regulations 2004, SI 2004/293, Pt 4 (regs 86-122) (as amended).

2 Representation of the People Act 1983 s 183(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 134(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 121(2); and see note 8 *infra*.

3 Representation of the People Act 1983 s 183(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 134(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 121(2); and see note 8 *infra*. As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 512-517.

4 As to parliamentary election petitions see PARA 759 *ante*.

5 As to Welsh Assembly election petitions see PARA 762 *ante*.

6 As to European parliamentary election petitions see PARA 763 *ante*.

7 Representation of the People Act 1983 s 155(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 104(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 105(1).

8 As to the questioning of an election in England and Wales under the Local Government Act 1972 see PARA 760 *ante*. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 *ante*. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 *ante*; and for the meaning of 'referendum' for these purposes see PARA 576 note 2 *ante*.

9 Representation of the People Act 1983 s 155(1)(b); and see note 8 *supra*.

10 As to the position where a witness is summoned but does not give evidence see PARA 877 note 1 *ante*.

11 The only costs of the respondent that are certified are those that have been assessed by the master. It would appear that the certified costs of a witness refer to his certified expenses (see PARA 877 ante) and not to certified costs of witnesses that have been assessed by the master.

12 Representation of the People Act 1983 s 155(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 104(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 105(1); and see note 8 supra.

13 As to recognisances see PARA 795 ante.

14 See PARA 768 ante.

15 Representation of the People Act 1983 s 155(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 104(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 105(2); and see note 8 supra.

16 Representation of the People Act 1983 s 155(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 104(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 105(2); and see note 8 supra. As to the powers and duties of the Crown Court in relation to forfeited recognisances see SENTENCING AND DISPOSITION OF OFFENDERS vol 92 (2010) PARA 159.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(3) QUESTIONING ELECTIONS AND REFERENDUMS/(ix) Appeals/879. Right of appeal.

(ix) Appeals

879. Right of appeal.

No appeal lies without the special leave of the High Court from the High Court's decision in the trial of any election or referendum petition¹ on any question of law, whether on appeal or otherwise, under the provisions which govern legal proceedings relating to elections and referendums². If leave to appeal is granted, the decision of the Court of Appeal in the case is final and conclusive³.

¹ As to parliamentary election petitions see PARA 759 ante; as to the questioning of an election under the Local Government Act 1972 see PARA 760 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

² Representation of the People Act 1983 s 157(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 106(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 106(1); and see note 1 supra. The text refers, in relation to parliamentary and local government elections, to the provisions of the Representation of the People Act 1983 Pt III (ss 120-186) (as amended) (including those provisions as applied for the purposes of questioning a local authority referendum: see note 1 supra), in relation to Welsh Assembly elections, to the provisions of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Pt IV (arts 85-137) (as amended) and, in relation to European parliamentary elections, to the provisions of the European Parliamentary Elections Regulations 2004, SI 2004/293, Pt 4 (regs 86-122) (as amended).

The provision set out in the text applies whether the decision sought to be challenged is of a final or of an interim nature: *Everett v Griffiths (No 3)* [1923] 1 KB 138, CA.

As to application for mitigation and remission of incapacities see PARA 907 post.

³ Representation of the People Act 1983 s 157(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 106(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 106(1); and see note 1 supra. See also *McHarg v Universal Stock Exchange* [1895] 2 QB 81 at 83; *Wynne-Finch v Chaytor* [1903] 2 Ch 475 at 485, CA; *Unwin v McMullen* [1891] 1 QB 694 at 699, CA; *Shaw v Reckitt (Pontefract Election Petition)* [1893] 2 QB 59, CA.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(4) PUNISHMENT OF OFFENCES/(i) In general/880. Duty of the Director of Public Prosecutions in relation to offences.

(4) PUNISHMENT OF OFFENCES

(i) In general

880. Duty of the Director of Public Prosecutions in relation to offences.

Where information is given to the Director of Public Prosecutions that any offence has been committed under the provisions which govern the conduct of elections or referendums¹, it is his duty to make such inquiries and institute such prosecutions as the circumstances appear to him to require².

¹ ie, in relation to a parliamentary or local government election, the Representation of the People Act 1983 or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended) (see PARA 388 ante) or, in relation to a European parliamentary election, the European Parliamentary elections rules or, in relation to local authority referendums in England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, or, in relation to local authority referendums in Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'European parliamentary elections rules' see PARA 388 ante. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

The Representation of the People Act 1985 s 12 (offences as to declarations etc: see PARA 738 ante) has effect as if contained in the Representation of the People Act 1983 Pt I (ss 1-66A) (as amended): Representation of the People Act 1985 s 27(2).

² Representation of the People Act 1983 s 181(1) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 63); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 132(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 119(1). In the application of reg 119(1) to elections that have taken place in the combined region (as to which see PARA 76 ante), the reference to the Director of Public Prosecutions is to be construed as a reference to the Attorney General for Gibraltar: reg 119(7). The Representation of the People Act 1983 s 181(1) (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2.

UPDATE

880-887 Duty of the Director of Public Prosecutions in relation to offences ... Punishment of illegal payments or employments

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(4) PUNISHMENT OF OFFENCES/(i) In general/881. General time limits relating to punishment of offences.

881. General time limits relating to punishment of offences.

A proceeding against a person in respect of any offence under any provision contained in or made under the provisions which govern the conduct of elections or referendums¹ must be commenced² within one year after the offence was committed³.

In the case of summary proceedings⁴ for any such offence, this time limit is substituted for the general time limit that usually applies⁵ for the trial of offences summarily⁶. However, in relation to the prosecution of offences under any provision contained in or made under the Representation of the People Act 1983, a magistrates' court may extend the time within which proceedings must be commenced to not more than 24 months after the offence was committed⁷. The court may so act only if it is satisfied on an application by a constable or Crown prosecutor that there are exceptional circumstances which justify the granting of the application⁸ and that there has been no undue delay in the investigation of the offence to which the application relates⁹. If the magistrates' court so acts, it may also make an order directing the relevant registration officer¹⁰ not to cause the documents retained by him to be destroyed at the expiry of the period of one year¹¹ and extending the period for which he is required to retain them¹² by such further period not exceeding 12 months as is specified in the order¹³. Such an order may be made by the magistrates' court if it is satisfied, on an application by a constable or Crown prosecutor, that documents retained by the relevant registration officer¹⁴ may provide evidence relating to the offence¹⁵. An application for an extension of time either in relation to the commencement of proceedings¹⁶ or in relation to the period for which election documents are required to be retained¹⁷ must be made not more than one year after the offence was committed¹⁸. Any party to such an application who is aggrieved by the refusal of the magistrates' court to extend the time within which proceedings must be commenced¹⁹ or to make an order extending the period for which election documents are required to be retained²⁰ (as the case may be) may appeal to the Crown Court²¹.

1 le, in relation to a parliamentary or local government election, the Representation of the People Act 1983 or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended) (see PARA 388 ante) or, in relation to a European parliamentary election, the European parliamentary elections rules or, in relation to local authority referendums in England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, or, in relation to local authority referendums in Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'European parliamentary elections rules' see PARA 388 ante. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

The Representation of the People Act 1985 s 12 (offences as to declarations etc: see PARA 738 ante) has effect as if contained in the Representation of the People Act 1983 Pt I (ss 1-66A) (as amended): Representation of the People Act 1985 s 27(2).

2 For these purposes, the laying of an information is deemed to be the commencement of a proceeding: Representation of the People Act 1983 s 176(2)(a) (substituted by the Representation of the People Act 1985 s 24, Sch 4 para 61); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 127(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 114(2)(a). The Representation of the People Act 1983 s 176 (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2.

3 Representation of the People Act 1983 s 176(1) (amended by the Representation of the People Act 1985 s 28, Sch 4 para 61, Sch 5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 127(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 114(1); and see note 2 supra.

4 le proceedings under the Magistrates' Courts Act 1980.

5 le the limit of six months set by ibid s 127(1) (limitation of time: see MAGISTRATES vol 29(2) (Reissue) PARA 589).

6 Representation of the People Act 1983 s 176(1) (as amended: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 127(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 114(1); and see note 2 supra.

7 Representation of the People Act 1983 s 176(2B) (s 176(2A)-(2G) added by the Electoral Administration Act 2006 s 70(1)).

8 Representation of the People Act 1983 s 176(2A)(a) (as added: see note 7 supra).

9 Ibid s 176(2A)(b) (as added: see note 7 supra).

10 For the meaning of references to the relevant registration officer for these purposes see PARA 494 note 3 ante.

11 Representation of the People Act 1983 s 176(2D)(a) (as added: see note 7 supra). The text refers to the period of one year mentioned in s 23(1), Sch 1 r 57 (as amended) (retention and inspection of documents relating to parliamentary elections: see PARA 503 ante). The making of an order under s 176(2D) (as added) does not affect any other power to require the retention of the documents: s 176(2E) (as so added).

12 le under ibid Sch 1 r 57 (as amended) (see PARA 503 ante). See also note 11 supra.

13 Ibid s 176(2D)(b) (as added: see note 7 supra). See also note 11 supra.

14 le in pursuance of ibid Sch 1 r 57 (as amended) (see PARA 503 ante).

15 Ibid s 176(2C) (as added: see note 7 supra).

16 le an application under ibid s 176(2A) (as added) (see the text and notes 8-9 supra).

17 le an application under ibid s 176(2C) (as added) (see the text and notes 14-15 supra).

18 Ibid s 176(2F) (as added: see note 7 supra).

19 le an application under ibid s 176(2B) (as added) (see the text and note 7 supra).

20 le an application under ibid s 176(2D) (as added) (see the text and notes 10-13 supra).

21 Ibid s 176(2G) (as added: see note 7 supra).

UPDATE

880-887 Duty of the Director of Public Prosecutions in relation to offences ... Punishment of illegal payments or employments

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

881 General time limits relating to punishment of offences

NOTES 1-3--SI 2004/293 reg 114 substituted: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(4) PUNISHMENT OF OFFENCES/(i) In general/882. Prosecution of local election and local authority referendum offences punishable summarily.

882. Prosecution of local election and local authority referendum offences punishable summarily.

A prosecution for any offence punishable summarily committed in reference to an election under the Local Government Act 1972¹ may be instituted before any magistrates' court in the county in which the local government area² for which the election was held is situate or to which it adjoins, and the offence is deemed for all purposes to have been committed within that court's jurisdiction³.

A prosecution for any offence punishable summarily committed in reference to a local authority referendum⁴ may be instituted before any magistrates' court for the voting area⁵ in which the offence is alleged to have been committed, and the offence is deemed for all purposes to have been committed within that court's jurisdiction⁶.

1 For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

2 For the meaning of 'local government area' see PARA 18 note 2 ante.

3 Representation of the People Act 1983 s 177(1) (renumbered by the Local Government (Wales) Act 1994 s 1(3), Sch 2 para 12(1)).

4 Ie, in relation to local authority referendums in England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to local authority referendums in Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

5 For the meaning of 'voting area' see PARA 582 note 2 ante.

6 Representation of the People Act 1983 s 177(1) (as renumbered: see note 3 supra). Section 177 (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2.

UPDATE

880-887 Duty of the Director of Public Prosecutions in relation to offences ... Punishment of illegal payments or employments

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(4) PUNISHMENT OF OFFENCES/(i) In general/883. Offences committed outside the United Kingdom.

883. Offences committed outside the United Kingdom.

Proceedings in respect of an offence under the provisions which govern the conduct of elections or referendums¹ which is alleged to have been committed outside the United Kingdom²: (1) in relation to the Representation of the People Act 1983, by a Commonwealth citizen³ or citizen of the Republic of Ireland⁴; (2) in relation to a Welsh Assembly election, by a Commonwealth citizen, a citizen of the Republic of Ireland or a relevant citizen of the Union⁵; or (3) in relation to a European parliamentary election, by a Commonwealth citizen or citizen of the Union⁶, may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the United Kingdom⁷.

¹ I.e., in relation to a parliamentary or local government election, under the Representation of the People Act 1983 or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended) (see PARA 388 ante) or, in relation to a European parliamentary election, under the European parliamentary elections rules or, in relation to local authority referendums in England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, SI 2001/1298, or, in relation to local authority referendums in Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'European parliamentary elections rules' see PARA 388 ante. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

The Representation of the People Act 1985 s 12 (offences as to declarations etc: see PARA 738 ante) has effect as if contained in the Representation of the People Act 1983 Pt I (ss 1-66A) (as amended): Representation of the People Act 1985 s 27(2).

² For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

³ As to who are Commonwealth citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 11.

⁴ See the Representation of the People Act 1983 s 178 (as substituted). The reference to the Representation of the People Act 1983 includes that Act as it is applied and modified for the purposes of local authority referendums (see note 7 infra). As to who are citizens of the Republic of Ireland see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) PARA 12.

⁵ See the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 128. For the meaning of 'relevant citizen of the Union' for these purposes see PARA 162 note 16 ante.

⁶ See the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 115. For the meaning of 'citizen of the Union' for these purposes see PARA 159 note 6 ante.

⁷ Representation of the People Act 1983 s 178 (substituted by the Representation of the People Act 1985 s 24, Sch 4 para 62); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 128; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 115. The Representation of the People Act 1983 s 178 (as substituted) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2.

The provision set out in the text would appear to apply to offences committed within the United Kingdom by any person irrespective of nationality and to offences committed outside the jurisdiction by those specified. In addition to the offence set out in relation to overseas elector's declarations in the Representation of the People Act 1985 s 12 (see note 1 supra), the offence described in PARA 336 ante (broadcasting from outside United Kingdom with intent to influence elections) may be especially relevant in this context.

UPDATE

**880-887 Duty of the Director of Public Prosecutions in relation to offences ...
Punishment of illegal payments or employments**

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(4) PUNISHMENT OF OFFENCES/(i) In general/884. Evidence by certificate of holding of election or referendum and of electoral registration.

884. Evidence by certificate of holding of election or referendum and of electoral registration.

On any prosecution for a corrupt¹ or illegal practice², or for any illegal payment, employment or hiring³, and (except in relation to a European parliamentary election) on any proceedings for a penalty for sitting or voting after failure to deliver the return and declarations as to election expenses⁴, the returning officer's certificate that the election mentioned in the certificate was duly held and that the person named in the certificate was a candidate at the election is sufficient evidence of the facts stated in it⁵.

On any prosecution for a corrupt or illegal practice, or for any illegal payment, employment or hiring, the counting officer's certificate that the referendum mentioned in the certificate was duly held is sufficient evidence of the facts stated in it⁶.

The certificate of a registration officer that any person is or is not, or was or was not at any particular time, duly registered in one of the officer's registers in respect of any address is sufficient evidence of the facts stated in it; and a document purporting to be such a certificate must be received in evidence and is presumed to be such a certificate unless the contrary is proved⁷.

1 As to corrupt practices see generally para 707 et seq ante; and as to the punishment of corrupt practices see PARA 885 et seq post.

2 As to illegal practices see generally para 674 et seq ante; and as to the punishment of illegal practices see PARA 886 et seq post.

3 As to the circumstances in which relief is available see PARA 690 et seq ante; and as to the consequences of illegal payment, employment or hiring see PARA 887 post.

4 As to the financial penalty imposed for sitting or voting in office where no financial returns or declarations are transmitted see PARA 758 ante.

5 Representation of the People Act 1983 s 180; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 130; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 117. In relation to a European parliamentary election, the returning officer may certify also that a registered party named in the certificate submitted a list at the election: reg 117. For the meanings of 'list' and 'registered party' in relation to European parliamentary elections see PARA 237 note 30 ante; and for the meaning of 'individual candidate' in relation to such elections see PARA 237 note 32 ante. The court has taken judicial notice of the holding of a general parliamentary election: *Coventry Case, Berry v Eaton and Hill* (1869) 1 O'M & H 97.

6 Representation of the People Act 1983 s 180 (applied and modified, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2).

7 Representation of the People Act 1983 s 180A (added by the Representation of the People Act 2000 s 8, Sch 1 paras 1, 20); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 131; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 118.

UPDATE

880-887 Duty of the Director of Public Prosecutions in relation to offences ... Punishment of illegal payments or employments

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(4) PUNISHMENT OF OFFENCES/ (ii) Punishment of Corrupt, Illegal Practices, etc/885. Punishment of corrupt practices.

(ii) Punishment of Corrupt, Illegal Practices, etc

885. Punishment of corrupt practices.

A person who is guilty of a corrupt practice is liable on conviction on indictment¹ to a penalty, the nature of which depends on whether it is a case of committing (or aiding, abetting, counselling or procuring the commission of) the offence of personation² or an offence at a parliamentary or local government election relating to an application for a postal or proxy vote³, or whether it is a case of any other corrupt practice⁴. On summary conviction, a person who is guilty of a corrupt practice is also liable to a penalty⁵.

If the circumstances warrant such a finding, any person charged with a corrupt practice may be found guilty of an illegal practice (which is for that purpose to be an indictable offence)⁶.

1 Representation of the People Act 1983 s 168(1) (s 168(1) substituted by the Representation of the People Act 1985 s 23, Sch 3 para 8); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 art 119(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 109(1). As to elections in the City of London see PARA 30 ante. As to corrupt practices see generally para 707 et seq ante; and as to the striking off of a vote of a person found guilty of a corrupt practice see PARA 841 ante.

The Representation of the People Act 1983 s 168 (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 Representation of the People Act 1983 s 168(1)(a)(i) (as substituted (see note 1 supra); and amended by the Electoral Administration Act 2006 s 74(1), Sch 1 paras 104, 121); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 art 119(1)(a)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 109(1)(a)(i); and see note 1 supra. The text refers to an offence, in relation to a parliamentary or local government election, under the Representation of the People Act 1983 s 60 and, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 28 and, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 23 (see PARA 733 ante). The penalty is imprisonment for a term not exceeding two years or a fine, or both: see the Representation of the People Act 1983 s 168(1)(a)(i) (as so substituted and amended); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 art 119(1)(a)(i); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 109(1)(a)(i); and see note 1 supra. In *R v Brindley* [1997] 2 Cr App Rep (S) 353, CA, an offence of personation which was planned and persisted in over a number of days drew a custodial sentence of eight months, one element of which was to serve as a deterrent to those who would interfere with the electoral process, being conduct which was held to be analogous to interference with the course of justice.

3 Representation of the People Act 1983 s 168(1)(a)(i) (as substituted and amended: see note 2 supra). The text refers to an offence under s 62A (as added) (see PARA 734 ante). The penalty is imprisonment for a term not exceeding two years or a fine, or both: see s 168(1)(a)(i) (as so substituted and amended). In *R v Hussain* [2005] EWCA Crim 1866, [2006] 1 Cr App Rep (S) 336, a case which pre-dated the offence under the Representation of the People Act 1983 s 62A (as added), a concerted course of action whereby incomplete documents for postal voting in a local election were obtained by deception and completed by, or on behalf of the defendant, had attracted a sentence of three years and seven months' imprisonment on conviction of a charge of conspiracy to defraud; in upholding the sentence, the Court of Appeal approved the deterrent element, having regard to the nature of the offence, and stressed the courts' responsibility in a democratic society to protect the country's electoral system from corruption or fraud, which in the instant case was said to have more dangerous consequences than those which sought to undermine the administration of justice.

4 Representation of the People Act 1983 s 168(1)(a)(ii) (as substituted: see note 1 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 art 119(1)(a)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 109(1)(a)(ii); and see note 1 supra. The penalty is imprisonment for a term not exceeding one year or a fine or both: see the Representation of the People Act 1983 s 168(1)(a)(ii) (as so substituted); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 art 119(1)(a)(ii); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 109(1)(a)(ii); and see note 1 supra.

5 Representation of the People Act 1983 s 168(1)(b) (as substituted: see note 1 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 art 119(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 109(1)(b); and see note 1 supra. The penalty is imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both: see the Representation of the People Act 1983 s 168(1)(b) (as so substituted); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 art 119(1)(b); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 109(1)(b); and see note 1 supra. As to the statutory maximum see PARA 741 note 15 ante.

6 Representation of the People Act 1983 s 170; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 art 121; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 111; and see note 1 supra. As to the punishment of illegal practices see PARA 886 post.

UPDATE

880-887 Duty of the Director of Public Prosecutions in relation to offences ... Punishment of illegal payments or employments

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

885 Punishment of corrupt practices

NOTE 2--SI 2004/293 reg 109(1)(a)(i) amended: SI 2009/186.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(4) PUNISHMENT OF OFFENCES/ (ii) Punishment of Corrupt, Illegal Practices, etc/886. Punishment of illegal practices.

886. Punishment of illegal practices.

A person guilty of an illegal practice¹ is on summary conviction liable to a penalty². A person charged with an illegal practice may be found guilty of that offence notwithstanding that the act constituting the offence amounted to a corrupt practice³.

1 As to illegal practices see generally para 674 et seq ante.

2 Representation of the People Act 1983 s 169 (amended by the Representation of the People Act 1985 s 23, Sch 3 para 9); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 art 120; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 110. The penalty is a fine not exceeding level 5 on the standard scale: see the Representation of the People Act 1983 s 169 (as so amended); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 art 120; and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 110. As to the standard scale see PARA 736 note 3 ante. As to the drafting of such a charge see PARA 888 post. As to striking off the vote of a person found guilty of an illegal practice see PARA 841 ante.

The Representation of the People Act 1983 s 169 (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante. As to elections in the City of London see PARA 30 ante.

3 Representation of the People Act 1983 s 170; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 art 121; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 111. As to the punishment of corrupt practices see PARA 885 ante.

The Representation of the People Act 1983 s 170 has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2.

UPDATE

880-887 Duty of the Director of Public Prosecutions in relation to offences ... Punishment of illegal payments or employments

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(4) PUNISHMENT OF OFFENCES/ (ii) Punishment of Corrupt, Illegal Practices, etc/887. Punishment of illegal payments or employments.

887. Punishment of illegal payments or employments.

A person guilty of an offence of illegal payment or employment¹ is liable, on summary conviction, to a penalty²; and any person charged with an offence of illegal payment or employment may be found guilty of that offence, notwithstanding that the act constituting the offence amounted to a corrupt or illegal practice³.

1 See PARA 685 et seq ante.

2 Representation of the People Act 1983 s 175(1) (amended by the Representation of the People Act 1985 s 23, Sch 3 para 10; and the Political Parties, Elections and Referendums Act 2000 s 158(1), Sch 21 para 6(1), (6)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 126(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 113(1). The penalty is a fine not exceeding level 5 on the standard scale: see the Representation of the People Act 1983 s 175(1) (as so amended); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 126(1); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 113(1). As to the standard scale see PARA 736 note 3 ante. As to the drafting of such a charge see PARA 888 post.

The Representation of the People Act 1983 s 175(1), (3) (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

3 Representation of the People Act 1983 s 175(3) (amended by the Political Parties, Elections and Referendums Act 2000 Sch 21 para 6(1), (6)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 126(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 113(3); and see note 2 supra.

UPDATE

880-887 Duty of the Director of Public Prosecutions in relation to offences ... Punishment of illegal payments or employments

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(4) PUNISHMENT OF OFFENCES/ (ii) Punishment of Corrupt, Illegal Practices, etc/888. Drafting of charges on prosecution for corrupt or illegal practice or for illegal payments or employments.

888. Drafting of charges on prosecution for corrupt or illegal practice or for illegal payments or employments.

On a prosecution for an illegal practice¹ it is sufficient to allege that the person charged was guilty of an illegal practice². There is no similar provision in relation to corrupt practices³ and it would appear necessary, therefore, for the charge to state the particular corrupt practice of which the person is alleged to have been guilty⁴. It is not essential that the date of the election should be stated⁵.

On a prosecution for an offence of illegal payment or employment⁶ it is sufficient to allege that the person charged was guilty of an illegal payment or employment, as the case may be⁷.

1 As to illegal practices see generally para 674 et seq ante.

2 Representation of the People Act 1983 s 169; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 120; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 110. Corrupt and illegal practices may be cited in European parliamentary election petitions only when they are related to personation and other voting offences: see PARA 763 ante.

3 As to corrupt practices see generally para 707 et seq ante.

4 *R v Stroulger* (1886) 17 QBD 327; *R v Norton* (1886) 16 Cox CC 59.

5 *R v Yeoman* (1904) 20 TLR 266.

6 As to the offence of illegal payment or employment see PARA 685 ante.

7 Representation of the People Act 1983 s 175(1) (amended by the Representation of the People Act 1985 s 23, Sch 3 para 10; and the Political Parties, Elections and Referendums Act 2000 s 158(1), Sch 21 para 6(1), (6)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 126(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 113(1).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(4) PUNISHMENT OF OFFENCES/ (ii) Punishment of Corrupt, Illegal Practices, etc/889. Offences, corrupt or illegal practices etc committed by associations.

889. Offences, corrupt or illegal practices etc committed by associations.

Where any corrupt¹ or illegal practice² or any illegal payment, employment or hiring³ or any offence of not having the name and address of the printer and publisher on election documents⁴ is committed by any association or body of persons, corporate or unincorporate, the members of the association or body who have taken part in the commission of the offence are liable to any fine or punishment⁵ imposed for that offence under the provisions which govern the conduct of elections or referendums⁶.

1 As to corrupt practices see generally para 707 et seq ante.

2 As to illegal practices see generally para 674 et seq ante.

3 As to the offence of illegal payment or employment see PARA 685 ante.

4 As to this offence see PARA 751 ante.

5 This would appear to mean any fine or imprisonment but not to include any incapacities to which an individual might be liable for the offence of which the corporation is guilty.

6 Representation of the People Act 1983 s 179; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 129; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 116. The Representation of the People Act 1983 s 179 has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante. The text refers to offences, in relation to a parliamentary or local government election, under the Representation of the People Act 1983 (and including that Act as it is applied and modified for the purposes of local authority referendums) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended) (see PARA 388 ante) or, in relation to a European parliamentary election, under the European parliamentary elections rules. For the meaning of 'European parliamentary elections rules' see PARA 388 ante. As to elections in the City of London see PARA 30 ante.

UPDATE

889 Offences, corrupt or illegal practices etc committed by associations

NOTE 6--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(4) PUNISHMENT OF OFFENCES/(iii) Punishment of Offences under the Political Parties, Elections and Referendums Act 2000/890. Summary proceedings for offences under the Political Parties, Elections and Referendums Act 2000.

(iii) Punishment of Offences under the Political Parties, Elections and Referendums Act 2000

890. Summary proceedings for offences under the Political Parties, Elections and Referendums Act 2000.

Summary proceedings for any offence under the Political Parties, Elections and Referendums Act 2000¹ may, without prejudice to any jurisdiction otherwise exercisable², be taken against any body, including an unincorporated association, at any place at which it has a place of business, and against an individual at any place at which he is for the time being³. Despite the general time limit that usually applies⁵ for the trial of offences summarily, any information relating to an offence under the Political Parties, Elections and Referendums Act 2000 which is triable by a magistrates' court in England and Wales may be so tried if it is laid at any time within three years after the commission of the offence and within six months after the relevant date⁵.

1 As to offences generally see PARA 735 et seq ante.

2 Ie exercisable apart from the Political Parties, Elections and Referendums Act 2000 s 151(1).

3 Ibid s 151(1).

4 Ie despite anything in the Magistrates' Courts Act 1980 s 127(1) (limitation of time: see MAGISTRATES vol 29(2) (Reissue) PARA 589).

5 Political Parties, Elections and Referendums Act 2000 s 151(2). For these purposes, the 'relevant date' means the date on which evidence sufficient in the opinion of the prosecutor to justify proceedings comes to his knowledge (s 151(5)); and a certificate of any prosecutor as to the date on which such evidence as is there mentioned came to his knowledge is conclusive evidence of that fact (s 151(6)). As to offences relating to a European parliamentary election held in the combined region (as to which see PARA 76 ante) which are triable by a magistrates' court in Gibraltar see s 151(4A) (added by the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, art 4(2), Schedule paras 1, 29).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(4) PUNISHMENT OF OFFENCES/(iii) Punishment of Offences under the Political Parties, Elections and Referendums Act 2000/891. Offences committed by bodies corporate or unincorporated associations.

891. Offences committed by bodies corporate or unincorporated associations.

Where an offence under the Political Parties, Elections and Referendums Act 2000¹ committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, is guilty of that offence and is liable to be proceeded against and punished accordingly².

Proceedings for an offence alleged to have been committed under the Political Parties, Elections and Referendums Act 2000 by an unincorporated association is to be brought against the association in its own name (and not in that of any of its members) and, for the purposes of any such proceedings, any rules of court relating to the service of documents have effect as if the association were a corporation³. A fine imposed on an unincorporated association on its conviction of such an offence must be paid out of the funds of the association⁴. The statutory provisions which deal with the procedure on charges of offences against corporations⁵ have effect in a case in which an unincorporated association is charged in England or Wales with an offence under the Political Parties, Elections and Referendums Act 2000 in like manner as they have effect in the case of a corporation so charged⁶.

Where a partnership is guilty of an offence under the Political Parties, Elections and Referendums Act 2000 and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any partner, he as well as the partnership is guilty of that offence and is liable to be proceeded against and punished accordingly⁷.

Where any other unincorporated association is guilty of an offence under the Political Parties, Elections and Referendums Act 2000 and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any officer of the association or any member of the committee or other similar governing body of the association, he, as well as the association, is guilty of that offence and is liable to be proceeded against and punished accordingly⁸.

¹ As to offences generally see PARA 735 et seq ante.

² Political Parties, Elections and Referendums Act 2000 s 152(1). Where the affairs of a body corporate are managed by its members, s 152(1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate: s 152(2).

³ Ibid s 153(1).

⁴ Ibid s 153(2).

⁵ Ie the Criminal Justice Act 1925 s 33 (as amended) and the Magistrates' Courts Act 1980 s 46, Sch 3 (as amended): see MAGISTRATES vol 29(2) (Reissue) PARA 666.

⁶ Political Parties, Elections and Referendums Act 2000 s 153(3). As to the procedure where an unincorporated association is charged in Gibraltar with an offence relating to a European parliamentary election held in the combined region (as to which see PARA 76 ante) see s 153(5A) (added by the European

Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, art 4(2), Schedule paras 1, 30).

7 Political Parties, Elections and Referendums Act 2000 s 153(6).

8 Ibid s 153(7).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(5) CONSEQUENCES OF LEGAL PROCEEDINGS/(i) Avoidance of Election or Referendum/892. Avoidance of election of candidate reported guilty of corrupt or illegal practice.

(5) CONSEQUENCES OF LEGAL PROCEEDINGS

(i) Avoidance of Election or Referendum

892. Avoidance of election of candidate reported guilty of corrupt or illegal practice.

If a candidate who has been elected is reported by an election court personally guilty or guilty by his agents of any corrupt or illegal practice¹, his election is void².

¹ As to when a candidate is to be treated as having been reported personally guilty or guilty by his agents see PARA 899 post.

² Representation of the People Act 1983 s 159(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 108. There is no provision in relation to European parliamentary elections because corrupt and illegal practices relate only to personation and other voting offences in that context: see PARA 763 ante. As to elections in the City of London see PARA 30 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(5) CONSEQUENCES OF LEGAL PROCEEDINGS/(i) Avoidance of Election or Referendum/893. Avoidance of election by reason of general corruption, bribery, treating or intimidation.

893. Avoidance of election by reason of general corruption, bribery, treating or intimidation.

Where, on an election petition¹, it is shown that corrupt² or illegal practices³ or illegal payments, employments or hirings⁴ committed in reference to the election for the purpose of promoting or procuring the election of any person have so extensively prevailed that they may be reasonably supposed to have affected the result, the election of that person, if he has been elected, is void, and he is incapable of being elected to fill the vacancy or any of the vacancies for which the election was held⁵. An election under the Local Government Act 1972⁶ may be questioned on the ground that it is avoided under this provision⁷. An election is not liable to be avoided, otherwise than under this provision, by reason of general corruption, bribery, treating or intimidation⁸.

1 As to parliamentary election petitions see PARA 759 ante; as to the questioning of an election under the Local Government Act 1972 see PARA 760 ante; and as to Welsh Assembly election petitions see PARA 762 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante. There is no provision for the purposes of European parliamentary election petitions because corrupt and illegal practices may be cited in such petitions only when they are related to personation and other voting offences: see PARA 763 ante.

2 As to corrupt practices see generally para 707 et seq ante.

3 As to illegal practices see generally para 674 et seq ante.

4 As to the offence of illegal payment, employment or hiring see PARA 685 ante.

5 Representation of the People Act 1983 s 164(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 115(1). As to elections in the City of London see PARA 30 ante. Where, on a Welsh Assembly election petition, it is shown that corrupt or illegal practices or illegal payments, employments or hirings committed have prevailed in relation to a regional election for the purpose of promoting or procuring the giving of votes for a registered political party at the election, such acts, for the purposes of art 115(1), are treated as having prevailed for the purpose of promoting or procuring the election of each candidate on that party's list: art 115(2). For the meaning of 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante; for the meaning of 'registered political party' for these purposes see PARA 263 ante; and for the meaning of 'party list candidate' in relation to a Welsh Assembly election see PARA 237 note 23 ante. As to evidence given by certificate when the matters set out in the text are prosecuted see PARA 884 ante.

6 As to elections under the Local Government Act 1972 see PARA 11 ante.

7 Representation of the People Act 1983 s 164(3). See *Akhtar v Jahan, Iqbal v Islam* [2005] All ER (D) 15 (Apr), in which the elections for two wards were declared void on the grounds of widespread corrupt and illegal practices under the Representation of the People Act 1983 s 164 (as well as on the grounds of corrupt and illegal practices by the successful candidates), the Commissioner having found on the evidence that: (1) fraudulent applications for postal votes were made and electors' names improperly entered without their knowledge or consent on the absent voters' list; (2) unused ballot packages were improperly diverted by a wide variety of means; (3) the improperly diverted ballot packages were fraudulently used by completing the ballot papers and declarations of identity (now the postal voting statement) and despatching them to the Elections Office; (4) completed ballot packages were improperly diverted; and (5) improperly diverted ballot packages were opened and the contents fraudulently altered. On appeal, the finding against one councillor was quashed on evidential grounds but the other findings of personal corruption and general corruption were not affected: see *R (on the application of Afzal) v Election Court* [2005] EWCA Civ 647, [2005] LGR 823.

8 Representation of the People Act 1983 s 164(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 115(3). The provision set out in the text supersedes the common law by which an election might be avoided for general bribery or treating in favour of the successful candidate or general intimidation, whether or not the successful candidate or his agents were responsible for the bribery, treating or intimidation: *Bradford Case (No 2)* (1869) 19 LT 723, 1 O'M & H 35; and see eg *Beverley Case* (1869) 20 LT 792, 1 O'M & H 143; *Lichfield Case, Anson v Dyott* (1869) 20 LT 11 at 14, 1 O'M & H 22 at 26; *Guildford Case* (1869) 19 LT 729 at 731, 1 O'M & H 13 at 14-15; *Bridgewater Case* (1869) 1 O'M & H 112 at 115 (bribery); *Ipswich Case, Packard v Collings and West* (1886) 54 LT 619, 4 O'M & H 70 (bribery and treating); *Tamworth Case, Hill and Walter v Peel and Bulwer* (1869) 20 LT 181, 1 O'M & H 75; *Pontefract Case, Shaw v Reckitt* (1893) 4 O'M & H 200 at 201, Day 125 at 129 (treating); *Drogheda Borough Case* (1869) 21 LT 402, 1 O'M & H 252; *Stafford Borough Case* (1869) 21 LT 210 at 211, 1 O'M & H 228 at 229; *Staleybridge Case, Ogden, Woolley and Buckley v Sidebottom* (1869) 20 LT 75 at 78, 1 O'M & H 66 at 72; *Dudley Case* (1874) 2 O'M & H 115; *Durham County, Northern Division Case (No 2)* (1874) 2 O'M & H 152; *Re Gloucestershire, Thornbury Division, Election Petition* (1886) 4 O'M & H 65 at 67; *South Meath Case* (1892) Day 132 at 140; *East Kerry Case* (1910) 6 O'M & H 58 (intimidation); *Hartlepool Case* (1910) 6 O'M & H 1 at 8. The provision does not refer to general personation, and at common law general personation, in the absence of evidence that the candidate or his agent was implicated, does not avoid the election (*Belfast Borough, Western Division Case* (1886) 4 O'M & H 105), although if a candidate's agent had arranged for voters to be personated, the election would, it seems, be avoided at common law (*Coventry Case, Berry v Eaton and Hill* (1869) 1 O'M & H 97 at 105). As to the statutory provisions by which personation is a corrupt practice see PARA 733 ante; and as to the avoidance of an election on this ground where an elected candidate has been found guilty see PARA 892 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(5) CONSEQUENCES OF LEGAL PROCEEDINGS/(i) Avoidance of Election or Referendum/894. Avoidance of election for employing corrupt agent.

894. Avoidance of election for employing corrupt agent.

If, at a parliamentary, Welsh Assembly or local government election¹, a candidate or his election agent² personally engages³, as a canvasser or agent for the conduct or management of the election⁴, any person whom he knows or has reasonable grounds for supposing to be subject to an incapacity to vote at the election⁵: (1) by reason of his having been convicted or reported guilty of any corrupt or illegal practice⁶; or (2) by reason of his having been convicted more than once of an offence under the Public Bodies Corrupt Practices Act 1889⁷, the candidate is incapable of being elected to fill the vacancy or any of the vacancies for which the election is held⁸. A local government election may be questioned⁹ on the ground that the person whose election is questioned was, at the time of the election, by virtue of these provisions incapable of being elected¹⁰.

A vote given at a parliamentary or local government election, or at a Welsh Assembly constituency election¹¹ or regional election, for a person who was, at the date of the election, incapable of being elected by virtue of these provisions, is not, by reason of his incapacity on this ground, deemed to be thrown away so as to entitle another candidate to be declared elected, unless given at a poll consequent on an election court's decision that he was so incapable¹². Similarly, a vote given at a Welsh Assembly regional election for a registered political party¹³ where at the time of the election each candidate included on the party's list was by virtue of these provisions incapable of being elected, is not, by reason of that incapacity, deemed to be thrown away so as to entitle another candidate to be declared elected, unless given at a poll consequent on the decision of an election court that he was so incapable¹⁴.

1 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante; for the meaning of 'parliamentary election' see PARA 9 ante; and for the meaning of 'local government election' see PARA 10 ante. As to elections in the City of London see PARA 30 ante. There is no provision in relation to European parliamentary elections because corrupt and illegal practices relate only to personation and other voting offences in that context: see PARA 763 ante.

2 As to the appointment of an election agent for parliamentary and local government elections see PARA 238 ante; and as to the appointment of an election agent for elections to the National Assembly for Wales see PARA 242 ante. At a Welsh Assembly election, the reference is, for an Assembly election, to any individual candidate or his election agent (see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 116(1)(a)) and, for a regional election, to any or all of a group of party list candidates or their election agent (see art 116(1)(b)). For the meanings of 'Assembly election' and 'regional election' in this context see PARA 3 note 1 ante; and for the meanings of 'individual candidate' and 'party list candidate', and as to the meaning of references to groups of party list candidates, see PARA 237 note 23 ante.

3 For the canvasser or agent to be personally engaged, it is sufficient for him to be engaged with the knowledge and consent of the candidate or election agent: *North Norfolk Case* (1869) 1 O'M & H 236 at 238; *Norwich Case* (1871) 23 LT 701 at 702, 2 O'M & H 38 at 40-41.

4 It is not necessary that the agent should be an agent for the management of the whole election; it is sufficient if he is agent for part of the election. He must be not simply an agent who might be employed to such an extent as might make the candidate answerable for corrupt or illegal practices committed by him, but employed in the way of managing a portion of the election: *North Norfolk Case*, *Burton's Case* (1869) 1 O'M & H 236 at 239.

5 Representation of the People Act 1983 s 165(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 116(1).

6 Representation of the People Act 1983 s 165(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 116(1)(i). The text refers to any corrupt or illegal practice within the meaning of the Representation of the People Act 1983 or the law relating to elections for the Northern Ireland Assembly, in relation to a parliamentary or local government election, and within the meaning of the Representation of the People Act 1983, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended) (see PARA 388 ante) or the law relating to elections to the European Parliament, the Northern Ireland Assembly or the Scottish Parliament, in relation to a Welsh Assembly election. As to European parliamentary elections see PARA 224 et seq ante. As to the law relating to elections for the Scottish Parliament see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 51 et seq; and as to the law relating to elections for the Northern Ireland Assembly see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 67 et seq. As to the imposition of incapacities in relation to candidates and others see PARA 904 post.

7 Representation of the People Act 1983 s 165(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 116(1)(ii). As to the Public Bodies Corrupt Practices Act 1889 see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(1) (2006 Reissue) PARA 529 et seq.

8 Representation of the People Act 1983 s 165(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 116(1). At a Welsh Assembly election, the incapacity imposed by art 116(1) applies, in relation to party list candidates at a regional election, to each candidate on the list (where their election agent engages any person whom he knows or has reasonable grounds for supposing to be subject to an incapacity to vote at the election) or only to that candidate who engages, or those candidates who engage, that person (where their election agent does not engage such a person): art 116(2).

9 As to the questioning of local government elections generally see PARA 760 ante.

10 Representation of the People Act 1983 s 165(2).

11 For the meaning of 'constituency election' in this context see PARA 3 note 1 ante.

12 Representation of the People Act 1983 s 165(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 116(3). In the case of an election of the Mayor of London, a vote deemed in accordance with the Representation of the People Act 1983 s 165(3) to be thrown away is to be so deemed only to the extent that it is a vote given so as to indicate that the person who was under the incapacity is the voter's first or second preference from among the candidates: s 165(4) (added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 36). For the meaning of 'election of the Mayor of London' see PARA 10 ante. As to elections for the return of an elected Mayor of London see PARA 206 et seq ante.

13 For the meaning of 'registered political party' for these purposes see PARA 263 ante.

14 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 116(3).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(5) CONSEQUENCES OF LEGAL PROCEEDINGS/(i) Avoidance of Election or Referendum/895. Avoidance of local authority referendum by reason of general corruption, bribery, treating or intimidation.

895. Avoidance of local authority referendum by reason of general corruption, bribery, treating or intimidation.

Where, on a referendum petition¹, it is shown that corrupt² or illegal practices³ or illegal payments, employments or hirings⁴ committed in reference to the referendum⁵ for the purpose of promoting or procuring a particular outcome in relation to the question asked in the referendum have so extensively prevailed that they may be reasonably supposed to have affected the result, the referendum, if that outcome was achieved, is void⁶. A referendum is not liable to be avoided, otherwise than under this provision, by reason of general corruption, bribery, treating or intimidation⁷.

1 Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

2 As to corrupt practices see generally para 707 et seq ante.

3 As to illegal practices see generally para 674 et seq ante.

4 As to the offence of illegal payment, employment or hiring see PARA 685 ante.

5 I.e. a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

6 Representation of the People Act 1983 s 164(1); and see note 1 supra. See also the cases cited in PARA 893 ante.

7 Ibid s 164(2); and see note 1 supra.

UPDATE

895 Avoidance of local authority referendum by reason of general corruption, bribery, treating or intimidation

NOTE 5--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(5) CONSEQUENCES OF LEGAL PROCEEDINGS/(i) Avoidance of Election or Referendum/896. Other circumstances in which a fresh election or referendum can be ordered.

896. Other circumstances in which a fresh election or referendum can be ordered.

An election may be overturned, and a new election held, following an irregularity in the way the original election was conducted¹, or following a prosecution for election offences² or where a successful candidate is found to lack one of the qualifications for office³. An election or referendum may be avoided at the conclusion of the trial of a petition questioning such an election or referendum on any of the grounds so allowed⁴.

A fresh local government election can also be ordered in certain circumstances by the High Court if such an election fails either wholly or in part or becomes void⁵ and in other circumstances by the returning officer⁶ or, in the case of parish or community elections, by the district council⁷. Proceedings may be instituted⁸ against any person, on the ground that he acted or claims to be entitled to act as a member of a local authority while disqualified for so acting, even though the time for the presentation of an election petition has passed and the validity of the election itself cannot be challenged by that procedure⁹, and the office in which he acted or claims to be entitled to act may be declared vacant¹⁰.

1 See PARA 670 et seq ante.

2 See PARA 702 et seq ante.

3 See PARA 231 et seq ante.

4 As to parliamentary election petitions see PARA 759 ante; as to the questioning of an election under the Local Government Act 1972 see PARA 760 ante; as to Welsh Assembly election petitions see PARA 762 ante; and as to European parliamentary election petitions see PARA 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

5 See PARA 216 ante. In 1955 an order was made under the Local Government Act 1933 s 72(2) (repealed) for the holding of a fresh election of the mayor of Hastings because due notice of the holding of the annual meeting at which he was elected had not been given. In a case decided under the Municipal Corporations Act 1882 s 87 (repealed), concerning an election of aldermen which had been so conducted as not to be a lawful election, it was held that the proper remedy was by mandamus and not by an election petition: *Re Barnes Corpn, ex p Hutter* [1933] 1 KB 668, DC.

6 See PARA 216 ante. As to the procedure on the countermand or abandonment of the poll because of the death of a candidate see PARA 509 et seq ante.

7 See PARA 217 ante. The district council can still intervene although the time has passed for the presentation of an election petition: see *R v Miles, ex p Cole* (1895) 64 LJQB 420, DC (poll demanded by unauthorised person).

8 le under the Local Government Act 1972 s 92 (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 301).

9 *Bishop v Deakin* [1936] Ch 409, [1936] 1 All ER 255.

10 See the Local Government Act 1972 s 92(2)(a)(i), (4); and LOCAL GOVERNMENT vol 69 (2009) PARA 301.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(5) CONSEQUENCES OF LEGAL PROCEEDINGS/(ii) Votes Struck Off/897. Votes struck off following a scrutiny.

(ii) Votes Struck Off

897. Votes struck off following a scrutiny.

Votes may be struck off following a scrutiny of original election documents in circumstances where a petitioner has claimed that the successful candidate was not elected by a majority of lawful votes¹.

¹ As to scrutiny see PARA 837 et seq ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(5) CONSEQUENCES OF LEGAL PROCEEDINGS/(iii) Recount/898. Recount following application.

(iii) Recount

898. Recount following application.

A petition may ask for a recount of the votes given (either to the petitioner alone or to all candidates at the election) and the request may be granted on a successful application claiming grounds for believing that there has been a mistake on the part of the returning officer¹.

¹ As to the application and procedure relating to a recount on application see PARAS 853-854 ante.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(5) CONSEQUENCES OF LEGAL PROCEEDINGS/(iv) Report of Corrupt or Illegal Practices/899. Court's duty to report election candidate or agent personally guilty of a corrupt or illegal practice.

(iv) Report of Corrupt or Illegal Practices

899. Court's duty to report election candidate or agent personally guilty of a corrupt or illegal practice.

At the conclusion of the trial of a parliamentary election petition¹, or a Welsh Assembly election petition² or a local government election petition³, the election court must in certain circumstances make a report⁴, which must state whether any corrupt or illegal practice has or has not been proved to have been committed by or with the knowledge and consent of any candidate at the election, and the nature of the corrupt or illegal practice⁵. For the purposes of the provisions which impose civil incapacities on candidates personally guilty of such a practice⁶, if it is reported that a corrupt practice, other than treating or undue influence, was committed with a candidate's knowledge and consent, he is to be treated as having been reported personally guilty of that corrupt practice⁷; and if it is reported that an illegal practice was committed with a candidate's knowledge and consent at a parliamentary election, he is to be treated as having been reported personally guilty of that illegal practice⁸.

The report must also state whether any of the candidates has been guilty by his agents of any corrupt or illegal practice in reference to the election⁹. If, however, a candidate is reported guilty by his agents of treating, undue influence or any illegal practice, he is not to be treated, for the purposes of the provisions avoiding an election or imposing civil incapacities¹⁰, as having been reported guilty by his agents of the offences mentioned in the report if the court also reports that the candidate has proved¹¹ to the court: (1) that no corrupt or illegal practice was committed at the election by the candidate or his election agent¹² and the offences mentioned in the report were committed contrary to the orders and without the sanction or connivance of the candidate or his election agent¹³; and (2) that the candidate and his election agent¹⁴ took all reasonable means for preventing the commission of corrupt and illegal practices at the election¹⁵; and (3) that the offences mentioned in the report were of a trivial, unimportant and limited character¹⁶; and (4) that in all other respects the election was free from any corrupt or illegal practice on the part of the candidate and of his agents¹⁷.

The general statutory provisions¹⁸ as to the consequences of the report that a candidate was guilty by his agents of a corrupt or illegal practice have effect subject to the express provisions¹⁹ relating to particular acts which are declared to be corrupt or illegal practices²⁰.

1 As to parliamentary election petitions see PARA 759 ante.

2 Ie other than where the petition relates to a return under the Government of Wales Act 1998 s 9(6) (vacancy in electoral region seat: see PARA 222 ante). As to Welsh Assembly election petitions see PARA 762 ante. The provisions of the Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes after that date see the Government of Wales Act 2006 s 11(6); and PARA 222 ante.

3 As to the questioning of an election under the Local Government Act 1972 see PARA 760 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante. As to elections in the City of London see PARA 30 ante.

4 As to when a report is to be made, and as to the procedure, in relation to a parliamentary election petition, see PARA 857 ante; in relation to a local government election petition, see PARA 860 ante; and, in relation to a Welsh Assembly election petition, see PARA 862 ante.

5 Representation of the People Act 1983 s 158(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 107(1). There is no provision in relation to European parliamentary elections because corrupt and illegal practices relate only to personation and other voting offences in that context: see PARA 763 ante. As to illegal practices (including those which are also offences) see PARA 674 et seq ante; and as to corrupt practices (including those which are also offences) see PARA 707 et seq ante.

6 See PARA 904 et seq post.

7 Representation of the People Act 1983 s 158(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 107(2)(a).

8 Representation of the People Act 1983 s 158(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 107(2)(b).

9 Representation of the People Act 1983 s 158(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 107(3).

10 See PARAS 892 ante, 904 post.

11 The onus of proof lies on the candidate: *Rochester Borough Case* (1892) 4 O'M & H 156.

12 As to the appointment of an election agent for parliamentary and local government elections see PARA 238 ante; and as to the appointment of an election agent for elections to the National Assembly for Wales see PARA 242 ante. In the case of an election where candidates are not required to have election agents (see PARA 238 note 3 ante), the matters to be proved under head (1) in the text are that no corrupt or illegal practice was committed at the election by the candidate or with his knowledge or consent and the offences mentioned in the report were committed without the sanction or connivance of the candidate: Representation of the People Act 1983 s 158(3).

13 Ibid s 158(3)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 107(3)(a). For a case where the candidate was held to have failed to satisfy the court on this point see *Walsall Borough Case* (1892) as reported in Day 106 at 114.

14 In the case of an election where candidates are not required to have election agents (see PARA 238 note 3 ante), the matters to be proved under head (2) in the text are that all reasonable means for preventing the commission of corrupt and illegal practices at the election were taken by and on behalf of the candidate: Representation of the People Act 1983 s 158(3).

15 Ibid s 158(3)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 107(3)(b). In *Rochester Borough Case* (1892) 4 O'M & H 156 and in *Southampton Borough Case* (1895) 5 O'M & H 17, the court refused relief to a candidate because he had not satisfied the court on this point.

16 Representation of the People Act 1983 s 158(3)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 107(3)(c). In *Southampton Borough Case* (1895) 5 O'M & H 17, the illegal payment of a voter's railway fare was held to come within these words.

17 Representation of the People Act 1983 s 158(3)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 107(3)(d). In *Southampton Borough Case* (1895) 5 O'M & H 17, it was held that if there were a joint candidature, as may be the case at a local government election, relief could be granted to one candidate and refused to the other. If the candidate fails to obtain relief under this provision, he can still apply for relief on the ground of inadvertence (see PARA 694 ante): *Cork, Eastern Division Case* (1911) 6 O'M & H 318 at 359.

18 See PARA 904 post.

19 See eg paras 280, 284, 674 et seq ante.

20 Representation of the People Act 1983 s 159(4), 160(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 109(7).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(5) CONSEQUENCES OF LEGAL PROCEEDINGS/(iv) Report of Corrupt or Illegal Practices/900. Court's duty to report justice of the peace found guilty of a corrupt practice.

900. Court's duty to report justice of the peace found guilty of a corrupt practice.

Where a justice of the peace is reported by an election court to have been guilty of any corrupt practice in reference to an election or referendum¹, the court must report the case to the Lord Chancellor and the Lord Chief Justice with such evidence as may have been given of the corrupt practice².

¹ le in reference to a parliamentary, Welsh Assembly, or local government election (or any other election under the Local Government Act 1972), or a referendum in relation to England under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, or a referendum in relation to Wales under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante; for the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'local government election' see PARA 10 ante; and for the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante. As to elections in the City of London see PARA 30 ante. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante. There is no provision in relation to European parliamentary elections because no petition may be brought in that context on the grounds of the commission of corrupt or illegal practices, except on grounds of personation or other voting offences: see PARA 763 ante. As to when such a report as is mentioned in the text is to be made, and as to the procedure in relation to a parliamentary election petition, see PARA 857 ante; in relation to a local government election petition, see PARA 860 ante; in relation to a Welsh Assembly election petition, see PARA 862 ante; and, in relation to a local authority referendum petition, see PARA 865 ante.

² Representation of the People Act 1983 s 161 (amended by the Representation of the People Act 1985 ss 24, 28(1), Sch 4 para 53, Sch 5; and the Constitutional Reform Act 2005 s 15(1), Sch 4 para 149); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 112 (amended by SI 2006/1016). The Representation of the People Act 1983 s 161 (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2.

UPDATE

900-901 Court's duty to report justice of the peace found guilty of a corrupt practice, Court's duty to report barrister, solicitor, etc found guilty of a corrupt practice

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(5) CONSEQUENCES OF LEGAL PROCEEDINGS/(iv) Report of Corrupt or Illegal Practices/901. Court's duty to report barrister, solicitor, etc found guilty of a corrupt practice.

901. Court's duty to report barrister, solicitor, etc found guilty of a corrupt practice.

Where a barrister, advocate, solicitor or any person belonging to any profession the admission to which is regulated by law is reported by an election court to have been guilty of any corrupt practice in reference to an election or referendum¹, the court must bring the matter before the Inn of Court, High Court or tribunal having power to take cognisance of any misconduct of the person in his profession, and the Inn of Court, High Court or tribunal may deal with him as if the corrupt practice were misconduct by him in his profession².

¹ In reference to a parliamentary, Welsh Assembly, or local government election (or any other election under the Local Government Act 1972), or a referendum in relation to England under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, or a referendum in relation to Wales under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante; for the meaning of 'parliamentary election' see PARA 9 ante; for the meaning of 'local government election' see PARA 10 ante; and for the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante. As to elections in the City of London see PARA 30 ante. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante. There is no provision in relation to European parliamentary elections because no petition may be brought in that context on the grounds of the commission of corrupt or illegal practices, except on grounds of personation or other voting offences: see PARA 763 ante. As to when such a report as is mentioned in the text is to be made, and as to the procedure in relation to a parliamentary election petition, see PARA 857 ante; in relation to a local government election petition, see PARA 860 ante; in relation to a Welsh Assembly election petition, see PARA 862 ante; and, in relation to a local authority referendum petition, see PARA 865 ante.

² Representation of the People Act 1983 s 162 (amended by the Representation of the People Act 1985 ss 24, 28(1), Sch 4 para 54, Sch 5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 113. The Representation of the People Act 1983 s 162 (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2.

UPDATE

900-901 Court's duty to report justice of the peace found guilty of a corrupt practice, Court's duty to report barrister, solicitor, etc found guilty of a corrupt practice

SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced: Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

901 Court's duty to report barrister, solicitor, etc found guilty of a corrupt practice

TEXT AND NOTES--These provisions also apply to an authorised person, meaning a person (other than a barrister or solicitor) who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes a reserved legal activity (within the meaning of that Act) (see LEGAL PROFESSIONS vol 65 (2008) PARA

512), and the references to a tribunal are now to a tribunal or other body:
Representation of the People Act 1983 s 162 (amended by Legal Services Act 2007 Sch
21 para 51).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(5) CONSEQUENCES OF LEGAL PROCEEDINGS/(iv) Report of Corrupt or Illegal Practices/902. Court's duty to report conviction of certain offences to Electoral Commission.

902. Court's duty to report conviction of certain offences to Electoral Commission.

The court by or before which a person is convicted of an offence under the Political Parties, Elections and Referendums Act 2000¹ or an offence committed in connection with a relevant election² must notify the Electoral Commission³ of that person's conviction as soon as is practicable⁴.

1 Political Parties, Elections and Referendums Act 2000 s 154(a). As to offences generally see PARA 735 et seq ante.

2 Ibid s 154(b). The text refers to a relevant election within the meaning of Pt II (ss 22-40) (as amended) (see PARA 260 ante).

3 As to the Electoral Commission see PARA 31 et seq ante.

4 Political Parties, Elections and Referendums Act 2000 s 154.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(5) CONSEQUENCES OF LEGAL PROCEEDINGS/(v) Personal Incapacities/903. Disqualification from being the Mayor of London for failure to make returns as to election expenses.

(v) Personal Incapacities

903. Disqualification from being the Mayor of London for failure to make returns as to election expenses.

If, in the case of any candidate at an election of the Mayor of London¹, the return² and declarations as to election expenses³ are not delivered before the expiry of the time limited for the purpose, the candidate must, as respects that election, be disqualified from being elected or being the Mayor of London⁴.

Any application⁵ by such a candidate for relief in respect of a failure to deliver the return and declarations as to election expenses must be made within the period of six weeks following the day on which the time limited for their delivery expires⁶.

The disqualification from being elected or being the Mayor of London does not take effect unless or until the period specified for making an application for relief expires without such an application having been made⁷ or, if such an application is made, unless or until the application is finally disposed of without relief being granted⁸ or is abandoned or fails by reason of non-prosecution⁹.

1 For the meaning of 'election of the Mayor of London' for these purposes see PARA 10 note 4 ante. As to elections for the return of an elected Mayor of London see PARA 206 et seq ante.

2 For the meaning of 'return as to election expenses' see PARA 286 note 1 ante.

3 For the meaning of 'declaration as to election expenses' see PARA 287 note 2 ante.

4 Representation of the People Act 1983 s 85A(1) (s 85A added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 26).

5 I.e. under the Representation of the People Act 1983 s 86 (as amended) (see PARA 691 ante).

6 Ibid s 85A(2) (as added: see note 4 supra).

7 Ibid s 85A(3)(a) (as added: see note 4 supra).

8 Ibid s 85A(3)(b)(i) (as added: see note 4 supra).

9 Ibid s 85A(3)(b)(ii) (as added: see note 4 supra).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(5) CONSEQUENCES OF LEGAL PROCEEDINGS/(v) Personal Incapacities/904. Personal incapacity incurred on proof of corrupt or illegal voting practices at a parliamentary, local government election or local authority referendum.

904. Personal incapacity incurred on proof of corrupt or illegal voting practices at a parliamentary, local government election or local authority referendum.

A candidate or other person reported by an election court personally guilty of a corrupt or illegal practice¹, or a person who is convicted of a corrupt or illegal practice², in relation to a parliamentary or local government election³ or local authority referendum⁴, is during the relevant period⁵ incapable⁶: (1) of being registered as an elector or voting⁷ at any parliamentary election in the United Kingdom⁸ or at any local government election in Great Britain or at any referendum⁹; or (2) of being elected to the House of Commons¹⁰; or (3) of holding any elective office¹¹.

If a candidate or other person so reported is already elected to a seat in the House of Commons, or holds any such office, he must vacate the seat or office as from the date of the report¹².

If a person so convicted is already elected to a seat in the House of Commons or holds any such office, he must vacate the seat or office¹³ in question at the appropriate time for these purposes¹⁴, namely the end of the period which is the period prescribed by law within which notice of appeal may be given, or an application for leave to appeal may be made, by him in respect of the conviction¹⁵ or if (at any time within that period) that period is extended the end of the period as so extended or the end of the period of three months beginning with the date of the conviction, whichever is the earlier¹⁶. If, before the appropriate time, notice of appeal is given, or an application for leave to appeal is made, by such a person in respect of the conviction, he must vacate the seat or office in question at the end of the period of three months beginning with the date of the conviction unless¹⁷: (a) such an appeal is dismissed or abandoned at any earlier time (in which case he must vacate the seat or office at that time)¹⁸; or (b) at any time within that period of three months the court determines on such an appeal that the conviction should not be upheld (in which case the seat or office is not to be vacated by him)¹⁹. Where such a person vacates a seat or office in this way, no subsequent determination of a court that his conviction should not be upheld entitles him to resume the seat or office²⁰.

If a person convicted of a corrupt or illegal practice has already been elected to a seat in the House of Commons or to any elective office, he must, in addition to being subject to the incapacities mentioned in heads (1) to (3) above, be suspended from performing any of his functions as a member of Parliament, or (as the case may be) any of the functions of that office, during the period of suspension²¹, being the period beginning with the date of the conviction and ending with the date on which the seat or office is vacated or, where head (b) above applies, the date on which the court determines that the conviction should not be upheld²².

Any incapacities or other requirements applying to a person who is convicted of a corrupt or illegal practice apply in addition to any other statutory punishment that is imposed upon conviction, but they are subject to the court's power to mitigate or remit them in cases where such power is given to the court²³.

1 As to illegal practices (including those which are also offences) see PARA 674 et seq ante; and as to corrupt practices (including those which are also offences) see PARA 707 et seq ante. As to the circumstances in which a

candidate is treated as having been reported personally guilty of such practices see PARA 899 ante. The incapacity does not apply where the person is guilty by an agent: *Morris v Shrewsbury Town Clerk* [1909] 1 KB 342, DC.

2 As to the prosecution of corrupt practices see PARA 885 ante; and as to the prosecution of illegal practices see PARA 886 ante.

3 For the meaning of 'parliamentary election' see PARA 9 ante; and for the meaning of 'local government election' see PARA 10 ante. As to elections in the City of London see PARA 30 ante.

4 For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante. The Representation of the People Act 1983 s 173(1)(a)(i), (2), (3) (as substituted and amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2.

5 For these purposes, the relevant period is the period beginning with the date of the report or the date of the conviction (as the case may be) and ending, in the case of a person reported personally guilty or convicted (as the case may be) of a corrupt practice, five years after that date or, in the case of a person reported personally guilty or convicted (as the case may be) of an illegal practice, three years after that date: Representation of the People Act 1983 s 160(5) (substituted by the Political Parties, Elections and Referendums Act 2000 s 137, Sch 17 paras 1, 8); Representation of the People Act 1983 s 173(3) (s 173 substituted by the Political Parties, Elections and Referendums Act 2000 s 136); and see note 4 supra. However, if at any time within that period of five or three years a court determines on an appeal by that person against such a conviction that it should not be upheld, the relevant period ends at that time instead: Representation of the People Act 1983 s 173(3) (as so substituted).

6 le subject to *ibid* s 174 (as amended) (mitigation and remission of incapacities: see PARA 907 post).

7 As to the striking off of votes given by persons under an incapacity see PARA 839 ante.

8 For the meaning of 'United Kingdom' see PARA 13 note 1 ante.

9 Representation of the People Act 1983 s 160(4)(a)(i) (s 160(4) substituted by the Political Parties, Elections and Referendums Act 2000 Sch 17 paras 1, 8); Representation of the People Act 1983 s 173(1)(a)(i) (as substituted: see note 5 supra); and see note 4 supra. For the meaning of 'Great Britain' see PARA 13 note 1 ante. The incapacity imposed under head (1) in the text applies only to a candidate or person reported personally guilty or convicted (as the case may be) of a corrupt practice under s 60 (see PARA 733 ante) or s 62A (as added) (see PARA 734 ante) or an illegal practice under s 61 (as amended) (see PARA 703 ante): s 160(4A) (added by the Political Parties, Elections and Referendums Act 2000 Sch 17 paras 1, 8; and amended by the Electoral Administration Act 2006 s 74(1), Sch 1 paras 104, 120(1), (2)); Representation of the People Act 1983 s 173(2) (as substituted (see note 5 supra); and amended by the Electoral Administration Act 2006 Sch 1 paras 104, 122); and see note 4 supra.

10 Representation of the People Act 1983 ss 160(4)(a)(ii), 173(1)(a)(ii) (both as substituted: see note 5 supra).

11 *Ibid* ss 160(4)(a)(iii), 173(1)(a)(iii) (both as substituted: see note 5 supra).

12 *Ibid* s 160(4)(b) (as substituted: see note 5 supra).

13 *Ibid* s 173(1)(b) (as substituted: see note 5 supra).

14 *Ibid* s 173(4) (as substituted: see note 5 supra).

15 *Ibid* s 173(4)(a) (as substituted: see note 5 supra).

16 *Ibid* s 173(4)(b) (as substituted: see note 5 supra).

17 *Ibid* s 173(5) (as substituted: see note 5 supra).

18 *Ibid* s 173(5)(a) (as substituted: see note 5 supra).

19 *Ibid* s 173(5)(b) (as substituted: see note 5 supra). As to a consideration of the situation that applied before s 173 was substituted see *A-G v Jones* [2000] QB 66, [1999] 3 All ER 436, in which the court, explaining the statutory regime, held that vacation of the seat is mere machinery consequent on the candidate's

incapacity which is consequent on the conviction and that, if the conviction is overturned, the candidate's capacity to sit is restored and the seat, if not already filled by an election taking place between conviction and appeal, ceases to be vacant.

20 Representation of the People Act 1983 s 173(6) (as substituted: see note 5 supra).

21 Ibid s 173(7) (as substituted: see note 5 supra).

22 Ibid s 173(8) (as substituted: see note 5 supra).

23 Ibid s 173(9) (as substituted: see note 5 supra).

UPDATE

904 Personal incapacity incurred on proof of corrupt or illegal voting practices at a parliamentary, local government election or local authority referendum

NOTE 4--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(5) CONSEQUENCES OF LEGAL PROCEEDINGS/(v) Personal Incapacities/905. Personal incapacity incurred on proof of corrupt or illegal voting practices at a Welsh Assembly election.

905. Personal incapacity incurred on proof of corrupt or illegal voting practices at a Welsh Assembly election.

A candidate or other person reported by an election court personally guilty of a corrupt practice¹ in relation to a Welsh Assembly election² is for five years from the date of the report incapable³: (1) of being registered as an elector or voting at any Assembly election, election to the House of Commons⁴, election to the European Parliament⁵ or election in Great Britain⁶ to any public office⁷; or (2) of being elected to and sitting in the Assembly, the House of Commons, the European Parliament⁸; and (3) of holding any public or judicial office⁹. If already elected to the Assembly or such other body as is mentioned in head (2) above or holding such office, such a candidate or other person so reported must from that date vacate the seat or office¹⁰. A candidate or other person reported by an election court personally guilty of an illegal practice¹¹ is for three years from the date of the report incapable of being registered as an elector or voting at any Assembly election, any parliamentary election, any European parliamentary election or at any election to a public office held¹²: (a) if the offence was committed in relation to a constituency election¹³, for or in the Assembly constituency¹⁴ for which the election was held, any other Assembly constituency in the Assembly electoral region¹⁵ in which the first mentioned constituency is situated, the Assembly electoral region in which the first mentioned constituency is situated, or any Assembly constituency or electoral region which includes the whole or any part of the first mentioned constituency as constituted for the purposes of the election (or any other Assembly constituency within that Assembly electoral region)¹⁶; or (b) if the offence was committed in relation to a regional election¹⁷, for or in the Assembly electoral region for which the election was held, any Assembly constituency situated in that electoral region, or any Assembly constituency or electoral region which includes the whole or part of the first mentioned electoral region as constituted for the purposes of the election (or any other Assembly constituency in that second mentioned Assembly electoral region)¹⁸. The incapacities imposed by head (a) above or, as the case may be, head (b) above apply only to a candidate or other person reported personally guilty of an illegal practice in relation to voting offences other than personation¹⁹. The provisions as to the consequences of the report that a candidate was guilty by his agents of a corrupt or illegal practice have effect subject to the express provisions relating to particular acts which are declared to be corrupt or illegal practices²⁰.

If a person is reported by an election court personally guilty of a corrupt practice under the Representation of the People Act 1983, in addition to being subject to the incapacities set out therein²¹, he is for five years from the date of that report incapable of being elected to and sitting in the Assembly, and if already elected to the Assembly, he must from that date vacate the seat²². If a person is reported by an election court personally guilty of an illegal practice under the Representation of the People Act 1983, in addition to being subject to the incapacities set out therein²³, he is for three years from the date of the report incapable of being registered as an elector or voting at any Assembly election held²⁴: (i) if the offence was committed in relation to a parliamentary election, in the Assembly constituency which is coterminous with the parliamentary constituency, in any other Assembly constituency in the Assembly electoral region in which the parliamentary constituency is situated, in the Assembly electoral region in which the parliamentary constituency is situated, or in any Assembly constituency or electoral region which includes the whole or any part of the parliamentary

constituency as constituted for the purposes of the election (or any other Assembly constituency in that Assembly electoral region)²⁵; or (ii) if the offence was committed in relation to an election under the Local Government Act 1972²⁶, in the Assembly constituency or electoral region which includes the whole or any part of the local government area for which the election was held (or any other Assembly constituency in that Assembly electoral region) or in any Assembly constituency or electoral region which includes the whole or any part of the local government area for which the election was held as constituted for the purposes of the election (or any other Assembly constituency within that Assembly electoral region)²⁷.

A person convicted of a corrupt practice²⁸ is subject to the like incapacities²⁹ as if at the date of the conviction he had been reported personally guilty of that corrupt practice³⁰. A person convicted of an illegal practice³¹ is subject to the like incapacities³² as if at the date of the conviction he had been reported personally guilty of that illegal practice³³. In addition to being subject to these incapacities, a person convicted of a corrupt or illegal practice who has already been elected to a seat in the Assembly must be suspended from performing any of his functions as a member of the Assembly during the period of suspension³⁴, being the period beginning with the date of the conviction and ending with the date on which the seat is vacated³⁵ or, where the court determines on appeal that the conviction should not be upheld³⁶, the date on which the court determines that the conviction should not be upheld³⁷. These incapacities are in addition to any other statutory punishment³⁸, but are subject to the court's power to mitigate or remit them in cases where such power is given to the court³⁹. A person convicted of a corrupt or illegal practice who has already been elected to a seat in the Assembly must vacate the seat at the appropriate time for these purposes, namely the end of the period which is the period prescribed by law within which notice of appeal may be given, or an application for leave to appeal may be made, by him in respect of the conviction⁴⁰ or, if (at any time within that period) that period is extended, the end of the period as so extended or the end of the period of three months beginning with the date of the conviction⁴¹, whichever is the earlier⁴². If, before the appropriate time, notice of appeal is given or an application for leave is made by such a person in respect of such a conviction, he must vacate the seat at the end of the period of three months beginning with the date of the conviction unless such an appeal is dismissed or abandoned at any earlier time (in which case he must vacate the seat at that time)⁴³ or at any time within that period of three months the court determines on such an appeal that the conviction should not be upheld (in which case the seat is not to be vacated by him)⁴⁴. Where such a person vacates a seat in this way no subsequent determination of a court that his conviction should not be upheld entitles him to resume the seat⁴⁵.

Subject to the court's power to mitigate or remit incapacities in cases where such power is given to the court but in addition to any punishment duly provided, a person convicted of a corrupt practice under the Representation of the People Act 1983 is subject to like incapacities⁴⁶ as if at the date of the conviction he had been reported personally guilty of that corrupt practice⁴⁷, and a person convicted of an illegal practice under the Representation of the People Act 1983, in relation to a parliamentary election and in relation to an election under the Local Government Act 1972, is subject to like incapacities⁴⁸ as if at the date of the conviction he had been reported personally guilty of that illegal practice⁴⁹. Subject to the court's power to mitigate or remit incapacities in cases where such power is given to the court but in addition to any punishment duly provided, a person convicted of a corrupt practice under the European parliamentary elections rules⁵⁰ is, for five years from the date of the conviction, incapable of being elected to and sitting in the Assembly and, if already elected to the Assembly, he must from that date vacate the seat⁵¹; and a person convicted of an illegal practice under the European parliamentary elections rules is, for three years from the date of the conviction, incapable of being registered as an elector or voting at any Assembly election⁵². The court's power to mitigate or remit incapacities under the Representation of the People Act 1983 applies to any incapacity so imposed as if the incapacity was imposed under the Representation of the People Act 1983⁵³.

- 1 As to corrupt practices see generally para 707 et seq ante. As to the circumstances in which a candidate is treated as having been reported personally guilty of such practices see PARA 899 ante.
- 2 For the meaning of 'Assembly election' see PARA 3 note 1 ante.
- 3 For the meaning of 'parliamentary election' see PARA 9 ante.
- 4 For the meaning of 'Great Britain' see PARA 13 note 1 ante.
- 5 As to European parliamentary elections see PARA 224 et seq ante.
- 6 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 109(3).
- 7 Ibid art 109(3)(a). The incapacities imposed by head (1) in the text apply only to a candidate or other person reported personally guilty of a corrupt practice in relation to personation (ie under art 28: see PARA 733 ante): art 109(4).
- 8 Ibid art 109(3)(b).
- 9 Ibid art 109(3)(c).
- 10 Ibid art 109(3).
- 11 As to illegal practices see generally para 674 et seq ante. As to the circumstances in which a candidate is treated as having been reported personally guilty of such practices see PARA 899 ante.
- 12 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 109(5).
- 13 For the meaning of 'constituency election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.
- 14 For the meaning of 'Assembly constituency' in the context of Welsh Assembly elections see PARA 3 note 1 ante.
- 15 For the meaning of 'Assembly electoral region' in the context of Welsh Assembly elections see PARA 3 note 1 ante.
- 16 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 109(5)(a).
- 17 For the meaning of 'regional election' in the context of Welsh Assembly elections see PARA 3 note 1 ante.
- 18 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 109(5)(b).
- 19 Ibid art 109(6). The text refers to an illegal practice under art 29 (see PARA 703 ante).
- 20 Ibid art 109(7).
- 21 Ie subject to the incapacities set out in the Representation of the People Act 1983 s 160(4) (as substituted) (see PARA 904 ante).
- 22 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 110(1). This provision is subject to the provisions of the Representation of the People Act 1983 s 174 (as amended) (mitigation and remission of incapacities: see PARA 907 post), which applies also to any incapacity imposed under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 110 as if the incapacity was imposed under the Representation of the People Act 1983 s 160 (as amended) (see PARA 904 ante): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 110(1), (3). The provision set out in the text was also applied in relation to the Representation of the People Act 1983 as it was applied by the European Parliamentary Elections Regulations 1986, SI 1986/2209 (revoked): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 111(1), (2). However, the replacement provisions, the European Parliamentary Elections Regulations 2004, SI 2004/293, have no provision to impose incapacity on persons reported personally guilty of a corrupt practice by an election court because corrupt and illegal practices relate only to personation and other voting offences in that context: see PARA 763 ante.
- 23 Ie subject to the incapacities set out in the Representation of the People Act 1983 s 160(5) (as substituted) (see PARA 904 ante).
- 24 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 110(2). This provision is subject to the provisions of the Representation of the People Act 1983 s 174 (as amended)

(mitigation and remission of incapacities: see PARA 907 post), which applies also to any incapacity imposed under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 110 as if the incapacity was imposed under the Representation of the People Act 1983 s 160 (as amended) (see PARA 904 ante): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 110(2), (3). The provision set out in the text was also applied in relation to the Representation of the People Act 1983 as it was applied by the European Parliamentary Elections Regulations 1986, SI 1986/2209 (revoked): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 111(1), (3). However, the replacement provisions, the European Parliamentary Elections Regulations 2004, SI 2004/293, have no provision to impose incapacity on persons reported personally guilty of an illegal practice by an election court because corrupt and illegal practices relate only to personation and other voting offences in that context: see PARA 763 ante.

25 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 110(2)(a).

26 For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante.

27 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 110(2)(b).

28 As to the prosecution of corrupt practices see PARA 885 ante.

29 I.e. the incapacities imposed by the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 109(3) (see the text and notes 1-10 supra).

30 Ibid art 122(1)(a).

31 As to the prosecution of illegal practices see PARA 886 ante.

32 I.e. the incapacities imposed by the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 109(5)(a) (see the text and notes 13-16 supra) in relation to a constituency election and the incapacities imposed by art 109(5)(b) (see the text and notes 17-18 supra) in relation to a regional election.

33 Ibid art 122(1)(b).

34 Ibid art 122(5).

35 Ibid art 122(6)(a). The text refers to the date on which the seat is vacated in accordance with art 122(2) or art 122(3) (see the text and notes 40-44 infra).

36 I.e. where ibid art 122(3)(b) applies (see the text and note 44 infra).

37 Ibid art 122(6)(b).

38 I.e. any punishment imposed under ibid art 119 (see PARA 885 ante) or art 120 (see PARA 886 ante).

39 Ibid art 122(7). The text refers to the mitigation and remission of incapacities under the Representation of the People Act 1983 s 174 (as amended) (see PARA 907 post), to which both the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 119 (punishment of corrupt practices: see PARA 885 ante) and art 120 (punishment of illegal practices: see PARA 886 ante) are subject.

40 Ibid art 122(2)(a).

41 Ibid art 122(2)(b).

42 Ibid art 122(2).

43 Ibid art 122(3)(a).

44 Ibid art 122(3)(b).

45 Ibid art 122(4).

46 I.e. the incapacities imposed by ibid art 110(1) (see the text and notes 21-22 supra).

47 Ibid art 123(1)(a).

48 I.e. the incapacities imposed by the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 110(2)(a) (see the text and note 25 supra) in relation to a parliamentary election and the incapacities imposed by art 110(2)(b) (see the text and notes 26-27 supra) in relation to an election under the Local Government Act 1972.

49 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 123(1)(b).

50 As to mitigation and relief see PARA 885 ante. For the meaning of 'European parliamentary elections rules' see PARA 388 ante; definition applied by virtue of the Interpretation Act 1978 s 17(2).

51 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, arts 111(2), 124(2)(a).

52 Ibid arts 111(3), 124(2)(b).

53 Ibid arts 123(2), 124(3). The text refers to the Representation of the People Act 1983 s 174 (as amended) (see PARA 907 post) applying to any incapacity imposed under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 123 or art 124 as if the incapacity was imposed under the Representation of the People Act 1983 s 160 (as amended) (see PARA 904 ante).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(5) CONSEQUENCES OF LEGAL PROCEEDINGS/(v) Personal Incapacities/906. Personal incapacity incurred on conviction of corrupt or illegal voting practices at a European parliamentary election.

906. Personal incapacity incurred on conviction of corrupt or illegal voting practices at a European parliamentary election.

A candidate or other person convicted of a corrupt or illegal practice¹, in relation to a European parliamentary election², is during the relevant period³ incapable⁴: (1) of being registered as an elector or voting⁵ at any parliamentary⁶ or European parliamentary election in the United Kingdom⁷ or at any local government election⁸ in Great Britain⁹; or (2) of being elected to the House of Commons or the European Parliament¹⁰; or (3) of holding any elective office¹¹.

If a person so convicted is already elected to a seat in the House of Commons or the European Parliament or if he holds any such office, he must vacate the seat or office as from the date of the conviction¹² or at the appropriate time for these purposes¹³, being the end of the period which is the period prescribed by law within which notice of appeal may be given or an application for leave to appeal may be made by him in respect of the conviction¹⁴ or, if (at any time within that period) that period is extended, the end of the period as so extended or the end of the period of three months beginning with the date of the conviction¹⁵, whichever is the earlier¹⁶. If, before the appropriate time, notice of appeal is given or an application for leave to appeal is made by such a person in respect of the conviction, he must vacate the seat or office in question at the end of the period of three months beginning with the date of the conviction unless¹⁷: (a) such an appeal is dismissed or abandoned at any earlier time (in which case he must vacate the seat or office at that time)¹⁸; or (b) at any time within that period of three months the court determines on such an appeal that the conviction should not be upheld (in which case the seat or office is not to be vacated by him)¹⁹. Where such a person vacates a seat or office in this way, no subsequent determination of a court that his conviction should not be upheld entitles him to resume the seat or office²⁰.

If a person convicted of a corrupt or illegal practice has already been elected to a seat in the House of Commons or the European Parliament or to any elective office, he must, in addition to being subject to the incapacities mentioned in heads (1) to (3) above, be suspended from performing any of his functions as a member of Parliament or member of the European Parliament ('MEP'), or (as the case may be) any of the functions of that office, during the period of suspension²¹, being the period beginning with the date of the conviction and ending with the date on which the seat or office is vacated or, where head (b) above applies, the date on which the court determines that the conviction should not be upheld²².

Any incapacities or other requirements applying to a person who is convicted of a corrupt or illegal practice apply in addition to any other statutory punishment that is imposed upon conviction²³, but they are subject to the court's power to mitigate or remit them in cases where such power is given to the court²⁴.

1 As to the prosecution of corrupt practices see PARA 885 ante; and as to the prosecution of illegal practices see PARA 886 ante.

2 As to European parliamentary elections see PARA 224 et seq ante.

3 For these purposes, the relevant period is the period beginning with the date of the conviction and ending, in the case of a person convicted of a corrupt practice, five years after that date or, in the case of a person convicted of an illegal practice, three years after that date, except that if (at any time within that period of five

or three years) a court determines on an appeal by that person against the conviction that it should not be upheld, the relevant period ends at that time instead: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 107(3).

4 Ie subject to *ibid* reg 112 (mitigation and remission of incapacities: see *PARA 907 post*).

5 As to the striking off of votes given by persons under incapacity see *PARA 839 ante*.

6 For the meaning of 'parliamentary election' see *PARA 9 ante*.

7 For the meaning of 'United Kingdom' see *PARA 13 note 1 ante*.

8 For the meaning of 'local government election' see *PARA 10 ante*.

9 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 107(1)(a)(i). For the meaning of 'Great Britain' see *PARA 13 note 1 ante*. The incapacity imposed under head (1) in the text applies only to a candidate or person convicted of a corrupt practice under reg 23 (personation: see *PARA 733 ante*) or of an illegal practice under reg 24 (as amended) (other voting offences: see *PARA 703 ante*): reg 107(2). As to the incapacity imposed in relation to European parliamentary elections held in the combined region (as to which see *PARA 76 ante*) preventing a person from being registered as a European parliamentary elector or from voting at any European parliamentary election in Gibraltar see reg 107(1)(a)(ii).

10 *Ibid* reg 107(1)(a)(iii).

11 *Ibid* reg 107(1)(a)(iv).

12 *Ibid* reg 107(1)(b).

13 *Ibid* reg 107(4).

14 *Ibid* reg 107(4)(a).

15 *Ibid* reg 107(4)(b).

16 *Ibid* reg 107(4).

17 *Ibid* reg 107(5).

18 *Ibid* reg 107(5)(a).

19 *Ibid* reg 107(5)(b).

20 *Ibid* reg 107(6).

21 *Ibid* reg 107(7).

22 *Ibid* reg 107(8).

23 Ie punishment imposed under *ibid* reg 109 (punishment of corrupt practices: see *PARA 885 ante*) or reg 110 (punishment of illegal practices: see *PARA 886 ante*).

24 *Ibid* reg 107(9). The text refers to the court's power under reg 112 (mitigation and remission of incapacities: see *PARA 907 post*).

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS/(5) CONSEQUENCES OF LEGAL PROCEEDINGS/(v) Personal Incapacities/907. Mitigation and remission of incapacities imposed on proof of corrupt or illegal voting practices at elections.

907. Mitigation and remission of incapacities imposed on proof of corrupt or illegal voting practices at elections.

Where any person is subject to any incapacity by virtue of the report of an election court¹ and on a prosecution he or some other person in respect of whose acts the incapacity was imposed is acquitted of any of the matters in respect of which the incapacity was imposed, the court may order that the incapacity is thenceforth to cease so far as it is imposed in respect of those matters². Where on a prosecution any person who is subject to any such incapacity is convicted of any such matters, no further incapacity is to be taken to be imposed by reason of the conviction, and the court has the like power, if any, to mitigate or remit for the future certain incapacities³ imposed by virtue of a report of an election court as if they had been imposed by reason of the conviction⁴. A court exercising any of these powers must make an order declaring how far, if at all, the incapacities imposed by virtue of the report remain unaffected by virtue of the exercise of the power, and that order is conclusive for all purposes⁵.

Where a person convicted of a corrupt or illegal practice is subsequently reported by an election court to have been guilty of such a practice, no further incapacity is to be imposed on him⁶, by reason of the report⁷.

Where any person is subject to an incapacity by virtue of a conviction⁸ or (alternatively, in relation to a parliamentary, local government or Welsh Assembly election or local authority referendum) by virtue of the report of an election court, and any witness who gave evidence against him on the proceeding for the conviction or report (as the case may be) is convicted of perjury in respect of that evidence, the incapacitated person may apply to the High Court, and the court, if satisfied that the conviction or report (as the case may be) so far as respects that person was based on perjury, may order that the incapacity is thenceforth to cease⁹.

1 le by virtue of reports following the trial of a parliamentary or local election petition (see PARA 904 ante) or by virtue of reports following the trial of a Welsh Assembly election petition (see PARA 905 ante). For the meaning of 'Assembly election' in the context of Welsh Assembly elections see PARA 3 note 1 ante; for the meaning of 'parliamentary election' see PARA 9 ante; and for the meaning of 'local government election' see PARA 10 ante. As to elections in the City of London see PARA 30 ante. There is no provision in relation to the trial of a European parliamentary election petition because in that context corrupt and illegal practices relate only to personation and other voting offences: see PARA 763 ante; and cf, in relation to prosecutions pursuant to personation and other voting offences, the text and notes 8-9 infra. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see PARA 764 ante. For the meaning of 'election under the Local Government Act 1972' see PARA 10 note 2 ante. The Representation of the People Act 1983 s 174 (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see PARA 576 note 2 ante.

2 Representation of the People Act 1983 s 174(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 125(1); and see note 1 supra.

3 le the incapacities imposed, in relation to a parliamentary or local election, by the Representation of the People Act 1983 s 160 (as amended) (including that provision as applied and modified for the purposes of local authority referendums: see note 1 supra) (see PARA 904 ante) and, in relation to a Welsh Assembly election, by the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 109 (see PARA 905 ante).

4 Representation of the People Act 1983 s 174(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 125(2); and see note 1 supra.

5 Representation of the People Act 1983 s 174(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 125(3); and see note 1 supra.

6 He imposed, in relation to a parliamentary or local election, under the Representation of the People Act 1983 s 160 (as amended) (see PARA 904 ante) and, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 109 (see PARA 905 ante).

7 Representation of the People Act 1983 s 174(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 125(4); and see note 1 supra.

8 He including, in this context, convictions following the prosecution of personation and other voting offences at a European parliamentary election (see note 1 supra).

9 Representation of the People Act 1983 s 174(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 125(5); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 112(1); and see note 1 supra. As to the application of the provision set out in the text in relation to European parliamentary elections held in the combined region (as to which see PARA 76 ante) see reg 112(2).

UPDATE

907 Mitigation and remission of incapacities imposed on proof of corrupt or illegal voting practices at elections

NOTE 1--SI 2001/1298 replaced: Local Authorities (Conduct of Referendums) (England) Regulations 2007, SI 2007/2089. SI 2004/870 replaced by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SI 2008/1848.

Halsbury's Laws of England/ELECTIONS AND REFERENDUMS (VOLUME 15(3) (2007 REISSUE) PARAS 1-343; VOLUME 15(4) (2007 REISSUE) PARAS 344-907)/4. RIGHT TO VOTE AND REGISTRATION OF ELECTORS/(2) THE REGISTRATION OF ELECTORS/ (vi) Registration Appeals/195. Notification to registration officer and alteration of register.

195. Notification to registration officer and alteration of register.

Notice of the decision¹ of the county court or of the Court of Appeal must be sent to the registration officer² in manner provided by rules of court³. The registration officer must make such alterations in the register⁴ or relevant records⁵ as may be required to give effect to the decision⁶.

1 Ie the decision in relation to registration as a parliamentary or local government elector under the Representation of the People Act 1983 s 56 (as amended), in relation to registration as a Welsh Assembly elector under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 5 or in relation to registration as a European parliamentary elector under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 21 (whichever applies) (see PARA 189 ante).

2 As to registration officers and the areas for which they act see PARA 154 ante.

3 Representation of the People Act 1983 s 56(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 5(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 21(5). See further CIVIL PROCEDURE.

For the purposes of the extension of the rights of peers and of relevant citizens of the Union who (subject to the requirement of registration) may vote at European parliamentary elections, the Representation of the People Act 1983 s 56 (as amended) is applied with modifications: see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(4), Sch 4 (cited in PARA 116 note 7 ante); and the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule (cited in PARA 117 note 5 ante).

4 Ie in accordance with the Representation of the People Act 1983 s 13A (as added and amended) (see PARA 175 ante) and s 13B (as added and amended) (see PARA 175 ante). As to the register see PARA 156 et seq ante.

5 Ie the record which is kept under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(3) of those whose applications for an absent vote at Assembly elections for a particular or an indefinite period have been granted (see PARA 375 post) or the record kept under art 12(6) of those whose applications to vote as a proxy at Assembly elections (whether for an indefinite period or for a particular period) have been granted (see PARA 384 post).

6 Representation of the People Act 1983 s 56(4) (amended by the Representation of the People Act 2000 ss 8, 15(2), Sch 1 paras 1, 14(1), (3), Sch 7 Pt I); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 5(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 21(5). As to the application and modification of this provision see note 3 supra.